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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO FINANCIAL INSTITUTIONS - EXPIRED DEBT ACT

Introduced By: Representatives Morin, Messier, Phillips, Casey, and Johnston

Date Introduced: February 03, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 19 of the General Laws entitled "FINANCIAL INSTITUTIONS" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 14.12

4 EXPIRED DEBT ACT

5 **19-14.12-1. Definitions.**

6 For the purposes of this chapter, the following terms shall have the following meanings
7 unless the context otherwise requires:

8 (1) "Collector" means a person collecting or attempting to collect an alleged debt arising
9 out of a consumer transaction.

10 (2) "Consumer transaction" means any transaction involving a person seeking or
11 acquiring real or personal property, services, money, or credit for personal, family, or household
12 purposes.

13 (3) "Person" means an individual, corporation, business trust, statutory trust, estate, trust,
14 partnership, association, two (2) or more persons having a joint or common interest, or any other
15 legal or commercial entity.

16 **19-14.12-2. Prohibited practices.**

17 (a) In addition to all prohibitions contained in chapter 14.9 of title 19, in collecting or
18 attempting to collect an alleged debt a collector may not:

19 (1) Use or threaten force or violence;

1 (2) Threaten criminal prosecution, unless the transaction involved the violation of a
2 criminal statute;

3 (3) Disclose or threaten to disclose information which affects the debtor's reputation for
4 credit worthiness with knowledge that the information is false;

5 (4) Except as permitted by statute, contact a person's employer with respect to a
6 delinquent indebtedness before obtaining final judgment against the debtor;

7 (5) Except as permitted by statute, disclose or threaten to disclose to a person other than
8 the debtor or their spouse or, if the debtor is a minor, their parent, information which affects the
9 debtor's reputation, whether or not for credit worthiness, with knowledge that the other person
10 does not have a legitimate business need for the information;

11 (6) Communicate with the debtor or a person related to them with the frequency, at
12 unusual hours, or in any other manner as reasonably can be expected to abuse or harass the
13 debtor;

14 (7) Use obscene or grossly abusive language in communicating with the debtor or a
15 person related to them;

16 (8) Claim, attempt, or threaten to enforce a right with knowledge that the right does not
17 exist; or

18 (9) Use a communication which simulates legal or judicial process or gives the
19 appearance of being authorized, issued, or approved by a government, governmental agency, or
20 lawyer when it is not.

21 (b) A collector may not initiate contact with a debtor, or a person related to the debtor,
22 unless the collector possesses verifiable information documenting:

23 (1) Ownership of the debt, including a copy of the signed contract of the original debt, the
24 final account statement of the debt, and written documentation that the collector has the right to
25 collect on the debt;

26 (2) The amount of the debt; and

27 (3) The connection of the debtor, or the person related to the debtor, to the debt.

28 (c) In collecting or attempting to collect a debt for which the statute of limitations has
29 expired, a collector shall inform a debtor, in each communication, that:

30 (1) The statute of limitations for collection of the debt has expired;

31 (2) The debtor may assert the expiration of the statute of limitations as a defense in a civil
32 action involving collection of the debt; and

33 (3) Entering into an agreement with the collector or making a payment may:

34 (i) Revive the debt; and

1 (ii) Prevent the debtor from asserting the expiration of the statute of limitations as a
2 defense in a civil action involving collection of the debt.

3 **19-14.12-3. Remedies and penalties.**

4 A collector who fails to comply with the provisions of this chapter shall be subject to all
5 penalties provided in §19-14.9-13 including, but not limited to, damages for emotional distress or
6 mental anguish suffered with or without accompanying physical injury.

7 **19-14.12-4. Judicial action prohibited.**

8 No court may enter a judgment by default against a debtor in a civil action involving
9 collection of a debt if the period in which a civil action regarding the underlying debt must
10 commence has expired.

11 **19-14.12-5. Severability.**

12 If any provision of this chapter or its application to any person or circumstance is held
13 invalid by a court of competent jurisdiction, the invalidity does not affect the other provisions or
14 applications of the chapter that can be given effect without the invalid provision or application,
15 and to this end the provisions of this chapter are severable.

16 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FINANCIAL INSTITUTIONS - EXPIRED DEBT ACT

- 1 This act would prohibit certain practices relative to the collection of debts when the debt
- 2 is beyond the statute of limitations for filing a legal action for collection.
- 3 This act would take effect upon passage.

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