

New CFPB Debt Collection Rules are a Mixed Bag for Consumers

May 9, 2019 - Sometime within the next few days the Consumer Financial Protection Bureau will release nearly 540 pages of new proposed rules that debt collectors will have to follow. Once adopted, the rules will provide debt collectors with new methods to contact consumers, but at the same time they will place new restrictions on their behavior during the collection process. The changes are the first major overhaul in debt collection procedures in decades.

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Since 1977, debt collectors have had to follow the rules laid out in the federal Fair Debt Collection Practices Act (FDCPA). But other than that, the federal government hasn't provided a lot of guidance. The new proposed rules would change that.

Under the rules, debt collectors would only be able to attempt contacting a consumer by phone seven times in any given week and once contact is actually made, they would have to wait seven days before attempting to contact them again. They would also be allowed to attempt contact via text message and email.

The rules would specifically bar debt collectors from threatening to sue, or filing actual lawsuits to collect on debts that had gone beyond the statute of limitations for collections. Those statutes are state-specific.

Consumers would have the ability to tell debt collectors that they didn't want to receive any further calls, texts or email messages. Opting out of these types of contacts would not inhibit the debt collectors' ability to file a legitimate lawsuit to collect on a debt however.

It isn't clear at this point how the rules change would actually consumers. Many people who are behind on their bills may have multiple agencies attempting to collect from them. Anyone in this position could still receive multiple calls daily, and with the rules change, they could also start receiving unwanted text and email messages. It is also unfortunate that the CFPB dropped an earlier proposal that would have forced debt collectors to provide documentation showing that the consumer they are contacting is actually responsible for the debt they are attempting to collect on.

If the rules are adopted without major modifications, they may help in weeding out bad actors in the debt collection business, and we view that as a positive.

Once important note here. Neither the current rules under the FDCPA or this proposal have any impact on debt owners. For instance, if you fail to pay your mechanic for work done on your car, the mechanic is pretty well free to contact you as many times as he wants to in order to collect the money due. The FDCPA only applies to third-party collection agents.

Once the rules are published in the Federal Register, the public will have 90 days to comment on them. Baring any substantial push-back from the public, the rules would go into effect after the comment period closes.

byJim Malmberg

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