

§11054. Civil liability

1. Failure to comply with this Act. Except as otherwise provided by this section, any debt collector who fails to comply with any provisions of this Act with respect to any person is liable to that person in an amount equal to the sum of:

- A. Any actual damage sustained by that person as a result of such failure; [PL 1985, c. 702, §2 (NEW).]
- B. In the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$1,000; [PL 1985, c. 702, §2 (NEW).]
- C. In the case of a class action:
 - (1) Such amount for each named plaintiff as may be recovered under paragraph A; and
 - (2) Such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed the lesser of \$500,000 or 1% of the net worth of the debt collector; and [PL 1985, c. 702, §2 (NEW).]
- D. In the case of any successful action to enforce the liability set out in this subsection, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees, reasonable in relation to the work expended and costs. [PL 1985, c. 702, §2 (NEW).]

[PL 1985, c. 702, §2 (NEW).]

1-A. Failure to comply with this Act by a debt buyer. Except as otherwise provided by this section, any debt buyer who fails to comply with any provisions of this Act with respect to any person is liable to that person in an amount equal to the sum of:

- A. Any actual damage sustained by that person as a result of such failure; [PL 2017, c. 216, §9 (NEW).]
- B. In the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$2,000; [PL 2017, c. 216, §9 (NEW).]
- C. In the case of a class action:
 - (1) Such amount for each named plaintiff as may be recovered under paragraph A; and
 - (2) Such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed the lesser of \$500,000 and 1% of the net worth of the debt buyer; and [PL 2017, c. 216, §9 (NEW).]
- D. In the case of any successful action to enforce the liability set out in this subsection, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs. [PL 2017, c. 216, §9 (NEW).]

[PL 2017, c. 216, §9 (NEW).]

2. Considerations affecting liability. In determining the amount of liability in any action under subsection 1 or 1-A, the court shall consider, among other relevant factors:

- A. In any individual action, the frequency and persistence of noncompliance by the debt collector or debt buyer, the nature of that noncompliance and the extent to which that noncompliance was intentional; or [PL 2017, c. 216, §10 (AMD).]
- B. In any class action, the frequency and persistence of noncompliance by the debt collector or debt buyer, the nature of that noncompliance, the resources of the debt collector or debt buyer, the

number of persons adversely affected and the extent to which the debt collector's or debt buyer's noncompliance was intentional. [PL 2017, c. 216, §10 (AMD).]
[PL 2017, c. 216, §10 (AMD).]

3. Defenses. A debt collector or debt buyer may not be held liable in any action brought under this chapter if the debt collector or debt buyer shows, by a preponderance of evidence, that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.
[PL 2017, c. 216, §10 (AMD).]

4. Action to enforce liability. An action to enforce liability under this section shall be brought within one year from the date on which the violation occurs.
[PL 1985, c. 702, §2 (NEW).]

5. Action in good faith. No provision of this section imposing any liability may apply to any act done or omitted in good faith in conformity with any rule or advisory ruling of the superintendent, notwithstanding that, after the act or omission has occurred, the rule or advisory ruling is amended, rescinded, repealed or determined by judicial or other authority to be invalid for any reason.
[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 2017, c. 216, §§9, 10 (AMD).

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