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Legislation Details (With Text)

File #: SO2012-8555
Type: Ordinance **Status:** Passed
File created: 12/12/2012 **In control:** City Council
Final action: 1/17/2013
Title: Amendment of Municipal Code Chapter 4-6 by adding new Section 4-6-160 regarding licensing of debt collection activity
Sponsors: Emanuel, Rahm, Mitts, Emma, Solis, Daniel, Pawar, Ameya
Indexes: Ch. 6 Regulated Business License
Attachments: 1. O2012-8555.pdf, 2. SO2012-8555.pdf

Date	Ver.	Action By	Action	Result
1/17/2013	1	City Council	Passed as Substitute	Pass
1/9/2013	1	Committee on License and Consumer Protection	Recommended to Pass	Pass
12/12/2012	1	City Council	Referred	

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SUBSTITUTE ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 4-6 of the Municipal Code of Chicago is hereby amended by adding a new section 4-6-160, by adding the language underscored and by deleting the language struck through, as follows:

4-6-010 Regulated business license.

(Omitted text is unaffected by this ordinance)

(c) Business activities requiring a regulated business license under this chapter shall include the following: (1) health club; (2) clothing alteration; (3) laundry service; (4) residential real estate developer; (5) tattooing, body piercing or tanning facility; (6) day labor agency; (7) adult family care center; (8) assisted living establishment; (9) long-term care facility; (10) adult family care home; (11) automatic amusement operator; (12) private scavenger; (13) secondhand dealer in children's clothing and children's products only; (14) junk peddler; (15) Reserved debt collectors; (16) hospital; (17) hotel; (18) board-up company; (19) dry cleaner; (20) hazardous materials; (21) single-room occupancy buildings; (22) booting of motor vehicles; (23) immigration assistance; (24) expediter company; (25) expediter/natural person; (26) home occupation; (27) home repair; (28) bed-and-breakfast establishment.

Article XVI Reserved Debt Collectors.

4-6-160 Debt Collectors.

(a) Definitions: As used in this section:

"Consumer debt" means money, property, or their equivalent, due or owing, or alleged to be due or owing, from a debtor by reason of a consumer credit transaction.

"Debt collection" means any act or practice in connection with the collection of consumer debt.

"Debt Collector" means any person who in the ordinary course of business, on behalf of himself or others, regularly engages in consumer debt collection. A "Debt Collector" does not include any person exempt from registration as a debt collector pursuant to section 2.03 of the Illinois Collection Agency Act. 225 ILCS 425/2.03.

"Debtor" means any natural person who resides in the city and from whom a debt collector seeks to collect consumer debt.

(b) Legal duties. Each licensee engaged in the business of a debt collector shall have the following duties:

(1) comply with all applicable state and federal laws and regulations regulating the collection

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of consumer debt, including, but not limited to, the Fair Debt Collection Act, 15 U.S.C. §1692, the Illinois Collection Agency Act, 225 ILCS 425/1, and the Consumer Fraud and Deceptive Practices Act. 815 ILCS 505/1.

2) (A) unless otherwise restricted or prohibited from communicating with the debtor by state or federal law, within 5 days of the initial communication with a debtor in connection with the collection of consumer debt, a debt collector shall, unless the following information was contained in the initial communication or the debtor has paid the consumer debt, send the debtor a written notice with each of the following disclosures:

- i) the amount of the consumer debt;
- ii) the name of the creditor to whom the consumer debt is owed;
- iii) that, unless the debtor, within 30 days after receipt of the notice, disputes the validity of the consumer debt, or any portion thereof, the debt collector will assume the consumer debt to be valid;
- iv) that, if the debtor notifies the debt collector in writing within the 30-day period that the consumer debt, or any portion thereof, is disputed, the debt collector will obtain verification of the consumer debt or a copy of a judgment against the debtor and will mail a copy of the verification or judgment to the debtor;
- v) that, upon the debtor's written request within the 30-day period, the debt collector will provide the debtor with the name and address of the original creditor, if different from the current creditor.

If the disclosures are placed on the back of the notice, the front of the notice shall contain a statement notifying the debtors of the fact.

(B) If the debtor notifies the debt collector in writing within the 30-day period set forth in

subsection (b)(2)(A) that the consumer debt, or any portion thereof, is disputed or that the debtor requests the name and address of the original creditor, the debt collector shall cease collection of the consumer debt, or any disputed portion thereof, until the debt collector obtains verification of the consumer debt or a copy of a judgment or the name and address of the original creditor and mails a copy of the verification or judgment or name and address of the original creditor to the debtor.

For purposes of this subsection (b)(2), verification of the consumer debt shall include a statement of account that: (i) itemizes the interest, charges and fees claimed to be owed prior to the charge-off, the original charge-off balance, and the principal balance, if different from the charge-off balance: (ii) itemizes any interest, charges or fees claimed to be owed after the charge-off balance: and (iii) identifies and describes the basis of the debtor's obligation to pay.

3) unless otherwise prohibited by state or federal law, commencing on July 1, 2013, a debt collector shall maintain a separate file, either in electronic or paper format, for each consumer debt that the debt collector attempts to collect from each debtor, in a manner that is searchable by the name, address and zip code of the debtor and the creditor who originated the consumer debt which the debt collector is seeking to collect. Each file shall contain the following records:

(i) a record of all written communications with the debtor; provided that the debt collector shall produce a copy of any written communication with the debtor, in a manner and time, as requested or required by the commissioner:

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ii) a record of each payment received from the debtor that states the date of receipt, the method of payment and the consumer debt to which the payment was applied;

iii) a copy of the consumer debt payment schedule or settlement agreement reached with the debtor to pay the consumer debt; and

iv) with regard to any consumer debt that the debt collector has purchased, a record of the name and address of the entity from which the debt collector purchased the consumer debt, the date of the purchase and the amount of the consumer debt at the time of purchase.

c) License revocation - Four-year wait for new license. No person whose debt collector license under this chapter is revoked for any cause shall be granted a license under this section, under the same or different name, for a period of four years from the date of revocation.

d) Regulations. The commissioner shall have the authority to promulgate rules and regulations necessary to implement this section.

e) Violation - Penalty. In addition to any other penalty provided, any person who violates this section or any rule or regulation promulgated hereunder shall be fined not less than \$250.00 nor more than \$2,500.00 for the first offense and not less than \$500.00 nor more than \$5,000.00 for a second or any subsequent offense during any 12-month period. Each day that a violation continues shall constitute a separate and distinct offense.

SECTION 2. This ordinance shall be in force and effect on July 1, 2013.

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02012-8555

Chicago, January 17, 2013

To the President and Members of the City Council:

Your Committee on License and Consumer Protection, having under consideration a substitute ordinance introduced by Mayor Rahm Emanuel, Aldermen Solis, Mitts, and Pawar (which was referred on December 12, 2012), to amend the Municipal Code of Chicago regarding licensing of debt collection activity, begs leave to recommend that Your Honorable Body pass the substitute ordinance which is transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the committee on January 15, 2013.

Respectfully submitted,

CHAIRMAN, COMMITTEE ON .LICENSE AND
CONSUMER PROTECTION