



STATE OF CONNECTICUT
DEPARTMENT OF BANKING
CONSUMER CREDIT DIVISION
260 CONSTITUTION PLAZA – HARTFORD, CT 06103-1800



MEMORANDUM

TO: Connecticut Licensed Consumer Collection Agencies
FROM: Carmine Costa, Director, Consumer Credit Division
RE: Indirect Consumer Collection Activities
DATE: August 26, 2020

The purpose of this memorandum is to advise consumer collection agencies of practices considered to be indirect consumer collection activities requiring licensure by the Department. The Department previously construed the meaning of “indirectly” within the mortgage servicer statutory scheme and concluded that persons were acting *indirectly* as mortgage servicers when they contracted out mortgage servicing functions to licensed mortgage servicers. Similarly, persons are acting *indirectly* as consumer collection agencies when they contract out consumer collection activities to licensed consumer collection agencies.

Background

Section 36a-800(3) of the Connecticut General Statutes defines “consumer collection agency”, in pertinent part, as “any person (A) engaged as a third party in the business of collecting or receiving payment for others on any account, bill or other indebtedness from a consumer debtor, (B) engaged in the business of debt buying, or (C) engaged in the business of collecting or receiving tax payments, including, but not limited to, property tax and federal income tax payments, from a property tax debtor or federal income tax debtor on behalf of a municipality or the United States Department of the Treasury, including, but not limited to, any person who, by any device, subterfuge or pretense, makes a pretended purchase or takes a pretended assignment of accounts from any other person, municipality or taxing authority of such indebtedness for the purpose of evading the provisions of this section and sections 36a-801 to 36a-814, inclusive.”

Effective October 1, 2017, Section 36a-801(a) of the Connecticut General Statutes was amended to provide, in pertinent part, that “[n]o person shall act within this state as a consumer collection agency, directly or indirectly, unless such person has first obtained a required consumer collection agency license for such person’s main office and for each branch office where such person’s business is conducted.”

Consumer Collection Context

Looking at the first definition of consumer collection agency and applying the Department’s previous interpretation of “indirectly” from the mortgage servicer context, the Department considers the licensure requirement set forth in Section 36a-801 to include third parties in the business of collecting or receiving payment for others on a debt from a consumer debtor, even when they perform such activities indirectly through a licensed consumer collection agency. For example, a person who has been engaged by a creditor to collect or receive payments on consumer debt must be licensed even if they have no direct

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consumer interaction and hire a licensed consumer collection agency to contact the consumer debtors and perform the collection. The facts and circumstances of the third party's relationship with the creditor are integral to determining whether the activities represent engaging in the business of collecting or receiving payment of consumer debt for others. Common indicia of indirect collection activity include, but are not limited to, fees and agreements for collections services whether or not such services will be directly performed by the entity, and receiving consumer debtor monies from a licensed consumer collection agency to forward to a creditor. Likewise, persons must be licensed as consumer collection agencies when "debt buying" and collecting or receiving payment on debts from consumer debtors, whether such collection and receipt of payment is done directly or indirectly through other licensed or exempt persons.

While this memorandum sets forth examples of indirect collection activity, each circumstance must be reviewed on a case-by-case basis to determine the nature of the activity being performed and ensure adequate protection of both creditors and consumer debtors in Connecticut. In addition, the Department does not intend to capture as indirect consumer collection activity typical forwarding arrangements whereby the only activity performed is the forwarding of Connecticut consumer debtor accounts to a licensed or exempt consumer collection agency, and there is no further involvement by the forwarding entity nor the receipt of monies or fees by the forwarding entity in connection with the forwarding of Connecticut consumer debtor accounts.

No Action

To allow persons sufficient time to make any necessary changes to comply with the Department's interpretation announced herein, the Department will take a no-action position concerning enforcement of the licensure requirements of persons engaged in indirect consumer collection activity until November 1, 2020. Should you have any questions or concerns, please contact Sandy Gibbons, Associate Examiner, at sandra.gibbons@ct.gov.

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