

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS85162-MD-86 (3/9)

Short Title: Civil Liability/Prohibited Debt Collection.

(Public)

Sponsors: Senator Nesbitt.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CIVIL LIABILITY OF DEBT COLLECTORS WHO VIOLATE THE PROVISIONS OF ARTICLE 2 OF CHAPTER 75 OF THE GENERAL STATUTES, RELATING TO PROHIBITED ACTS BY DEBT COLLECTORS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 75-56 reads as rewritten:

**"§ 75-56. Application.**

The specific and general provisions of this Article shall exclusively constitute the unfair or deceptive acts or practices proscribed by G.S. 75-1.1 in the area of commerce regulated by this Article. Any debt collector who fails to comply with any provision of this Article with respect to any person is liable to such person in a private action in amount equal to the sum of (i) any actual damage sustained by such person as a result of such failure; and (ii) statutory damages the court may allow, but not less than three thousand dollars (\$3,000) nor greater than six thousand dollars (\$6,000) for each violation. Notwithstanding the provisions of G.S. 75-15.2 and G.S. 75-16, in private actions or actions instituted by the Attorney General, civil penalties in excess of ~~two thousand dollars (\$2,000)~~ six thousand dollars (\$6,000) shall not be imposed, nor shall damages be trebled for any violation under this Article. The clear proceeds of civil penalties imposed in actions instituted by the Attorney General shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

**SECTION 2.** G.S. 58-70-130 reads as rewritten:

**"§ 58-70-130. Civil liability.**

(a) Any collection agency which violates Part 3 of this Article with respect to any debtor shall be liable to that debtor in an amount equal to the sum of any actual damages sustained by the debtor as a result of the violation.

(b) Any collection agency which violates Part 3 of this Article with respect to any debtor shall, in addition to actual damages sustained by the debtor as a result of the violation, also be liable to the ~~debtor only in an individual action, and its additional liability therein to that debtor shall be~~ debtor for a penalty in such amount as the court may allow, which shall not be less than ~~one hundred dollars (\$100.00)~~ three thousand dollars (\$3,000) for each violation nor greater than ~~two thousand dollars (\$2,000)~~ six thousand dollars (\$6,000) for each violation.

(c) The specific and general provisions of Part 3 of this Article shall constitute unfair or deceptive acts or practices proscribed herein or by G.S. 75-1.1 in the area of commerce regulated thereby. ~~Notwithstanding the provisions of G.S. 75-15.2 and 75-16, civil~~ Civil penalties in excess of ~~two thousand dollars (\$2,000)~~ six thousand dollars (\$6,000) for each



1 violation shall not be imposed, nor shall damages be trebled for any violation under Part 3 of  
2 this Article imposed.

3 (d) The remedies provided by this section shall be cumulative, and in addition to  
4 remedies otherwise available. ~~Provided, that any~~Any punitive damages assessed against a  
5 collection agency shall not be reduced by the amount of the civil penalty assessed against such  
6 agency pursuant to subsection (b).

7 (e) The clear proceeds of civil penalties imposed under this section in suits instituted by  
8 the Attorney General shall be remitted to the Civil Penalty and Forfeiture Fund in accordance  
9 with G.S. 115C-457.2."

10 **SECTION 3.** This act becomes effective October 1, 2009.