

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 939

Short Title: Exempt Dispute Settlement.

(Public)

Sponsors: Representative Miller.

Referred to: Judiciary II.

April 19, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE IT CLEAR THAT A MEDIATION OR OTHER DISPUTE SETTLEMENT CENTER IS NOT A COLLECTION AGENCY AND THEREFORE NOT SUBJECT TO REGULATION PURSUANT TO ARTICLE 9C OF CHAPTER 66 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-49.27 reads as rewritten:

"§ 66-49.27. Definition of collection agency and collection agency business.

'Collection agency' means and includes all persons, firms, corporations, and associations directly or indirectly engaged in soliciting, from more than one person, firm, corporation or association, delinquent claims of any kind owed or due or asserted to be owed or due the solicited person, firm, corporation or association, and all persons, firms, corporations and associations directly or indirectly engaged in the asserting, enforcing or prosecuting of those claims.

'Collection agency' shall include:

- (1) Any person, firm, corporation or association who shall procure a listing of delinquent debtors from any creditor and who shall sell such listing or otherwise receive any fee or benefit from collections made on such listing; and
- (2) Any person, firm, corporation or association which attempts to or does transfer or sell to any person, firm, corporation or association not holding the permit prescribed by this Article any system or series of letters or forms for use in the collection of delinquent accounts or claims which by direct assertion or by implication indicate that the

1 claim or account is being asserted or collected by any person, firm,  
2 corporation, or association other than the creditor or owner of the  
3 claim or demand; provided that no bond shall be required of any such  
4 collection agency if it does not collect any money from the debtor nor  
5 hold itself out as being authorized to receive payment of all or any part  
6 of such debt.

7 'Collection agency' does not mean or include:

- 8 (1) Regular employees of a single creditor;
- 9 (2) Banks, trust companies, or bank-owned, controlled or related firms,  
10 corporations or associations engaged in accounting, bookkeeping or  
11 data processing services where a primary component of such services  
12 is the rendering of statements of accounts and bookkeeping services  
13 for creditors;
- 14 (3) Mortgage banking companies;
- 15 (4) Savings and loan associations;
- 16 (5) Building and loan associations;
- 17 (6) Duly licensed real estate brokers and agents when the claims or  
18 accounts being handled by the broker or agent are related to or are in  
19 connection with the broker's or agent's regular real estate business;
- 20 (7) Express, telephone and telegraph companies subject to public  
21 regulation and supervision;
- 22 (8) Attorneys-at-law handling claims and collections in their own name  
23 and not operating a collection agency under the management of a  
24 layman;
- 25 (9) Any person, firm, corporation or association handling claims, accounts  
26 or collections under an order or orders of any court; or
- 27 (10) A person, firm, corporation or association which, for valuable  
28 consideration purchases accounts, claims, or demands of another,  
29 which such accounts, claims, or demands of another are not delinquent  
30 at the time of such purchase, and then, in its own name, proceeds to  
31 assert or collect the accounts, claims or demands;
- 32 (11) 'Collection agency' shall not include any person, firm, corporation or  
33 association attempting to collect or collecting claims of a business or  
34 businesses owned wholly or substantially by the same person or  
35 persons operating such collection agency.
- 36 (12) Any nonprofit tax exempt corporation organized for the purpose of  
37 providing mediation or other dispute resolution services."

38 Sec. 2. This act is effective upon ratification.