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California Enacts Consumer Debt Collector Licensing Administered by DFPI

By: Melissa Richards

During the 2019 legislative session, California enacted **SB 908 - the Debt Collection Licensing Act, Financial Code Division 25, Sections 100000, et seq.**, requiring consumer debt collectors who are collecting on their own account or the account of others, including debt buyers, to be licensed beginning **January 1, 2022**. This new licensing requirement is meant to serve as an extension of California's Rosenthal Fair Debt Collection Practices Act, prohibiting consumer debt collectors from engaging in unfair or deceptive acts or practices.

Licensing will be required when consumer debt collection business is conducted nationwide from a principal business location in California, and when attempting to collect from a California resident from a principal office location anywhere in the US.

The California Department of Financial Protection and Innovation (DFPI) will administer the license and begin its rule making process on **January 1, 2021** as directed by SB 908. Depository institutions, consumer debt collectors licensed under California's Real Estate Law, Residential Mortgage Lending Act or Financing Law, foreclosure trustees, student loan servicers and persons subject to the Kernet Rental-Purchase Act will be exempt from this license requirement but remain subject to all provisions of the Rosenthal Debt Collection Act.

The DFPI is also granted administrative enforcement authority to issue orders and claims for relief for violations of the Rosenthal Debt Collection Act and provisions regulating consumer debt buyers. This enforcement authority is not just limited to debt collector licensees but to all consumer debt collectors and debt buyers, including the exempt persons listed above.

SB 908 also expands the list of prohibited debt collection practices enumerated in Civil Code Section 1788.11 to include new license disclosure requirements. Starting January 1, 2022, SB 908 requires debt collector licensees to provide their California debt collector license number during telephone calls if requested by the consumer, and to display their debt collection license number in all digital and written communications, using minimum 12-point font.

Similarly, for debt buyers, SB 908 amends Civil Code Section 1788.52 to require the display of their debt collection license number in all written statements to a debtor in an attempt to collect a consumer debt.

DFPI will administer the new debt collection license on the Nationwide Mortgage Licensing System (NMLS) online portal. Applications for new license, license renewal, annual reporting including financial reports, and payment of fees will all be handled via the NMLS portal. Thus, debt collectors and debt buyers will need to open a Company account and individual "control person" accounts on the NMLS system and secure a unique identifier number in order to apply for licensure.

Please reach out to Melissa Richards for assistance in understanding the scope and provisions of SB 908 and the California Rosenthal Debt Collection Act generally. Expect further Client Alerts on DFPI proposed licensing rules once they are issued in 2021.



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