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City Council Document Tracking Sheet

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Sponsor(s): Emanuel, Rahm (Mayor)
Mitts, Emma (37)
Solis, Daniel (25)
Pawar, Ameya (47)

Type: Ordinance

Title: Amendment of Chapter 4-6 of Municipal Code by adding new Section 4-6-160 regarding licensing of debt collection activity

Committee(s) Assignment: Committee on License and Consumer Protection

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OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

December 12, 2012

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Business Affairs and Consumer Protection, I transmit herewith, together with Aldermen Mitts, Solis and Pawar, an ordinance amending Chapter 4-6 of the Municipal Code regarding licensing of debt collection activity.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

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" or "debt" means money, property, or their equivalent, 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 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 a 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 of debt, including, but not limited to, the Fair Debt Collection Act, 115 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 the 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 debt;
- (ii) the name and address of the current creditor to whom the debt is owed;
- (iii) the name and address of the original creditor, if different from the current creditor.

(B) enclose with each notice required in subsection (b)(2):

(i) a copy of the verification of the debt or a copy of the judgment entered against the debtor. A copy of the verification of the debt shall include a copy of the debt document issued by the original creditor or an original written confirmation evidencing the transaction resulting in the indebtedness to the originating creditor. Computer documents or electronic evidence created or generated after default on the indebtedness shall not qualify as verification of the debt;

(ii) a copy of the final statement of account issued by the originating creditor and a document itemizing: (1) the total amount remaining due on the total principal balance of the indebtedness to the original creditor; and (2) each additional charge or fee claimed or alleged to be due that separately lists the total for each charge or fee and the date that each charge or fee was incurred; and identifies and describes the basis of the debtor's obligation to pay; and

(iii) if the debt collector is seeking to collect a debt that is beyond the applicable statute of limitation, a statement to that effect. The statement shall be in larger print than the other disclosures or statements and be set off in sharply contrasting color from all other type.

(3) unless otherwise prohibited by state or federal law, a debt collector shall maintain a separate file for each 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 debt which the debt collector is seeking to collect. The debt collector shall maintain in each file the following records:

- (i) a copy of all communications with the debtor;
- (ii) a record of each payment received from the debtor that states the date of receipt, the method of payment and the debt to which the payment was applied;
- (iii) a copy of the debt payment schedule or settlement agreement reached with the debtor to pay the debt; and
- (iv) with regard to any debt that the debt collector has purchased, a record

of the name and address of the entity from which the debt collector purchased the debt, the date of the purchase and the amount of the 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 any requirement of 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, or imprisonment for a period not to exceed six months, or both, for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

SECTION 2. This ordinance shall be in force and effect 10 days after its passage and approval.