



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

TWENTIETH CONGRESS
Second Regular Session

HOUSE BILL NO. 10855



Introduced by **Representative EDUARDO R. RAMA JR.**

EXPLANATORY NOTE

With almost everything within reach of our fingertips because of the internet, several unsuspecting debtors became vulnerable to debt-shaming and harassment by debt collectors or debt collection agencies. As of August 2023, the Securities and Exchange Commission (“SEC”) has revoked the primary registration of 2,084 lending companies and ordered the closure of 81 online lending applications for their non-compliance with Republic Act 9474 or the Lending Company Regulation Act for using threats, obscene language, false representation and maliciously using personal information in their debt collection practices.¹

The number of online lenders involved in this kind of debt collection practice is quite alarming, especially considering that there is a lack of a law that penalizes said practice. As of today, the National Privacy Commission (“NPC”) has issued a Circular concerning the processing of personal data in loan transactions,² while the SEC issued a Memorandum Circular prohibiting unfair debt collection practices.³ These circulars aim to protect debtors from having their personal information used in illegal and unethical collection methods to compel them to pay their debts.

With the passage of this Bill, borrowers will be able to defend themselves against abusive practices from debt collectors and agencies, and at the same time promote and safeguard their

¹ Gonzales, I. (28 August 2023), SEC revokes license of another lending firm. *Philstar Global*. <https://www.philstar.com/business/2023/08/28/2291820/sec-revokes-license-another-lending-firm>

² NPC Circular 2020-01: *Guidelines on the Processing of Personal Data in Loan Transaction* dated 14 September 2020.

³ SEC Memorandum Circular No. 18 Series of 2019: *Prohibition of Unfair Collection Practices of Financing Companies (FC) and Lending Companies (FC)* dated 19 August 2019.

rights to privacy and due process. Moreover, the Bill intends to promote ethical and legal methods in collecting debts and penalize those who do not adhere to the same.

Given the necessity of this Bill, its enactment is highly suggested.

A stylized, handwritten signature in black ink, consisting of a large, sweeping loop followed by a horizontal line.

REP. EDUARDO R. RAMA, JR.

2nd District, City of Cebu



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AN ACT
INSTITUTIONALIZING FAIR DEBT COLLECTION PRACTICES BY DEBT
COLLECTORS AND PENALIZING VIOLATIONS THEREOF

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* — This Act shall be known as the “Fair Debt Collection Practices Act”.

SECTION 2. *Declaration of State Policy* — The State values the right of debtors to be protected from abusive, deceptive, and unfair debt-collection practices employed by debt collectors and debt collection agencies as means to collect debts. This law also aims to safeguard and promote the lawful processing of the personal data of debtors that are used by debt collectors and debt collection agencies in the performance of their responsibilities.

SECTION 3. *Definition of Terms.* — As used in this Act, the following terms shall mean as follows:

- a. *Creditor* — any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely to facilitate collection of such debt for another.

- b. *Contact* — means communications made by telephone, mobile phone, facsimile, e-mail, automated call system, text messaging, or any other modes, or in person, including messages left for a debtor with another person or by voicemail or on an answering machine, or any other form of communication not specifically excluded, but does not include communications that the debtor has expressly consented to or solicits in advance.
- c. *Debt* — any monetary obligation owed by the debtor to the creditor, including, but not limited to a purchase on credit, accounts receivable, a loan of money, or the provision of goods or services.
- d. *Debtor* — any person who has an obligation for a debt owed to the creditor, including but not limited to the owner of a sole proprietorship, a member of a partnership, or an individual who has provided a personal guarantee.
- e. *Debt Collector* — any person authorized by the creditor, or by the debt collection agency, whose principal purpose is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. It includes any creditor, who in the process of collecting his debts, uses any name other than his own, indicating that a debt collection agency or a third-party service provider is collecting or attempting to collect such debts.

This definition does not apply to the following:

1. An officer or employee of the creditor while, in the name of the creditor, collects the debt for the creditor.
2. Any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts.
3. Any officer or employee of the government, whether national or local, to the extent that collecting or attempting to collect any debt is in the performance of his official duties.

4. Any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt.
- f. *Debt Collection Agency* — an agency that carries on the activities of collecting or attempting to collect a debt or debts from a debtor under any name that differs from that of the creditor to whom the debt is or was originally owed, regardless of to whom or where the payment is made, on behalf of another person. The definition does not include:
1. A person who is attempting to collect or who is collecting a debt of which the person is the original creditor or owner.
 2. A business that purchases a debt or debts through acquiring or merging with a business in a transaction that includes the transfer of accounts receivable.
 3. A business that acquires a debt or debts through the seizure of accounts receivable under a security agreement.
 4. A person to whom the contract that gave rise to the debt was assigned to finance the transaction.
 5. Any of the enumerated persons in the previous section.
- a. *Express Consent* — freely given, specific, informed indication of will, given by the debtor about the processing of personal data and evidenced by written, electronic, or recorded means.
 - b. *Representative* — a person, other than the debtor or creditor, who is authorized by the debtor or creditor to contact or be contacted and communicate with and about the debt.

SECTION 4. *Acquisition of Location Information* — Any debt collector communicating with any person other than the borrower to acquire location information about the borrower shall:

- a. Identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his employer;
- b. Not state that such borrower owes any debt;

- c. Not communicate with any such person more than once, unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information;
- d. Not communicate by postcard;
- e. Not use any language or symbol on any envelope or in the contents of any communication effected by the mails or telegram that indicates that the debt collector is in the debt collection business or that the communication relates to the collection of a debt; and
- f. After the debt collector knows the consumer is represented by an attorney about the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period for communication from the debt collector.

SECTION 5. *Allowable Debt Collection Practices.* – Debt collectors and debt collection agencies, whether or not hired by financing companies, or lending companies as third-party service providers, shall use reasonable and legally permissible means to collect amounts due under the loan agreement, *provided* that in the exercise of their rights and performance of their duties, they must observe good faith and reasonable conduct, and refrain from engaging in unscrupulous and untoward acts as enumerated in the succeeding section.

SECTION 6. *Unfair Collection Practices.* — The following acts shall constitute unfair collection practices, which shall be subject to the penalties proscribed herein:

- a. The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person;
- b. The use or threats to take any action that cannot legally be taken;
- c. The use of obscenities, insults, or profane language the natural consequence of which is to abuse or shame the debtor or his or her family and/or which amounts to a criminal act or offense under applicable laws;
- d. Disclosure or publication of the names and other personal information of borrowers who allegedly refuse to pay debts, except as may be allowed under Section _____ hereof;

- e. Communicating or threatening to communicate to any person loan information, which is known or which should be known to be false, including the failure to communicate that the debt is being disputed, except as may be allowed under Section _____ hereof;
- f. The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a borrower; and
- g. Making contact at unreasonable or inconvenient times or hours, which shall be defined as contact before 6:00 A.M. or after 10:00 P.M. unless, the account is past due for more than fifteen (15) days, or the borrower has given express consent that said times are the only reasonable or convenient opportunities for contact.
- h. The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.
- i. The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the debt collector's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.
- j. The solicitation by a debt collector of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.
- k. Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.
- l. Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.
- m. Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if –
 - 1. there is no present right to possession of the property claimed as collateral through an enforceable security interest;
 - 2. there is no present intention to take possession of the property; or
 - 3. the property is exempt by law from such dispossession or disablement.
- n. Communicating with a consumer regarding a debt by post card.
- o. Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.

SECTION 7. *Other Prohibited Acts and Practices.* — No debt collector or debt collection agency shall commit any of the following acts and practices:

- a. Collect or attempt to collect money for a creditor except on the belief in good faith that the money is due and owing by the person to the creditor;
- b. Charge any fee to a person for whom the collection agency or collector acts in addition to those fees provided for in the agreement with that person;
- c. Carry on the activities of a collection agency in a name other than the name in which it is licensed unless allowed by law;
- d. When using an automated call system, fail to provide a contact number for the debtor to call when leaving a message;
- e. When the collector fails to provide the collector's name as shown on the license in all contacts and correspondence, including the loan agreement, and
- f. Make any arrangement with a debtor to accept a sum of money that is less than the amount of the balance due and owing to a creditor as final settlement without the prior express consent of the creditor;
- g. Fail to provide any person for whom the collection agency or collector acts with written report on the status of that person's account;
- h. Make any personal call or telephone call for the purpose of collecting or attempting to collect a debt on any day except between 7 A.M. and 9 P.M.;
- i. Directly or indirectly threaten or state an intention to proceed with any action for which the collection agency or the collector does not have the prior express consent of the creditor or for which there is no lawful authority;
- j. Contact or attempt to contact the debtor, any member of the debtor's household, any relative of the debtor, the debtor's employer, or any neighbor, friend, or acquaintance of the debtor by any means in such a manner as to constitute harassment, including without being limited to:
 - i. the use of threatening, profane, intimidating, or coercive language,
 - ii. the use of undue, excessive, or unreasonable pressure, or
 - iii. the use of telephone or e-mail to call or send messages excessively;
- k. Give any person, directly or indirectly, by implication or otherwise, any false or misleading information, including, but not limited to, references to the police, a law firm, prison, credit history, court proceedings, or a lien or garnishment;

- l. Continue to collect or attempt to collect money from, or continue to communicate with, the person, where the person has informed the collection agency or the collector that the person is not the debtor unless the collection agency or collector first takes all reasonable precautions to ensure that the person is the debtor, or the debtor, where the debtor has informed the collection agency or the collector by any verifiable means, including, but not limited to, personal service, certified mail, courier, facsimile, or e-mail, or by any other method, that the debt is in dispute and that the debtor wishes the creditor to take the matter to court;
- m. Contact a debtor's spouse or adult interdependent partner, relative, neighbor, friend, or acquaintance unless the contact is limited to the purpose of obtaining the debtor's residential address, personal telephone number or employment telephone number;
- n. Contact the debtor's employer for any purpose other than to confirm the debtor's employment status, business title, and the address of the business, in preparation for legal proceedings;
- o. Contact the debtor when the debtor has notified the collection agency in writing to communicate only with the debtor's representative and has provided a current address and telephone number for the representative, and the representative:
 - i. Make reasonable arrangements to discuss the debt with the collection agency or collector, and
 - ii. Discusses the debt with the collection agency or collector following the arrangements;
- p. Contact a debtor at the debtor's place of employment if the debtor (i) requests the collection agency or collector not to contact the debtor there, (ii) makes reasonable arrangements to discuss the debt with the collection agency or collector, and (iii) discusses the debt with the collection agency or collector in accordance with the arrangements;
- q. Communicate information about the debt or the existence of the debt with any person except the debtor, a guarantor of the debt, the debtor's representative, or the creditor of the debt unless the debtor has expressly consented to the communication;
- r. Indicate to the debtor or any other person contacted to collect the debtor's debt that the collection agency or the collector is part of a law firm or the legal department of a business, including a legal department of the collection agency itself or of the creditor of the debt;
- s. If a collector indicates to a debtor that the collector is a legal collector, litigation specialist or the like;

- t. Charge any fee to a debtor beyond the debt that is due and owing from the debtor to the creditor, excluding a reasonable fee for a dishonored cheque, if the fee was disclosed to the debtor in writing before the submission of the cheque;
- u. Refuse to provide sufficient information on request to the debtor to ensure that the debtor is aware of the identity of the original and current creditor of the debt and the details of the debt;
- v. Enter into or arrange wage assignments with a debtor or the employer of a debtor;
- w. Exceed three (3) unsolicited contacts on behalf of the same creditor with a debtor in any period of seven (7) consecutive days, not including contacts with a third party to locate a debtor, mistaken contact with a third party, or contacts by traditional mail;
- x. Cancel or alter a payment agreement with a debtor if the debtor has complied with the terms of the agreement and the debtor's financial circumstances have not changed materially unless the debtor has misrepresented the debtor's financial circumstances;

SECTION 8. *Other Prohibited Arrangements.* — Other than the agreements previously mentioned, any agreement entered into by the debtor and the debt collector and/or debt collection agency shall be deemed void if that agreement:

- a. Misrepresents the rights and powers of a person collecting or attempting to collect a debt;
- b. Misrepresents the obligations or legal liabilities of a debtor; or
- c. Is misleading as to its true nature and purpose.

SECTION 9. *Processing of personal data for debt collection.* — All debt collectors and debt collection agencies shall process the personal and sensitive information of debtors under any of the criteria set out for lawful processing as provided for under Sections 12 and 13 of the Data Privacy Act (DPA) and shall implement measures for the protection of personal data and uphold the rights of debtors, as data subjects.

SECTION 10. *Confidentiality of Information.* — Creditors shall keep strictly confidential the personal data of the borrower, except under the following circumstances:

- a. Disclosure of information with the express written consent of the borrower;
- b. Release, submission, or exchange of customer information with other financial institutions, credit information bureaus, lenders, their agents and/or representatives;

- c. Upon orders of a court or tribunal of competent jurisdiction or any government office or agency authorized by law;
- d. Disclosure to debt collectors or debt collection agencies to enforce their rights against the borrower;
- e. Disclosure to third parties such as insurance companies, solely for the purpose of insuring the creditor from borrower default or other credit loss, and the borrower from fraud or unauthorized charges.

SECTION 11. *Issuance of Receipts.* — Every debt collector and debt collection agency must acknowledge the receipt of all cash transactions, payments made in person, or payments made at the debtor's request that the debt collector or the debt collection agency collects or receives from a debtor for distribution to the debtor's creditors by means of receipts that must contain the following:

- a. The date the amount is collected or received,
- b. The name of the debtor,
- c. The name of the creditor,
- d. The amount due,
- e. The name of the debt collector or the person for whom the collection agency acts, and
- f. The amount received from the debtor.

SECTION 12. *Settlement Agreement.* — If a debt collector or debt collection agency reaches a settlement agreement, not prohibited herein, with a debtor, the collection agency or collector must, when the amount set out in the settlement agreement, has been paid in full, provide to the debtor a receipt containing:

- a. The amount paid,
- b. The name of the creditor or creditors, and
- c. A statement that the amount received is in the final settlement of the debt or debts owed.

SECTION 13. *Accounting.* — A collection agency must provide the debtor on request with a complete accounting of all the details of the debt and, if such an accounting is not in the possession of the collection agency, the agency must request that the creditor provide it.

If, within 30 days after receiving a request for an accounting from a collection agency, the creditor has not provided a complete accounting of the debt, the collection agency must:

- a. Inform the debtor in writing that it cannot provide the accounting and the reasons for it, and
- b. Cease all collection activity for that account and not resume collection activity until the accounting is provided.

A debtor may request a complete accounting only once every six (6) months unless the collection agency fails to provide the complete accounting as requested.

SECTION 14. *Implementing Rules and Regulations.* — A technical working group shall be formed to formulate the rules and regulations governing the implementation of this Act. It shall be presided over by the Securities and Exchange Commission (SEC) and co-chaired by the Bangko Sentral ng Pilipinas (BSP). Within six (6) months from the effectivity of this Act, the technical working group shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SECTION 15. *Penalties* — Violation of any section of this law shall be subjected to the following penalties:

- a. *Amount of Damages.* — Any debt collector who violates any provisions of this Act shall be liable to pay:
 - i. Any actual damage sustained by the person as a result of the violation.
 - ii. In the case of any action by an individual, such additional damages as the court may allow, but not exceeding Fifty Thousand Pesos (PhP 50,000.00); or
 - iii. In the case of a class action, such amount for each named plaintiff as could be recovered under paragraph (a), and such amount as the Court may allow for all other class members, without regard to a minimum individual recover, not to exceed One Hundred Thousand Pesos (PhP 100,000.00) or one (1) percent of the net worth of the debt collector, whichever is lesser.
- b. *Administrative Sanctions.* — Any debt collection agency who violates any provisions of this Act shall be liable to pay:

- i. In case of a first offense, the agency shall pay Fifty Thousand Pesos (PhP 50,000.00)
 - ii. In case of a second offense, the agency shall pay One Hundred Thousand Pesos (PhP 100,000.00).
 - iii. In case of a third and succeeding offense, the agency shall pay, at the discretion of the SEC, a fine of not less than One Hundred Thousand Pesos (PhP 100,000.00) but not more than One Million Pesos (PhP 1,000,000.00), and/or closure of the agency.
- c. *Factors to be Considered by the Court.* – In determining the amount of liability and appropriate sanctions, the court shall consider, among other relevant factors:
 - i. In any individual action under paragraph (a) (ii) of this section, the frequency and persistence of non-compliance by the debt collector, the nature of such non-compliance, and the extent to which such noncompliance was intentional; or
 - ii. In any class action under paragraph (a) (iii) of this section, the frequency and persistence of non-compliance by the debt collector, the nature of such non-compliance, the resources of the debt collector, the number of persons adversely affected, and the extent to which the debt collector's non-compliance was intentional.
- d. *Intent.*— A debt collector or debt collection agency may not be held liable in any action brought under this section if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error in good faith.
- e. *Consent.* – Apart from the lack of intent, the debt collection agency may not be held liable for any action brought under this section if it has proven that it had neither given its consent nor ratified the action of its debt collector in support of the latter's action that violates any provision of this law.
- f. *Jurisdiction.* – To enforce any liability created by this Act, an action may be brought in any appropriate court having jurisdiction on the amount of debt involved.

SECTION 16. *Separability Clause.*— If, for any reason, any section of this Act shall be deemed unconstitutional and invalid, the other sections or provisions hereof shall not be affected and shall remain in force and effect.

SECTION 17. *Repealing Clause.* — All laws, executive orders, decrees, instructions, rules, and regulations, contrary to or inconsistent with any provisions of this Act are repealed or amended accordingly.

SECTION 18. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or a newspaper of general circulation.

Approved,