



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 541: Proof Required for Debt/Fees

2015-2016 General Assembly

Committee:	Rules, Calendar, and Operations of the House	Date:	April 29, 2015
Introduced by:	Reps. Collins, Szoka, R. Moore, Jeter	Prepared by:	Wendy Graf Ray
Analysis of:	First Edition		Committee Counsel

SUMMARY: *House Bill 541 makes various changes to the law governing the collection of debts by collection agencies that are debt buyers.*

BILL ANALYSIS:

Section 1 amends the statute dealing with unfair practices of collection agencies.

Under current law, if a collection agency is a debt buyer or acting on their behalf, it is an unfair practice to sue or initiate a proceeding against the debtor or otherwise attempt to collect the debt when the collection agency knows that the collection is barred by the statute of limitations. This section removes "or otherwise attempting to collect on a debt."

Section 1 also makes changes to allow either a contract or a charge-off statement to be used for lawsuits when such lawsuits are allowed. If the debt a debt buyer is attempting to collect on has been charged off, the bill requires an itemized accounting of the amount claimed to be owed, which includes: (1) the charge off balance, (2) post charge-off interest, (3) post charge-off fees, and (4) post charge-off payments or credits.

Section 1 also provides that it is an unfair trade practice when a debt buyer trying to collect a time-barred debt, fails to provide notice to the debtor that the law limits how long someone can be sued on a debt. The debtor must also be notified that if the debt is not past the date of obsolescence under federal law, then the debt buyer may continue to report the debt to credit reporting agencies.

Section 2 amends the statute which provides that the complaint of a debt buyer must be accompanied by certain materials. Current G.S. 58-70-150(a) provides that a copy of the contract or other writing evidencing the original debt must be attached to the complaint. Section 2 provides that a copy of the charge-off statement is also adequate to satisfy this requirement.

Section 3 amends the statute dealing with prerequisites to entry of a default or summary judgment against a debtor. Under current law, only properly authenticated business records containing specified information are sufficient to establish the nature and amount of the debt. This section provides that any documents that include specific information are sufficient. Section 3 changes some of those items, including:

- The total amount claimed to be owed (was the amount of the original debt).
- An itemization of post charge-off payments or credits where applicable (was itemization of charges and fees claimed to be owed).
- The date of the last payment, where applicable.

O. Walker Reagan
Director



Research Division
(919) 733-2578

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- The amount of the post charge-off interest claimed (was the amount of interest claimed).

EFFECTIVE DATE: The act becomes effective October 1, 2015.

Brad Krehely, counsel to Senate Judiciary I, substantially contributed to this summary.