



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 974

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

S974-ARR-64 [v.3]

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Comm. Sub. [NO]
Amends Title [NO]
Third Edition

Date 8/5, 2009

Representative Stam

FAILED

1 moves to amend the bill on page 2, lines 24 through 29
2 by rewriting those lines to read:
3

4 "(4) A 'debt buyer.' As used in this Article, the term 'debt buyer' means a person
5 or entity that is engaged in the business of purchasing and collecting
6 defaulted consumer loans or consumer credit accounts, or other defaulted
7 consumer debt. A 'debt buyer' does not include a person or entity that
8 purchases defaulted consumer debt but does not attempt to collect debt
9 through its own efforts.'; and

10
11
12 On page 3, lines 19 through 44,
13 By rewriting those lines to read:
14

- 15 "(4) Initiating a lawsuit or an arbitration against a consumer with knowledge or
16 reason to know that the action is barred by the statute of limitations.
17 (5) Initiating a lawsuit or an arbitration against a consumer without (i) valid
18 documentation that the debt buyer is the owner of the specific debt
19 instrument or account at issue and (ii) reasonable verification of the amount
20 of the debt allegedly owed by the debtor. For purposes of this subdivision,
21 reasonable verification shall include documentation of the name of the
22 original creditor, the name and address of the debtor as appearing on the
23 original creditor's records, the original consumer account number, a copy of
24 the contract or other document evidencing the consumer debt, and an
25 itemized accounting of the amount claimed to be owed, including all fees
26 and charges.
27 (6) Initiating a lawsuit or an arbitration against a consumer without first giving
28 the debtor written notice of the intent to file a legal action at least 30 days in
29 advance of filing. During the 30-day notice period, the statute of limitations
30 is tolled. The written notice shall include the name, address, and telephone
31 number of the debt buyer or its authorized representative, the name of the
32 original creditor and the debtor's original account number, a copy of the



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1 contract or other document evidencing the consumer debt, and an itemized
2 accounting of all amounts claimed to be owed.

3 (7) Failing to comply with Part 5 of this Article."; and

4
5 on page 5, line 42, through page 6, line
6 by deleting the language on those lines; and

7
8 on page 6, lines 8 through 25,
9 by rewriting those lines to read:

FAILED

10
11 **"§ 58-70-155. Prerequisites to entering a default or summary judgment against a debtor**
12 **under this Part.**

13 Prior to entry of a default judgment or summary judgment against a debtor in a complaint
14 initiated by a debt buyer, the plaintiff shall file evidence with the court to establish the amount
15 and nature of the debt. Evidence sufficient to establish the amount and nature of the debt shall
16 be properly authenticated business records that satisfy the requirements of Rule 803(b) of the
17 North Carolina Rules of Evidence. The authenticated business records shall include at least all
18 of the following items:

- 19 (1) The original account number.
20 (2) The original creditor.
21 (3) An itemization of charges and fees claimed to be owed.
22 (4) The original charge-off balance, or, if the balance has not been charged off,
23 an explanation of how the balance was calculated.
24 (5) An itemization of post charge-off additions, where applicable.
25 (6) The date of last payment.
26 (7) The rate of interest claimed and the basis for the interest charged.
27 (8) A copy of the assignment or other writing establishing that the plaintiff is the
28 owner of the debt. If the debt has been assigned more than once, then an
29 affidavit by the current owner of the debt sufficient under the North Carolina
30 Rules of Evidence for trustworthiness must be attached to outline the chain
31 or ownership."
32

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 53-59 EV TABLED _____

AUG 5 2009

