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## Consumer Collection Agencies

(Transferred from § 42-131d)

### Secs. 36a-809-1—36a-809-5.

Repealed, July 29, 2008.

### Sec. 36a-809-6. Definitions

As used in Sections 36a-809-6 to 36-809-17, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Commissioner” means “commissioner” as defined in Section 36a-2 of the Connecticut General Statutes;

(2) “Communication” means the conveying of information regarding a debt directly or indirectly to any person through any medium;

(3) “Consumer collection agency” means “consumer collection agency” as defined in Section 36a-800 of the Connecticut General Statutes;

(4) “Consumer debtor” means “consumer debtor” as defined in Section 36a-800 of the Connecticut General Statutes;

(5) “Creditor” means “creditor” as defined in Section 36a-800 of the Connecticut General Statutes;

(6) “Debt” means any obligation or alleged obligation of a consumer debtor to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family or household purposes, including current or past child support, or arising out of a levy of a personal property tax by a municipality, whether or not such obligation has been reduced to judgment, or any obligation or alleged obligation of a property tax debtor to pay money arising out of a levy of a property tax;

(7) “Debtor” means a consumer debtor or a property tax debtor;

(8) “Location information” means information identifying a debtor’s place of abode or the debtor’s telephone number at such place, or a debtor’s place of employment;

(9) “Municipality” means “municipality” as defined in Section 36a-800 of the Connecticut General Statutes;

(10) “Property tax” means “property tax” as defined in Section 36a-800 of the Connecticut General Statutes; and

(11) “Property tax debtor” means “property tax debtor” as defined in Section 36a-800 of the Connecticut General Statutes.

(Adopted effective July 29, 2008)

### Sec. 36a-809-7. Books and records

(a) Each consumer collection agency shall maintain its debtor and creditor records so as to clearly identify the amounts and dates of all payments received from debtors and all remittances made to creditors. Debtor and creditor records shall be kept so as to be readily available to the commissioner and retained for a period of not less than two years after the date of final entry thereon. All accounting records shall be maintained in accordance with generally accepted accounting practices. Each consumer collection agency engaged in the business of collecting child support shall maintain originals or copies of the written agreements entered into with the creditors to whom the child support is owed for a period of not less than two years after the date of the last payment made by the debtor to the consumer collection agency.

(b) Each consumer collection agency shall deposit funds received from debtors in a separate account which shall not be commingled with funds of the consumer collection agency or used in the conduct of the consumer collection agency’s busi-

ness. Such account shall not be used for any purpose other than (1) the deposit of funds received from debtors, (2) the payment of such funds to creditors, and (3) the payment of earned fees to the consumer collection agency. Except for payments authorized by subdivisions (2) and (3) of this subsection, any withdrawal from such account, including, but not limited to, any service charge or other fee imposed against such account by a depository institution, shall be reimbursed by the consumer collection agency to such account not more than thirty days after the withdrawal. Funds received from debtors shall be posted to their respective accounts in accordance with generally accepted accounting practices.

(Adopted effective July 29, 2008)

### **Sec. 36a-809-8. Record keeping of information regarding collectors**

Each consumer collection agency shall maintain a record of each collector employed or retained by the consumer collection agency including such collector's place of abode, title or official capacity of such collector, and any change in such information.

(Adopted effective July 29, 2008)

### **Sec. 36a-809-9. Record keeping methods and consumer collection agency communications**

(a) **Method of keeping records.** Each consumer collection agency shall maintain a record of all contacts or attempted contacts with the debtor or others regarding an alleged debt, whether such contacts or attempted contacts are made by telephone, in writing, in person or by any other method. Such record shall indicate the date, the nature of the contact, the name of the collector making the contact, the name of the person contacted and a brief summary of any conversation or individually composed correspondence. Form letters shall be identified by number or title.

(b) **Disclosures regarding acquisition of location information.** Any consumer collection agency that communicates with any person other than the debtor for the purposes of acquiring location information about the debtor shall disclose the name of the person making the communication on behalf of the consumer collection agency and state that the communication is for the purpose of confirming or correcting location information concerning the debtor and, only if expressly requested, identify the consumer collection agency.

(c) **Restrictions regarding acquisition of location information.** Any consumer collection agency described in subsection (b) of this section shall not:

- (1) State that such debtor owes any debt;
- (2) Communicate with any such person more than once unless requested to do so by such person or unless the consumer collection agency reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information;
- (3) Communicate by post card;
- (4) Use any language or symbol on any envelope or in the contents of any written communication effected by the mails, telegram or electronic device that indicates that the consumer collection agency is in the debt collection business or that the communication relates to the collection of a debt; and
- (5) Communicate with any person other than the attorney for the debtor after the consumer collection agency knows the debtor is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the consumer collection agency.

(d) **Communication in connection with debt collection.** (1) Without the prior consent of the debtor given directly to the consumer collection agency or the express permission of a court of competent jurisdiction, a consumer collection agency shall not communicate with a debtor in connection with the collection of any debt:

(A) At any unusual time or place or a time or place known or which should be known to be inconvenient to the debtor. In the absence of knowledge of circumstances to the contrary, a consumer collection agency shall assume that the convenient time for communicating with a debtor is after 8:00 a.m. and before 9:00 p.m., local time at the debtor's location;

(B) If the consumer collection agency knows the debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the consumer collection agency or unless the attorney consents to direct communication with the debtor, provided that this subparagraph shall not apply to a consumer collection agency in connection with the collection of property taxes if such communication complies with the applicable provisions of title 12 of the Connecticut General Statutes; or

(C) At the consumer debtor's place of employment, if the debtor is a natural person and the consumer collection agency knows or has reason to know that the debtor's employer prohibits the debtor from receiving such communication.

(2) Except as provided in subsection (b) of this section, without the prior consent of the debtor given directly to the consumer collection agency, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a post-judgment judicial remedy, a consumer collection agency shall not communicate, in connection with the collection of any debt with any person other than the debtor, the attorney of the debtor, a credit rating agency if otherwise permitted by law, the creditor, the attorney of the creditor or the attorney of the consumer collection agency. This subdivision shall not apply to a consumer collection agency in connection with the collection of property taxes.

(3) If a debtor other than a property tax debtor notifies a consumer collection agency in writing that the debtor refuses to pay a debt or that the debtor wishes the consumer collection agency to cease further communication with the debtor, the consumer collection agency shall not communicate further with the debtor with respect to such debt, except:

(A) To advise the debtor that the consumer collection agency's further efforts are being terminated;

(B) To notify the debtor that the consumer collection agency or creditor may invoke specified remedies which are ordinarily invoked by such consumer collection agency or creditor; or

(C) Where applicable, to notify the debtor that the consumer collection agency or creditor intends to invoke a specified remedy. If such notice from the debtor is made by mail, notification shall be complete upon receipt.

(Adopted effective July 29, 2008)

### **Sec. 36a-809-10. Harassment or abuse**

A consumer collection agency shall not engage in any conduct the natural consequence of which is to harass, oppress or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) Using or threatening to use violence or other criminal means to harm the physical person, reputation or property of any person.

(2) Using obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

(3) Publicly disseminating or displaying a list of debtors who allegedly refuse to pay debts, except to a credit rating agency, as defined in Section 36a-695 of the Connecticut General Statutes, provided that this subdivision shall not apply to publicly disseminating or displaying a list of property tax debtors.

(4) Advertising for sale any debt to coerce payment of the debt.

(5) Causing a telephone to ring, engaging any person in telephone conversation or contacting any person via electronic device repeatedly or continuously with intent to annoy, abuse or harass any person receiving the communication being contacted.

(6) Except as provided in subsection (b) of section 36a-809-9 of the Regulations of Connecticut State Agencies, the placement of telephone calls without meaningful disclosure of the caller's identity.

(Adopted effective July 29, 2008)

### **Sec. 36a-809-11. False or misleading representations**

A consumer collection agency shall not use any false, deceptive or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The false representation or implication that the consumer collection agency is vouched for, bonded by or affiliated with the United States or any state, including the use of any badge, uniform or facsimile thereof.

(2) The false representation of:

(A) The character, amount or legal status of any debt; or

(B) Any services rendered or compensation which may be lawfully received by any consumer collection agency for the collection of a debt.

(3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.

(4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment or sale of any property or wages of any person unless such action is lawful and the consumer collection agency or creditor intends to take such action.

(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

(6) The false representation or implication that a sale, referral or other transfer of any interest in a debt shall cause the debtor to:

(A) Lose any claim or defense to payment of the debt; or

(B) Become subject to any practice prohibited by Sections 36a-809-6 to 36a-809-17, inclusive, of the Regulations of Connecticut State Agencies.

(7) The false representation or implication, made in order to disgrace the debtor, that the debtor committed a crime or engaged in other conduct.

(8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

(9) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued or approved by any court, official or agency of the United States or any state or which creates a false impression as to its source, authorization or approval.

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a debtor.

(11) The failure to disclose clearly, in all communications made to collect a debt or to obtain information about a debtor, that the consumer collection agency is attempting to collect a debt and that any information obtained will be used for that purpose. This subdivision shall not apply to any consumer collection agency communicating for the purposes of acquiring location information permitted by subsection (b) of section 36a-809-9 of the Regulations of Connecticut State Agencies.

(12) The false representation or implication that accounts have been turned over to innocent purchasers for value.

(13) The false representation or implication that documents are legal process.

(14) The use of any business, company or organization name other than the true name of the consumer collection agency's business, company or organization.

(15) The false representation or implication that documents are not legal process or do not require action by the debtor.

(16) The false representation or implication that a consumer collection agency operates or is employed by a credit rating agency, as defined in section 36a-695 of the Connecticut General Statutes.

(Adopted effective July 29, 2008)

### **Sec. 36a-809-12. Unfair practices**

A consumer collection agency shall not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The collection of any amount, including any interest, fee, charge or expense incidental to the principal obligation, that is not expressly authorized by the agreement creating the debt or permitted by law.

(2) The acceptance by a consumer collection agency from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the consumer collection agency's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.

(3) The solicitation by a consumer collection agency of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.

(4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.

(5) Causing charges for communications to be made to any person by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if:

(A) There is no present right to possession of the property claimed as collateral through an enforceable security interest;

(B) There is no present intention to take possession of the property; or

(C) The property is exempt by law from such dispossession or disablement.

(7) Communicating with a debtor regarding a debt by post card.

(8) Using any language or symbol, other than the consumer collection agency's address, on any envelope when communicating with a debtor by use of the mails or by telegram, except that a consumer collection agency may use its business name if such name does not indicate that it is in the debt collection business.

(Adopted effective July 29, 2008)

**Sec. 36a-809-13. Validation of debts**

(a) Not more than five days after the initial communication with a debtor in connection with the collection of any debt, a consumer collection agency shall, unless the following information is contained in the initial communication or the debtor has paid the debt, send the debtor a written notice containing:

- (1) The amount of the debt;
- (2) The name of the creditor to whom the debt is owed;
- (3) A statement that unless the debtor, not more than thirty days after receipt of the notice, disputes the validity of the debt or any portion thereof, the debt will be assumed to be valid by the consumer collection agency;
- (4) A statement that if the debtor notifies the consumer collection agency in writing within the thirty-day period that the debt or any portion thereof is disputed, the consumer collection agency will obtain verification of the debt or a copy of a judgment against the debtor and a copy of such verification or judgment will be mailed to the debtor by the consumer collection agency; and
- (5) A statement that, upon the debtor's written request, not more than thirty days after receipt of the notice, the consumer collection agency will provide the debtor with the name and address of the original creditor, if different from the current creditor.

(b) If the debtor notifies the consumer collection agency in writing not more than thirty days after the time prescribed in subsection (a) of this section that the debt or any portion thereof is disputed, or that the debtor requests the name and address of the original creditor, the consumer collection agency shall cease collection of the debt or any disputed portion thereof until the consumer collection agency obtains verification of the debt or a copy of a judgment or the name and address of the original creditor and a copy of such verification or judgment, or the name and address of the original creditor is mailed to the debtor by the consumer collection agency.

(c) The failure of a debtor to dispute the validity of a debt under this section shall not be deemed an admission of liability by the debtor.

(d) This section shall not apply to the collection of property taxes.

(Adopted effective July 29, 2008)

**Sec. 36a-809-14. Multiple debts**

If any debtor owes multiple debts and makes any single payment to a consumer collection agency with respect to such debts, the consumer collection agency shall not apply such payment to any debt which is disputed by the debtor and, where applicable, shall apply such payment in accordance with the debtor's directions. This section shall not apply to the payment of property taxes.

(Adoptive effective July 29, 2008)

**Sec. 36a-809-15. Furnishing certain deceptive forms**

(a) No person shall design, compile or furnish any form knowing that such form would be used to create the false belief in a debtor that a person other than the creditor of such debtor is participating in the collection of or in an attempt to collect a debt such debtor allegedly owes such creditor, when in fact such person is not so participating.

(b) Any person who violates this section shall be liable to the same extent and in the same manner as a consumer collection agency is liable under Sections 36a-804, 36a-807 and 36a-808 of the Connecticut General Statutes for failure to comply with the provisions of this section.

(Adopted effective July 29, 2008)

**Sec. 36a-809-16. Consumer collection agencies desiring to terminate business**

(a) No consumer collection agency shall terminate its business unless the following conditions have been met:

(1) The commissioner has received written notice of the proposed termination at least thirty days prior to its effective date.

(2) All clients of the consumer collection agency are notified in writing of the proposed termination and its date at least thirty days prior to that date.

(3) All clients of the consumer collection agency are provided with detailed final accountings of all debtor accounts.

(4) All money held in escrow by the consumer collection agency, sole and exclusive of earned fees, is remitted to each respective client of the consumer collection agency.

(5) All papers, documents and other property of clients turned over to the consumer collection agency in connection with its collection efforts are returned to each respective client of the consumer collection agency.

(6) The consumer collection agency license is returned to the commissioner for cancellation.

(b) No consumer collection agency, when terminating a consumer collection agency business, shall transfer a debtor's account to another consumer collection agency without securing the written permission of the client.

(Adopted effective July 29, 2008)

**Sec. 36a-809-17. Process of collection**

For purposes of subdivision (7) of subsection (a) of Section 36a-805 of the Connecticut General Statutes, unless otherwise provided in a written contract between a consumer collection agency and its client, a claim shall be in the process of collection at any time (1) not more than sixty days after the initial receipt of the claim by the consumer collection agency, and (2) not more than sixty days after the receipt by the consumer collection agency of any payment made by a debtor with respect to the claim.

(Adopted effective July 29, 2008)