



SENATE BILL 678: Amend Debt Collection Statutes

2015-2016 General Assembly

Committee:	Senate Judiciary II	Date:	April 27, 2015
Introduced by:	Sens. Gunn, B. Jackson, D. Davis	Prepared by:	Bill Patterson
Analysis of:	PCS to First Edition S678-CSTG-18		Committee Counsel

SUMMARY: *The PCS for Senate Bill 678 would modify the requirements of Article 2 of Chapter 75 of the General Statutes applicable to debt collectors who are not collection agencies. The PCS modifies the bill's amendments to G.S. 75-54(2) and G.S. 75-55(2).*

CURRENT LAW: Article 2 of Chapter 75 of the General Statutes regulates the activities of persons who are engaged in the collection of a debt owed by a natural person for personal, family, household or agricultural purposes, other than collection agencies regulated under Chapter 58 of the General Statutes.¹

G.S. 75-53 prohibits debt collectors from communicating with any person other than the debtor or his attorney, subject to certain exceptions, including those permitting communications:

- made with the written permission of the debtor or his attorney after default (G.S. 75-53(1)a.)
- made to the debtor's spouse (or one who stands in the place of the spouse) or to the debtor's parent or guardian if the debtor is a minor who lives in the same household with such parent (G.S. 75-53(1)c.)
- made for the sole purpose of locating the debtor, if no indication of indebtedness is made (G.S. 75-53(1)d.)

G.S. 75-54(2) requires debt collectors to disclose, in all communications attempting to collect a debt, that the purpose of such communication is to collect a debt.

G.S. 75-55(2) prohibits collecting or attempting to collect from the consumer the debt collector's fee or charge for services rendered, or any interest or other charge, fee or expense incidental to the principal debt, unless legally entitled to such fee or charge.

Article 15 of Chapter 53 of the General Statutes, the North Carolina Consumer Finance Act, regulates fees that may be charged to a borrower by a person licensed to conduct a consumer finance business.²

BILL ANALYSIS: **Section 1** of the bill would amend G.S. 75-50 to define the term "location information" for purposes of Article 2 to mean "information about a consumer's place of abode, any telephone numbers used by the consumer, and information about the consumer's place of employment."

Section 2 would:

- amend G.S. 75-53(1)a. to permit communications by debt collectors made both before and after default to third parties with the written permission of the debtor or his attorney

¹ Collection agencies are subject to State regulation under Article 70 of Chapter 58 of the General Statutes. Collection agencies are also subject to federal regulation under the Fair Debt Collection Practices Act, which applies to persons using any instrumentality of interstate commerce or the mails in a business having as its primary purpose the collection of debts owed by a natural person as a result of a transaction entered into for personal, family, or household purposes. 15 U.S.C. § 1692 *et seq.*

² G.S. 53-177.

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- amend G.S. 75-53(1)c. to permit a communication made by a debt collector in the good faith belief that the communication was to the spouse or one who stands in the place of the spouse of the debtor or to the parent or guardian of a minor debtor who lives with such parent
- amend G.S. 75-53(1)d. to permit communications for the sole purpose of obtaining location information about the debtor, and to require a bill collector making such a communication to:
 - identify himself or herself, state that he or she is attempting to confirm or correct location information about the debtor, and, only if expressly requested, identify his or her employer
 - not state that the debtor owes a debt
 - not communicate with any particular person more than once a week or three times in total during any 30 day period unless requested to do so by that person

Section 3 would make a conforming change to G.S. 75-54(2) to provide that a debt collector making a communication to a third-party pursuant to G.S. 75-53 for the purpose of obtaining location information about the debtor is not required to notify the third-party that the purpose of the communication is to collect a debt.

Section 4 would amend G.S. 75-55(2) to authorize a debt collector to collect filing fees, service of process fees, or other court costs actually incurred, regardless of whether the action is completed and has resulted in a judgment awarding court costs, and to provide that collection of such fees is not a violation of the North Carolina Consumer Finance Act.

EFFECTIVE DATE: This act is effective when it becomes law.