

New Laws and Guidelines Taking Effect for Debt Collection Practices

July 12, 2013 - The CFPB has announced new rules for debt collection procedures used by banks, lenders and other debt owners. And in California, Governor Jerry Brown has signed a new law that requires debt collectors making them responsible for researching and proving the accuracy of any debt they are attempting to collect. The new federal rules and California's new law mean major changes in debt collection procedures and give broad new enforcement powers to the CFPB and the California Attorney General.

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The CFPB rules mean a dramatic shift for lenders who own a debt and are trying to collect on it without using a collection agency. Until now, debt collectors were bound to follow collection procedures laid out in the federal Fair Debt Collection Procedures Act (FDCPA). But the FDCPA doesn't impact anyone who owns a debt and attempts to collect on it themselves. The CFPB is trying to change that and in communications with lenders, it is warning them to follow essentially the same rules that debt collection agencies do.

Those rules include barring lenders from threatening legal or other action if they don't actually intend to take such action and releasing information about an unpaid debt to a debtor's employer. The guidelines also forbid banks from taking possession of property in a foreclosure if they don't have a legal right to do so; something that was a big issue in the so called "robosigning" case that led to a bank settlement with 49 states.

At the same time that the CFPB sent its communication to lenders, it also unveiled a new portion of its website; <http://www.consumerfinance.gov/complaint/>. The site provides consumers with a way to file complaints about debt collection procedures and to track the progress of the complaint.

The CFPB has said that lenders in violation of the guidelines will face fines.

The new California law forces debt collectors to provide proof that any debt they trying collect on is accurate and that any consumer who is the target of a collection procedure was actually responsible for the debt. Federal law has similar requirements but one of the largest areas of complaints from consumers received by the California Attorney General's office is that debt collectors were not following the federal rules. Without the new law, the Attorney General had limited enforcement authority. Now she can take direct enforcement action against any debt collector that violates the new California law.

The new law is called the Fair Debt Buying Practices Act. It was authored by State Senator Mark Leno (D-San Francisco).

by Jim Malmberg

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