

Bill as Introduced

HB 1600-FN -AS INTRODUCED

2012 SESSION

12-2818
08/04

HOUSE BILL **1600-FN**
AN ACT relative to collection notification practices.
SPONSORS: Rep. Ulery, Hills 27
COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill:

- I. Defines field agent and field calls.
- II. Requires a employer of field agents to perform a criminal background and records check on all field agents in his or her employ.
- III. Regulates how field agents may conduct field calls.

Explanation: Matter added to current law appears in **bold italics**.
 Matter removed from current law appears [~~in brackets and struckthrough.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to collection notification practices.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Unfair, Deceptive or Unreasonable Debt Collection Practices. RSA 358-C:1 is repealed and
2 reenacted to read as follows:

3 358-C:1 Definitions. In this chapter:

4 I. "Consumer" means a natural person who seeks or acquires, or is offered property, services,
5 or credit for personal, family or household purposes.

6 II. "Consumer credit transaction" means a transaction between a creditor and a consumer in
7 which real or personal property, services, money, or a form of money is acquired on credit and the
8 consumer's obligation is payable in 4 or more installments or for which credit a finance charge is or
9 may be imposed. The term includes consumer credit sales, consumer loans, consumer leases of
10 personal property and transactions pursuant to a seller or lender credit card, but shall not include
11 leases of real property.

12 III. "Consumer letter" means a letter requesting payment of a debit or urging contact by the
13 consumer with a debtor or providing updated information regarding a personal fiscal matter.

14 IV. "Consumer transaction" means a transaction between a consumer and a person who
15 sells, leases or provides property, services or credit to consumers. The term shall not include leases
16 of real property.

17 V. "Creditor" means a person who in the ordinary course of business engages in consumer
18 credit transactions with consumers.

19 VI. "Credit" means the right granted by a person to a consumer to defer payment of a debt,
20 to incur debt and defer its payment, or purchase property or services and defer payment therefor.

21 VII. "Debt" means any obligation or alleged obligation arising out of a consumer transaction.

22 VIII. "Debtor" means a person who owes or allegedly owes an obligation arising out of a
23 consumer transaction.

24 IX. "Debt collector" means:

25 (a) Any person who by any direct or indirect action, conduct, or practice enforces or
26 attempts to enforce an obligation that is owed or due, or alleged to be owed or due, by a consumer as
27 a result of a consumer credit transaction; or

28 (b) Any person who, for any fee, commission or charge other than wages or salary,
29 engages in any direct or indirect action, conduct or practice to enforce or attempt to enforce an
30 obligation that is owed or due, or alleged to be owed or due, by a consumer as a result of a consumer
31 transaction; or

1 (c) Any person who, pursuant to an assignment, sale, or transfer of a claim against a
2 consumer, engages in any direct or indirect action, conduct or practice to enforce an obligation that is
3 owed or due, or alleged to be owed or due, by a consumer as a result of a consumer transaction.

4 X. "Field call" means a visit to the place of residence or employment the address of which
5 has previously been provided to a bank or financial entity and at which the consumer has previously
6 stated that he or she can be reached.

7 XI. "Field call agency" means an entity that provides directly or in-direct through contract
8 employees services of in person or attempted in-person visits with a debtor.

9 XII. "Field call agent" means a person who is involved in field calls either as an employee or
10 a contract agent.

11 XIII. "FDCPA" means the Fair Debt Collection Practices Act, 15 U.S.C. section 1692.

12 XIV. "Finance charge" means a charge such as interest, fees, service charges, discounts and
13 other charges associated with the extension of credit.

14 XV. "Person" means an individual, corporation, trust, partnership, incorporated or
15 unincorporated association or any other legal entity.

16 2 New Paragraphs; Field Calls. Amend RSA 358-C:3 by inserting after paragraph XII the
17 following new paragraphs:

18 XIII. Any field agent visiting a consumer's address shall have readily available or visible
19 identification of the company engaged to provide the field call. If asked by the consumer the field
20 agent shall give to the consumer the name of the company for whom he or she is working and show
21 to the consumer his or her company identification.

22 XIV. No field agent shall be engaged in field call activities who has any felony conviction, or
23 any conviction for theft, drug possession, use, or sale, sexual assault, or conviction for fraud or other
24 offense association with honesty on his or her record. The employer of the field agent shall obtain a
25 background and criminal records check at the employer's expense.

26 XV. No consumer letter shall be left at an address unless that letter is in a sealed plain
27 envelope bearing the words "PERSONAL" and "CONFIDENTIAL" clearly marked and bearing the
28 consumer's name. No marks on the envelope shall indicate that the contents are associated with an
29 attempt to collect a debt.

30 XVI. The consumer letter shall contain the name of the field call agency that arranged for
31 the delivery of the consumer letter at the consumer's address, and an address and a contact number
32 for the field call agency or that of the creditor.

33 XVII. The consumer letter shall be securely affixed to the main entry of the consumer's
34 residence or place of business.

35 XVIII. All contents of the consumer letter and any information regarding the consumer
36 provided to the field call agency shall be held in the strictest confidence and shall not be released to
37 any third party, including law enforcement which is considered a third party under the FDCPA.

1 This attempt to collect a debt shall be treated as personal financial information by all involved. If
2 confronted by law enforcement demanding a reason for the purpose of the visit the field agent shall
3 only provide his or her name, identification, and other personal information requested but shall not
4 divulge the purpose of the visit other than to state it was "personal business."

5 XIX. The field agent making field calls may access a consumer's property by remaining upon
6 a driveway or walkway and shall leave the property when asked to leave by the consumer.

7 XX. Inquiries of neighbors into the reputation or character of the consumer shall be
8 considered beyond the scope of authority of a field agent unless such field agent is also a licensed
9 private investigator under RSA 106-F.

10 3 New Paragraph; Penalties. Amend RSA 358-C:4 by inserting after paragraph VI the following
11 new paragraph:

12 VII. Whoever violates the provisions of this chapter shall be guilty of a misdemeanor if a
13 natural person, or guilty of a felony if any other person.

14 4 Effective Date. This act shall take effect January 1, 2013.

LBAO
12-2818
12/15/11

HB 1600-FN - FISCAL NOTE

AN ACT relative to collection notification practices.

FISCAL IMPACT:

The Judicial Branch, Judicial Council, Department of Justice, and New Hampshire Association of Counties state this bill may increase state and county expenditures by an indeterminable amount in FY 2013 each year thereafter. There will be no fiscal impact on local expenditures, or state, county, and local revenue.

METHODOLOGY:

The Judicial Branch states this bill addresses unfair, deceptive or unreasonable collection practices and makes violations of this a misdemeanor for a natural person or felony for any other person. The Branch has no information to estimate how many charges would be brought as a result of the changes contained in the bill to determine the fiscal impact on expenditures but does have information on the cost for processing a misdemeanor or a felony. All costs are estimated based on case weight information from the last needs assessment completed in 2005. The Branch states a misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor. The Branch states a class A misdemeanor will cost \$59.11 per case in FY 2013 and \$61.31 per case in FY 2014 and each year thereafter, and a class B misdemeanor will cost \$43.19 per case in FY 2013 and \$44.54 per case in FY 2014 and each year thereafter. The Branch states the felony in this statute would be classified as an average routine felony and treated as an average routine criminal case in the Superior Court. The Branch states an average routine criminal case will cost \$389.84 per case in FY 2013 and \$401.48 per case in FY 2014 and each year thereafter. The possibility of appeals increases the likelihood the fiscal impact on the Branch will exceed \$10,000.

The Judicial Council states to the extent an unspecified misdemeanor results in a misdemeanor offense where the right to counsel exists this bill may result in an indeterminable increase in state general fund expenditures. The Council states if an individual is found to be indigent, the flat fee of \$275 per misdemeanor is charged by a public defender or contract attorney. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$1,400 for a misdemeanor charge. The Council also states additional costs could be incurred if an appeal is filed. The public defender, contract attorney and assigned counsel rates for Supreme Court

appeals is capped at \$2,000 per case, with many assigned counsel attorneys seeking permission to exceed the fee cap. Requests to exceed the fee cap are seldom granted. Finally, expenditures would increase if services other than counsel are requested and approved by the court during the defense of a case or during an appeal.

The Department of Justice states this bill may result in additional prosecutions by the Department. The Department does not have information to estimate the increase to determine the fiscal impact on expenditures.

The New Hampshire Association of Counties states to the extent more individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties may have increased expenditures. The Association is unable to determine the number of individuals who might be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1600-FN

BILL TITLE: relative to collection notification practices.

DATE: February 7, 2012

LOB ROOM: 302 **Time Public Hearing Called to Order:** 1102

Time Adjourned: 1128

(please circle if present)

Committee Members: Reps. Hunt, Coffey, Belanger, Flanders, Quandt, Headd, Nevins, Palfrey, Sullivan, Bergevin, Manuse, Mauro, McGuinness, Rice, Taylor, Meader, Gidge and Schlachman.

Bill Sponsors: Rep. Ulery

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

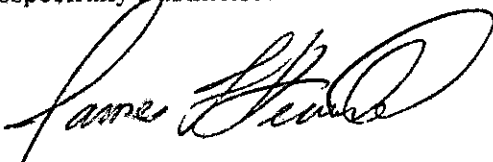
Rep. Jordon Ulery, sponsor – Consumer protection bill. Handed out written testimony; copy in file. Bill deals with collection notification practices; items he handed out are various notices left on a door by a creditor's agent. Bill sets down certain parameters that agent can operate under.

Jay Niederman, attorney, representing self – Opposes the bill without an amendment. Represents clients who are creditors. Handed out written summary and copy is in file. Existing state and federal law already covers the issues addressed in this bill. RSA 358C already addresses these issues; don't really see the need for the bill. We don't need another layer of insulation. Suggest we remove any reference to federal law in the bill. Page 24 of handout amends definition of field call agent; see XIII penalties already in law. Suggests we adopt his changes.

Connie Stratton, NH Attorney General's Office – No opinion on bill; supports Attorney Niederman's testimony. Has not seen any complaints about field agents.

Christina Thornton, NH Bankers Assn. – Supports Attorney Niederman's amendment. Believes XIII needs a little more work and would work to broaden definition.

Respectfully Submitted:



James F. Headd, Clerk

5500
HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS
PUBLIC HEARING ON HB 1600-FN

BILL TITLE: relative to collection notification practices.

DATE: February 7, 2012

LOB ROOM: 302 Time Public Hearing Called to Order: 1102
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Committee Members: Reps. Hunt, Coffey, Belanger, Flanders, Quandt, Headd, Nevins, Palfrey, Sullivan, Bergevin, Manuse, Mauro, McGuinness, Rice, Taylor, Meader, Gidge and Schlachman

Bill Sponsors: Rep. Ulery

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

- #1 Rep Ulery - prime sponsor - Consumer Protection Bill - handed out written testimony - copy in file - Bill deals with collection notification practices. Items he handed out are various notices left on a door by a creditors agent. Bill sets down certain parameters that agent can operate under -
- #2 Jay Niederman - Atty - Represents clients who are ~~my~~ creditors - Opposes ~~the~~ Bill. Handed out written summary of copy is in file.

pg 2 - HB 1600

existing state & Federal law
already cover the issues addressed
in the bill - RSA 358C already
addresses these issues - don't really
see the need for the bill

We don't need another layer
of insulation

suggests we remove any reference
to federal law in the bill

Page 2 of handout Amendment definition
of Field call agents - see XIII
Penalties already in law -

suggests we ~~adopt~~ adopt his
changes

#7
Connie Stratton - Atty General office
supportive of Atty Niederman testimony
has not seen any complaints
about field agents

#4
Christiana Fronten - NH Banker
Assoc - supports Atty Niederman
Amendment - believe XIII needs
a little more work & would work
for broader definition.

Sub-Committee Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 1600-FN

BILL TITLE: relative to collection notification practices.

DATE: 2-16-12

Subcommittee Members: Reps.

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: ITL unanimous by subcommittee

Respectfully submitted,

Rep. James F. Headd
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS
SUBCOMMITTEE WORK SESSION ON HB 1600-FN

BILL TITLE: relative to collection notification practices.

DATE: 2-9-12

Subcommittee Members: Reps.

*Subcommittee ITL
C. Niemi*

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

Testimony

DATE ____/____/____

FECHA ____/____/____

IMPORTANT IMPORTANTE

**PLEASE CALL
LLAME POR FAVOR**

EMC MORTGAGE

NAME / NOMBRE

888 - 577- 4011

TELEPHONE NUMBER *
NÚMERO DE TELÉFONO *

PLEASE BE READY TO GIVE YOUR ACCOUNT NUMBER.
POR FAVOR ESTÉ LISTO PARA DAR SU NÚMERO DE CUENTA.

WE ARE EXPECTING YOUR CALL TODAY.
ESPERAMOS SU LLAMADA HOY.

*CALLS ARE RANDOMLY MONITORED & RECORDED TO ENSURE QUALITY SERVICE.
*LA LLAMADA PUEDE SER SUPERVISADA Y GRABADA PARA ASEGURAR LA CALIDAD DEL SERVICIO.

IMPORTANT NOTICE

An independent property inspector visited your property today. The purpose of this visit was to determine the occupancy and security condition of your property. This inspection is permitted under your security instrument. It is important that you contact your mortgage company to discuss your account.

Please call the number circled below:

800 662 3806
800 548 7916
866 316 9218
800 968 7700
800 795 5125
877 908 4357
800 669 0340
800 669 4578
800 669 0102
800 635 9698
800 306 6062
866 926 8937
800 848 9380
800 669 6654
800 641 5302

888 872 6514

800 284 4322

800 848-9136

TO: MORTGAGER

AT THE REQUEST OF YOUR MORTGAGE COMPANY, AN INDEPENDENT FIELD INSPECTOR CALLED ON YOU TODAY. PLEASE CALL LOAN SERVICING AT (800) 796 0987. THERE IS AN IMPORTANT MATTER THAT WE WOULD LIKE TO DISCUSS WITH YOU.

DATE 11/25/2011

FECHA ____/____/____

IMPORTANT IMPORTANTE

**PLEASE CALL
LLAME POR FAVOR**

JP Morgan Chase

NAME / NOMBRE

1-800-446-8939

TELEPHONE NUMBER*
NÚMERO DE TELÉFONO*

PLEASE BE READY TO GIVE YOUR ACCOUNT NUMBER.
POR FAVOR ESTÉ LISTO PARA DAR SU NÚMERO DE CUENTA.

WE ARE EXPECTING YOUR CALL TODAY.
ESPERAMOS SU LLAMADA HOY.

*CALLS ARE RANDOMLY MONITORED & RECORDED TO ENSURE QUALITY SERVICE.
*LA LLAMADA PUEDE SER SUPERVISADA Y GRABADA PARA ASEGURAR LA CALIDAD DEL SERVICIO.

IN# 26062196

VACANCY POSTING NOTICE NOTICE:

This property has been determined to be vacant and abandoned. This information will be reported to the mortgage services responsible for maintaining the property. The mortgage servicer intends to protect this property from deterioration. The property may have its locks replaced and/or plumbing systems winterized in the next few days. If the property is NOT VACANT and ABANDONED, please call BAC Field Services immediately at 866-515-9259.

Date Inspected: JP Morgan Chase
2/11/11

STATE OF NEW HAMPSHIRE

1. *In the Year of Our Lord Two Thousand Twelve*

AN ACT relative to collection notification practices.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Unfair, Deceptive or Unreasonable Debt Collection Practices. RSA 358-C:1 is repealed and reenacted to read as follows:

358-C:1 Definitions. In this chapter:

I. "Consumer" means a natural person who seeks or acquires, or is offered property, services, or credit for personal, family or household purposes.

II. "Consumer credit transaction" means a transaction between a creditor and a consumer in which real or personal property, services, money, or a form of money is acquired on credit and the consumer's obligation is payable in 4 or more installments or for which credit a finance charge is or may be imposed. The term includes consumer credit sales, consumer loans, consumer leases of personal property and transactions pursuant to a seller or lender credit card, but shall not include leases of real property.

III. "Consumer letter" means a letter requesting payment of a debit [correct to a debt arising from a consumer credit transaction] or urging contact by the consumer with a debtor or providing updated information regarding a personal fiscal matter.

IV. "Consumer transaction" means a transaction between a consumer and a person who sells, leases or provides property, services or credit to consumers. The term shall not include leases of real property.

V. "Creditor" means a person who in the ordinary course of business engages in consumer credit transactions with consumers.

VI. "Credit" means the right granted by a person to a consumer to defer payment of a debt, to incur debt and defer its payment, or purchase property or services and defer payment therefor.

VII. "Debt" means any obligation or alleged obligation arising out of a consumer transaction.

VIII. "Debtor" means a person who owes or allegedly owes an obligation arising out of a consumer transaction.

IX. "Debt collector" means:

(a) Any person who by any direct or indirect action, conduct, or practice enforces or

attempts to enforce an obligation that is owed or due, or alleged to be owed or due, by a consumer as a result of a consumer credit transaction; or

(b) Any person who, for any fee, commission or charge other than wages or salary, engages in any direct or indirect action, conduct or practice to enforce or attempt to enforce an obligation that is owed or due, or alleged to be owed or due, by a consumer as a result of a consumer transaction; or

(c) Any person who, pursuant to an assignment, sale, or transfer of a claim against a consumer, engages in any direct or indirect action, conduct or practice to enforce an obligation that is owed or due, or alleged to be owed or due, by a consumer as a result of a consumer transaction.

XI. "Field call" means a visit to the place of residence or employment the address of which has previously been provided to a bank or financial entity and at which the consumer has previously stated that he or she can be reached.

XII. "Field call agency" means an entity that provides directly or in-direct through contract employees services of in person or attempted in-person visits with a debtor.

XIII. "Field call agent" means a person who is involved in field calls either as an employee or a contract agent. The term "Field call agent" shall not include

a. A Sheriff, Deputy Sheriff or other official attempting to serve documents or take other actions authorized by law as part of the judicial process.

b. A person lawfully attempting to recover collateral pursuant to a security interest or other possessory rights of a creditor.

c. The regular employee of a bank or financial institution duly licensed under the laws of this state.

XIV. [We recommend removing this from the legislation. The federal law applies only to "third party" debt collections and not to creditors attempting to collect their own debts. The NH law is not so limited and applies to creditors attempting to collect their own debts. Attempting to tie a violation to RSA 358-C to the federal law raises thus serious legal issues. In addition, NH RSA 358-C is far more restrictive than the federal law, so there is no need to incorporate it by reference]. "FDCPA" means the Fair Debt Collection Practices Act, 15 U.S.C. section 1692.

XV. "Finance charge" means a charge such as interest, fees, service charges, discounts and other charges associated with the extension of credit.

XVI. "Person" means an individual, corporation, trust, partnership, incorporated or unincorporated association or any other legal entity.

2 New Paragraphs; Field Calls. Amend RSA 358-C:3 by inserting after paragraph XII the following new paragraphs:

XIII. The following additional prohibitions shall apply to Field call agents:

A. Any field agent visiting a consumer's address shall have readily available or visible identification of the company engaged to provide the field call. If asked by the consumer the field agent shall give to the consumer the name of the company for whom he or she is working and show to the consumer his or her company identification.

B. No field agent shall be engaged in field call activities who has any felony conviction, or any conviction for theft, drug possession, use, or sale, sexual assault, or conviction for fraud or other offense association with honesty on his or her record within ten years. The employer of the field agent shall obtain a background and criminal records check at the employer's expense.

C. No consumer letter shall be left at an address by a field agent unless that letter is in a sealed plain envelope bearing the words "PERSONAL" and "CONFIDENTIAL" clearly marked and bearing the consumer's name. No marks on the envelope shall indicate that the contents are associated with an attempt to collect a debt.

D. The consumer letter left by such a field agent shall contain the name of the field call agency that arranged for the delivery of the consumer letter at the consumer's address, and an address and a contact number for the field call agency or that of the creditor.

E. The consumer letter left by such a field agent shall be securely affixed to the main entry of the consumer's residence or place of business.

F. All contents of the consumer letter left by such a field agent and any information regarding the consumer provided to the field call agency shall be held in the strictest confidence and shall not be released to any third party, including law enforcement. which is considered a third party under the FDCPA. [We recommend not including reference to the FDCPA into this legislation]. This attempt to collect a debt shall be treated as personal financial information by all involved. If confronted by law enforcement demanding a reason for the purpose of the visit the field agent shall only provide his or her name, identification, and other personal information requested but shall not divulge the purpose of the visit other than to state it was "personal business."

G. The field agent making field calls may access a consumer's property by remaining upon a driveway or walkway and shall leave the property when asked to leave by the consumer.

XX. Inquiries of neighbors into the reputation or character of the consumer by such a field agent shall be considered beyond the scope of authority of a field agent unless such field agent is also a licensed private investigator under RSA 106-F.

3 New Paragraph; Penalties. Amend RSA 358-C:4 by inserting after paragraph VI the following new paragraph:

VII. *[We question whether this is necessary. Violations of RSA 358-C already invoke the provisions of RSA 358-A which can include criminal penalties]* Whoever violates the provisions of this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

4 Effective Date. This act shall take effect January 1, 2013.

LBAO

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1600-FN

BILL TITLE: relative to collection notification practices.

DATE: 2-16-12

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. McGuinness

Seconded by Rep. Coffey

Vote: 13-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jim Headd, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1600-FN

BILL TITLE: relative to collection notification practices.

DATE: 2-16-12

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:
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Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: 13-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jim Headd, Clerk

COMMERCE AND CONSUMER AFFAIRS

Bill #: HB 1600-FN Title: Relative to collection notification practices

PH Date: 1/1/12

Exec Session Date: 2/21/12

Motion: FTL

Amendment #: _____

MEMBER	YEAS	NAYS
Hunt, John B, Chairman	/	
Coffey, Jennifer R, V Chairman	/	
Belanger, Ronald J	/	
Flanders, Donald H	—	
Quandt, Matt J	/	
Headd, James F, Clerk	/	
Nevins, Chris F	/	
Palfrey, David J	/	
Sullivan, James M	/	
Bergevin, Jerry E	—	
Manuse, Andrew J	—	
Mauro, Donna C	—	
McGuinness, Sean M	/	
Rice, Frederick C	/	
Taylor, Kathleen N	—	
Meader, David R	—	
Gidge, Kenneth N	/	
Schlachman, Donna L	/	
<i>Porter, Marge</i>	/	
	13-0	

Committee Report

CONSENT CALENDAR

March 7, 2012

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on COMMERCE AND CONSUMER
AFFAIRS to which was referred HB1600-FN,

AN ACT relative to collection notification practices.

Having considered the same, report the same with the
following Resolution: **RESOLVED**, That it is
INEXPEDIENT TO LEGISLATE.

Rep. Sean M McGuinness

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	COMMERCE AND CONSUMER AFFAIRS
Bill Number:	HB1600-FN
Title:	relative to collection notification practices.
Date:	February 23, 2012
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill was intended to address unfair, deceptive or unreasonable debt collection practices relevant in connection with residential property inspections. The complaint being that "Field Agents" employed by banks and other direct creditors are sometimes in the practice of leaving notes on the premises of a property in foreclosure that requests the occupants to contact the creditor. Evidence shows that these Field Agent notifications are inspection related and are more concerned with issues of occupancy, property condition, vacancy and/or abandonment of the property rather than any true collection effort. The committee considered testimony that any new law codifying an entire new set of definitions and regulations was unnecessary given that New Hampshire already has some of the most restrictive collection laws in the country. The FDCPA (Federal Debt Collection Practices Act) and new regulations found in the Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act" Pub. L.111-203, H.R. 4173) were more than sufficient to regulate and enforce any real or perceived unfair, deceptive or unreasonable debt collection practices.

Vote 13-0.

Rep. Sean M McGuinness
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

COMMERCE AND CONSUMER AFFAIRS

HB1600-FN, relative to collection notification practices. **INEXPEDIENT TO LEGISLATE.**

Rep. Sean M McGuinness for COMMERCE AND CONSUMER AFFAIRS. This bill was intended to address unfair, deceptive or unreasonable debt collection practices relevant in connection with residential property inspections. The complaint being that "Field Agents" employed by banks and other direct creditors are sometimes in the practice of leaving notes on the premises of a property in foreclosure that requests the occupants to contact the creditor. Evidence shows that these Field Agent notifications are inspection related and are more concerned with issues of occupancy, property condition, vacancy and/or abandonment of the property rather than any true collection effort. The committee considered testimony that any new law codifying an entire new set of definitions and regulations was unnecessary given that New Hampshire already has some of the most restrictive collection laws in the country. The FDCPA (Federal Debt Collection Practices Act) and new regulations found in the Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act" Pub. L.111-203, H.R. 4173) were more than sufficient to regulate and enforce any real or perceived unfair, deceptive or unreasonable debt collection practices. **Vote 13-0.**

Original: House Clerk

Cc: Committee Bill File

HB 1600, relative to collection notification practices. **INEXPEDIANT TO LEGISLATE**. Rep. Sean M. McGuinness for Commerce and Consumer Affairs:

This bill was intended to address unfair, deceptive or unreasonable debt collection practices relevant in connection with residential property inspections. The complaint being that "Field Agents" employed by banks and other direct creditors are sometimes in the practice of leaving notes on the premises of a property in foreclosure that requests the occupants to contact the creditor. Evidence shows that these Field Agent notifications are inspection related and are more concerned with issues of occupancy, property condition, vacancy and/or abandonment of the property rather than any true collection effort. The committee considered testimony that any new law codifying an entire new set of definitions and regulations was unnecessary given that New Hampshire already has some of the most restrictive collection laws in the country. The FDCPA (Federal Debt Collection Practices Act) and new regulations found in the Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act" Pub. L. 111-203, H.R. 4173) were more than sufficient to regulate and enforce any real or perceived unfair, deceptive or unreasonable debt collection practices.

SBH

HB 1600, relative to collection notification practices. **INEXPEDIENT TO**

LEGISLATE. Rep. Sean M. McGuinness for Commerce and Consumer Affairs: This bill was intended to address unfair, deceptive or unreasonable debt collection practices ⁱⁿ ~~in particular, as such practices may be~~ relevant in connection with residential property inspections. The complaint being that "Field Agents" employed by banks and other direct creditors are sometimes in the practice of leaving notes on the premises of a property in foreclosure that requests the occupants ^{to} contact the creditor. Evidence shows that these Field Agent notifications are inspection related and are ^{more} concerned with issues of occupancy, property condition, vacancy and/or abandonment of the property rather than any true collection effort. The committee considered testimony that any new law codifying an entire new set of definitions and regulations was unnecessary given ~~testimony~~ that ~~claims~~ New Hampshire already has some of the most restrictive collection laws in the country ~~and that~~ the FDCPA (Federal Debt Collection Practices Act) and new regulations found in the Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act" Pub. L. 111-203, H.R. 4173) were more than sufficient to regulate and enforce any real or perceived unfair, deceptive or unreasonable debt collection practices. **Vote 13-0**

HB 1870, making technical changes to the New Hampshire real estate practices act.

OUGHT TO PASS. Rep. Sean M. McGuinness for Commerce and Consumer Affairs: This bill was requested by the New Hampshire Real Estate Commission and was presented as needed house keeping legislation applicable to RSA 331-A:25 f and RSA 331-A:26 XXII. The bill is straight forward and does two things. First, it clarifies that ministerial acts of a licensee (Broker or Sales Person) acting in the capacity of a "facilitator" does not form an "agency" relationship in a real estate transaction. Second, it requires a licensee who has an ownership interest in a property being sold or leased, to disclose that fact to buyer or a lessee. The committee believed that these were reasonable technical changes consistent with the intents and purposes of Real Estate Practices Act Chapter 331-A. **Vote 13-0**