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Collection Practices of Creditors

(Transferred from § 36-243c)

Sec. 36a-647-1.

Repealed, October 2, 2006.

Sec. 36a-647-2. Definitions

As used in sections 36a-647-2 to 36a-647-7, 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 any communication directly or indirectly to any person through any medium and includes the conveyance of debt information;

(3) “Consumer debtor” means “consumer debtor” as defined in section 36a-645 of the Connecticut General Statutes;

(4) “Consumer debtor agent” means a consumer debtor’s guardian, executor, administrator, spouse if such spouse resides with the consumer debtor or parent if the consumer debtor is a minor, as defined in section 1-1d of the Connecticut General Statutes;

(5) “Creditor” means “creditor” as defined in section 36a-645 of the Connecticut General Statutes;

(6) “Debt” means “debt” as defined in section 36a-645 of the Connecticut General Statutes;

(7) “Location information” means information identifying the residence or place of employment of a consumer debtor or consumer debtor agent or any other identifying information that facilitates direct contact with a consumer debtor or a consumer debtor agent, such as a telephone number, cellular telephone number or e-mail address; and

(8) “Person” means an individual, partnership, limited liability company, trust, association, corporation or other legal entity.

(Effective July 6, 1979, transferred April 24, 1995; amended January 30, 1996, August 16, 2000, October 2, 2006)

Sec. 36a-647-3. Location information

(a) Any creditor who communicates with any person other than the consumer debtor or consumer debtor agent for the purpose of acquiring location information about the consumer debtor or consumer debtor agent shall disclose the name of the person making such communication and state that the communication is for the purpose of confirming or correcting location information concerning the consumer debtor or consumer debtor agent and, at the creditor’s option, identify the creditor. No such identification of creditor shall include the phrase “collection department” or any other phrase that would convey or suggest the existence of a debt.

(b) Any creditor described in subsection (a) of this section shall not:

(1) State that such consumer debtor owes any debt nor in any other manner communicate debt information;

(2) Communicate with any such person more than once with regard to a particular consumer debtor or consumer debtor agent unless requested to do so by such person or unless the creditor reasonably believes that the earlier response of such person was erroneous or incomplete or is no longer applicable and that such person now has correct, complete or current 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 communication relates to the collection of a debt; and

(5) Communicate with any person other than the attorney for the consumer debtor or consumer debtor agent after the creditor knows the consumer debtor or consumer debtor agent is represented by an attorney with regard to the subject debt and has knowledge of such attorney's name and address, unless the attorney fails to respond within a reasonable period of time not to exceed thirty days after such communication from the creditor, or unless the attorney cannot or will not provide location information to such creditor.

(c) The provisions of subsection (a) and subdivisions (1), (2) and (5) of subsection (b) of this section shall not apply to any communication permitted under subsection (b) of section 36a-647-4 of the Regulations of Connecticut State Agencies.

(Effective July 6, 1979, transferred April 24, 1995; amended October 2, 2006)

Sec. 36a-647-4. Communications

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

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

(2) If the creditor knows the consumer debtor or consumer debtor agent is represented by an attorney with respect to such debt and has knowledge of such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the creditor, not to exceed thirty days after such communication, unless the attorney consents to direct communication with the consumer debtor or consumer debtor agent, provided that a creditor may send to a consumer debtor or consumer debtor agent normal periodic billing statements which do not contain any message that violates the provisions of section 36a-647-5 or 36a-647-6 of the Regulations of Connecticut State Agencies; or

(3) At the place of employment of the consumer debtor or consumer debtor agent if the creditor knows or has reason to know that the employer of the consumer debtor or consumer debtor agent prohibits such debtor or agent from receiving such communication.

(b) **Communication with Third Parties.** (1) Except as provided in section 36a-647-3 of the Regulations of Connecticut State Agencies and subdivision (2) of this subsection, without the prior consent of the consumer debtor or consumer debtor agent given directly to the creditor, the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a prejudgment or post-judgment judicial remedy, a creditor shall not communicate in connection with the collection of any debt with any person other than:

- (A) The consumer debtor or consumer debtor agent;
- (B) The consumer debtor's attorney or consumer debtor agent's attorney;
- (C) A consumer reporting agency, if otherwise permitted by law;
- (D) The creditor's attorney;

- (E) The creditor's accountant;
 - (F) A consumer collection agency;
 - (G) A creditor, past creditor or prospective creditor of the consumer debtor that is not also the employer of such consumer debtor, provided that any such communication is not for the purpose or with the intent of harassing or embarrassing the consumer debtor into paying such debt;
 - (H) A corporation that owns more than twenty-five per cent of the stock, if any, of the creditor;
 - (I) A person who is consultant to the creditor on matters relating to consumer debts, who supervises or manages the creditor or who services debts owed to the creditor;
 - (J) A person who is not the consumer debtor or consumer debtor agent but who has paid or is paying all or part of the consumer debtor's debt; provided that the creditor shall not demand or otherwise attempt to collect the debt from such person who is not the consumer debtor without the consent of such person;
 - (K) The commissioner and an employee of any federal or state agency which regulates such creditor or which is otherwise legally permitted to obtain information about a consumer debtor; or
 - (L) A person who is not a natural person and who is obligated to pay a consumer debtor's debt, whether as a guarantor, endorser or otherwise.
- (2) Notwithstanding the provisions of subdivision (1) of this subsection, a creditor may communicate with any person if such communication is necessary:
- (A) For the creditor, consumer debtor or consumer debtor agent to claim or receive benefits under any insurance policy or other insurance coverage, including Medicare and Medicaid; or
 - (B) For the creditor to effect or negotiate an assignment, sale or purchase of the debt.
- (c) **Prior consent of the consumer debtor or consumer debtor agent.** For purposes of this section, "prior consent of the consumer debtor or consumer debtor agent" does not include consent obtained by virtue of any provision in any writing evidencing the debt or executed at the time the debt was incurred.

(Effective July 6, 1979, transferred April 24, 1995; amended January 30, 1996, October 2, 2006)

Sec. 36a-647-5. Conduct

A creditor shall not engage in any conduct the natural consequence of which to a reasonable person would be to harass or abuse such person in connection with the collection of a debt. A creditor shall not intentionally engage in any conduct which the creditor knows would harass or abuse any person. 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 to a reasonable person is to abuse the hearer or reader;
- (3) Publicly disseminating or displaying a list of, pictures of or other information about consumer debtors or consumer debtor agents who allegedly refuse to pay debts which could identify any consumer debtor or consumer debtor agent to the general public. As used in this subdivision, "publicly disseminating" and "general public" do not include dissemination to any commercial enterprise directly or through a consumer reporting agency in the ordinary and reasonable course of such creditor's business;

- (4) Advertising for sale any debt to coerce payment of the debt;
- (5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously if the natural consequence of such action to a reasonable person is annoyance, abuse or harassment;
- (6) Except as provided in section 36a-647-3 of the Regulations of Connecticut State Agencies, placing telephone calls without meaningful disclosure of the caller's identity;
- (7) Soliciting any amount, including any interest, fee, charge or expense incidental to the principal obligation, unless such amount is authorized by the agreement creating the debt or permitted by law;
- (8) Soliciting a postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution;
- (9) Depositing or threatening to deposit a postdated check or other postdated payment instrument prior to the date on such check or instrument;
- (10) Causing charges to be made to or expenses to be incurred by any person in connection with communications concerning the consumer debtor or the consumer debtor's debt by misrepresenting the true purpose of the communication or by misrepresenting or concealing the identity of the person making the communication. Such charges and expenses include, but are not limited to, collect telephone calls and telegram fees;
- (11) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property unless:
 - (A) There is a present right to possession of the property claimed as collateral through an enforceable security interest;
 - (B) There is a present intention to take possession of the property; and
 - (C) The property is not exempt by law from such dispossession or disablement;
- (12) Communicating with a consumer debtor or consumer debtor agent regarding a debt by post card;
- (13) Using any language or symbol on any envelope when communicating with a consumer debtor or consumer debtor agent by use of the mails or by telegram that would convey the impression that the communication concerns collection of a debt;
- (14) Refusing to make a reasonable effort to determine the validity of a debt the consumer debtor disputes unless such a verification has already been made;
- (15) Instituting or threatening to institute a civil action in any court location which the creditor or its attorney knows is not proper venue for such action; or
- (16) Sending any written communication to a consumer debtor which recites the time period within which a debt must be paid to avoid further action but which does not recite the date on which such time period commences.

(Effective July 6, 1979, transferred April 24, 1995; amended October 2, 2006)

Sec. 36a-647-6. Representations, devices, practices

A creditor shall not use any fraudulent, deceptive or misleading representation, device or practice 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 creditor is vouched for, bonded by or affiliated with the United States, any state or any political subdivision thereof, including the use of any title or 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 attorney or consumer collection agency that may be employed 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 or may result in the seizure, garnishment, attachment or sale of any property or wages of any person unless such action is lawful and the creditor intends to take such action.

(5) The representation or implication that nonpayment of any debt will or may result in the arrest, imprisonment or criminal prosecution of any person.

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

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

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

(B) Become subject to any practice prohibited by the provisions of sections 36a-647-2 to 36a-647-7, inclusive, of the Regulations of Connecticut State Agencies.

(8) The false representation or implication that the consumer debtor committed any crime or engaged in any shameful or disgraceful act.

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

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

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

(12) The failure to disclose clearly in all communications made to collect a debt or to obtain information about a consumer debtor or consumer debtor agent that the creditor is attempting to collect a debt. This subsection shall not apply to any creditor communications for the purpose of acquiring location information permitted by section 36a-647-3 of the Regulations of Connecticut State Agencies.

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

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

(15) The use of any business, company or organization name other than the true name of the creditor's business, company or organization.

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

(17) The false representation or implication that a creditor operates or is employed by a consumer reporting agency.

(Effective July 6, 1979, transferred April 24, 1995; amended October 2, 2006)

Sec. 36a-647-7. Violation of provisions

A creditor shall not be found to violate any provision of sections 36a-647-2 to 36a-647-6, inclusive, of the Regulations of Connecticut State Agencies if the creditor proves by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such error. As to any violation by an employee of the

creditor, the commissioner shall consider, without limitation, the extent of the creditor's education program for its employees in determining whether the creditor maintains procedures reasonably adapted to avoid such error.

(Effective July 6, 1979, transferred April 24, 1995; amended January 30, 1996, October 2, 2006)