

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 387
HOUSE BILL 939

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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-70-15 reads as rewritten:

"§ 58-70-15. 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 claim or account is being asserted or collected by any person, firm, corporation, or association other than the creditor or owner of the claim or demand; provided that no bond shall be required of any such collection agency if it does not collect any money from the debtor nor hold itself out as being authorized to receive payment of all or any part of such debt.

'Collection agency' does not mean or include:

- (1) Regular employees of a single creditor;
- (2) Banks, trust companies, or bank-owned, controlled or related firms, corporations or associations engaged in accounting, bookkeeping or data processing services where a primary component of such services is the rendering of statements of accounts and bookkeeping services for creditors;

- (3) Mortgage banking companies;
- (4) Savings and loan associations;
- (5) Building and loan associations;
- (6) Duly licensed real estate brokers and agents when the claims or accounts being handled by the broker or agent are related to or are in connection with the broker's or agent's regular real estate business;
- (7) Express, telephone and telegraph companies subject to public regulation and supervision;
- (8) Attorneys-at-law handling claims and collections in their own name and not operating a collection agency under the management of a layman;
- (9) Any person, firm, corporation or association handling claims, accounts or collections under an order or orders of any court; ~~or~~
- (10) A person, firm, corporation or association which, for valuable consideration purchases accounts, claims, or demands of another, which such accounts, claims, or demands of another are not delinquent at the time of such purchase, and then, in its own name, proceeds to assert or collect the accounts, claims or demands;
- (11) 'Collection agency' shall not include any person, firm, corporation or association attempting to collect or collecting claims of a business or businesses owned wholly or substantially by the same person or persons operating such collection ~~agency~~ agency;
- (12) Any nonprofit tax exempt corporation organized for the purpose of providing mediation or other dispute resolution services."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of June, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives