

ASSEMBLY BILL

No. 2420

Introduced by Assembly Member Jones

February 19, 2016

An act to amend Section 1788.2 of the Civil Code, relating to debt collection.

LEGISLATIVE COUNSEL'S DIGEST

AB 2420, as introduced, Jones. Debt collection: attorneys: exemption.

Existing state and federal law define and regulate the activities of debt collectors. Existing state law defines a debt collector as a person who, in the ordinary course of business, on behalf of himself or herself or others, engages in debt collection, including a person who composes and sells forms, letters, and other collection media used for debt collection. Existing law excepts an attorney or counselor at law from the definition of debt collector.

This bill would except a law firm from the definition of a debt collector. The bill would define a law firm as two or more attorneys whose activities constitute the practice of law and who share the profits, expenses, and liabilities of the firm or a law corporation which employs more than one lawyer.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1788.2 of the Civil Code is amended to
2 read:

1 1788.2. (a) Definitions and rules of construction set forth in
2 this section are applicable for the purpose of this title.

3 (b) The term “debt collection” means any act or practice in
4 connection with the collection of consumer debts.

5 (c) The term “debt collector” means any person who, in the
6 ordinary course of business, regularly, on behalf of himself or
7 herself or others, engages in debt collection. The term includes
8 any person who composes and sells, or offers to compose and sell,
9 forms, letters, and other collection media used or intended to be
10 used for debt collection, but does not include an attorney or
11 ~~counselor at law~~ *law firm*. *For the purposes of this subdivision,*
12 *“law firm” means two or more attorneys whose activities constitute*
13 *the practice of law and who share the profits, expenses, and*
14 *liabilities of the firm or a law corporation which employs more*
15 *than one lawyer.*

16 (d) The term “debt” means money, property or their equivalent
17 which is due or owing or alleged to be due or owing from a natural
18 person to another person.

19 (e) The term “consumer credit transaction” means a transaction
20 between a natural person and another person in which property,
21 services or money is acquired on credit by that natural person from
22 such other person primarily for personal, family, or household
23 purposes.

24 (f) The terms “consumer debt” and “consumer credit” mean
25 money, property or their equivalent, due or owing or alleged to be
26 due or owing from a natural person by reason of a consumer credit
27 transaction.

28 (g) The term “person” means a natural person, partnership,
29 corporation, limited liability company, trust, estate, cooperative,
30 association or other similar entity.

31 (h) Except as provided in Section 1788.18, the term “debtor”
32 means a natural person from whom a debt collector seeks to collect
33 a consumer debt which is due and owing or alleged to be due and
34 owing from such person.

35 (i) The term “creditor” means a person who extends consumer
36 credit to a debtor.

37 (j) The term “consumer credit report” means any written, oral
38 or other communication of any information by a consumer
39 reporting agency bearing on a consumer’s creditworthiness, credit
40 standing, credit capacity, character, general reputation, personal

1 characteristics or mode of living which is used or expected to be
2 used or collected in whole or in part for the purpose of serving as
3 a factor in establishing the consumer's eligibility for (1) credit or
4 insurance to be used primarily for person, family, or household
5 purposes, or (2) employment purposes, or (3) other purposes
6 authorized under any applicable federal or state law or regulation.
7 The term does not include (a) any report containing information
8 solely as to transactions or experiences between the consumer and
9 the person making the report; (b) any authorization or approval of
10 a specific extension of credit directly or indirectly by the issuer of
11 a credit card or similar device; or (c) any report in which a person
12 who has been requested by a third party to make a specific
13 extension of credit directly or indirectly to a consumer conveys
14 his or her decision with respect to that request, if the third party
15 advises the consumer of the name and address of the person to
16 whom the request was made and such person makes the disclosures
17 to the consumer required under any applicable federal or state law
18 or regulation.

19 (k) The term "consumer reporting agency" means any person
20 which, for monetary fees, dues, or on a cooperative nonprofit basis,
21 regularly engages, in whole or in part, in the practice of assembling
22 or evaluating consumer credit information or other information on
23 consumers for the purpose of furnishing consumer credit reports
24 to third parties, and which uses any means or facility for the
25 purpose of preparing or furnishing consumer credit reports.

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