# 02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

030 BUREAU OF CONSUMER CREDIT PROTECTION

Chapter 300 Collection Agencies: Application and Record Keeping Requirements

SUMMARY: This Regulation is promulgated pursuant to Title 32, M.R.S.A., Chapter 10 and replaces Bureau Regulation 02 433, Chapter 300 entitled COLLECTION AGENCIES: PLACE OF BUSINESS AND RECORD KEEPING REQUIREMENTS. This Regulation sets forth the procedures for filing initial and renewal applications, net worth requirements, bond amounts, location of books and records and fee schedules for a staggered licensing system.

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§1. REQUIREMENTS AND PROCEDURES FOR OBTAINING A COLLECTION AGENCY LICENSE

A. NET WORTH REQUIREMENTS

The following represents the minimum net worth standards that an applicant must meet in order to be eligible for a Collection Agency license:

1. sole proprietor $10,000.00

2. partnership $10,000.00

3. Corporation $10,000.00

B. APPLICATION FOR INITIAL LICENSE

An applicant for an initial collection agency license shall submit the following:

1. A completed "Application for Collection Agency License" package (supplied to the applicant by the Bureau) consisting of the following items:

(a) A completed application form;

(b) Completed fingerprint cards for the owner, if the applicant is a sole proprietor, for each partner if the applicant is a partnership and for each officer if the applicant is a corporation;

(c) Verification of registration of the applicant's trade name if the applicant is a sole proprietor or partnership;

(d) Signed "Authorization for Credit Bureau Report" by the owner, if the applicant is a sole proprietor and by the partners if the applicant is partnership;

(e) If the applicant is a corporation:

(i) a certified copy of its charter and bylaws;

(ii) date of registration as a foreign corporation with the Secretary of State; and

(iii) if the applicant is a foreign corporation, a duly-executed power of attorney appointing the Superintendent to be the true and lawful attorney of that corporation in and for this State;

(f) A duly executed bond in the amount specified in subsection E of this section, including the address and telephone number of the bonding company and the name, address and telephone number of the agency through which the bond was procured. (The bond may be filed after the applicant has been notified by the Superintendent that its application has been approved.)

2. A financial statement prepared by an accountant consisting of a Review Report.

3. A copy of any contract or agreement that the applicant will use with its clients.

4. A specimen listing sheet. This form is intended to record the referrals made by a creditor to the collection agency, identifying the name of the debtors, the amount of the debt owed by each and the rate of commission to be paid to the collection agency by the client.

5. A specimen debtor's Work Card. This document shall provide space for recording:

(a) The name and address of the debtor;

(b) The date that the account was referred;

(c) The actual amount of the claim submitted by the client;

(d) The name and address of the creditor or a means of identifying this information by code or account number; and

(e) A record of payments made by the debtor, including the date received and the amount and balance owing.

6. A specimen debtor's Receipt for Cash Payments made to the agency. This document shall provide space for recording:

(a) The name and address of licensee;

(b) The name of the debtor;

(c) The date and amount of payment received;

(d) The balance owing;

(e) The name of the creditor; and

(f) The name or initials of the person accepting payment.

7. A specimen Remittance Sheet. This form shall contain space for the recording of the dates and amounts of remittances by the collection agency to the creditor.

8. A specimen Creditor's Attorney Authorization Form. This form shall clearly state that the creditor may choose its own attorney. If the creditor does not elect to choose a specific attorney, the form may provide that an attorney may be selected by the collection agency.

9. A complete set of form letters that the applicant will use in its communication with Maine debtors.

10. The name of the financial institution or institutions where the trust account and agency account will be maintained, and the identifying numbers assigned by the financial institution to the accounts.

11. A statement designating the exact nature of the applicants intended activity (e.g., letter writing, full service collections, automobile repossessions, etc.).

12. The appropriate license fee specified in subsection D of this section. Checks shall be made payable to "Superintendent, Bureau of Consumer Credit Protection."

C. APPLICATION FOR LICENSE RENEWAL

A licensee seeking renewal of its collection agency license shall submit, prior to July 31st of the year in which its license is to expire, the following:

1. A completed application form (to be supplied by the Bureau).

2. A completed Bond Confirmation indicating that the bond continues in force, or if there has been a change in bonding companies, a duly executed bond in the amount specified in subsection E of this section, including the address and telephone number of the bonding company and the name, address and telephone number of the agency through which the bond was procured.

3. A financial statement prepared by an accountant consisting of a Review Report, evidencing the financial condition of the licensee not more than seven months prior to July 31st of the current year.

4. A license renewal fee of $400. Checks shall be made payable to "Superintendent, Bureau of Consumer Credit Protection."

D. LICENSE FEE SCHEDULE AND PROCEDURE

1. Applicants and licensees with names beginning with letters A-M shall expire July 31st of every even-numbered year. Applicants and licensees with names beginning with letters N-Z shall expire July 31st of every odd-numbered year.

2. Applicants that apply with fewer than 12 months between the date of application and the scheduled date of license renewal shall pay a $200. license fee. Applicants that apply with more than 12 months between the date of application and the scheduled date of license renewal shall pay a $400. license fee.

3. Any applicant for an initial license, or any licensee applying for a license renewal, that voluntarily withdraws its license application shall forfeit its license fee.

E. BOND REQUIREMENTS

The following bond requirements shall apply to new applicants for, and existing licensees seeking renewal of, collection agency licenses:

1. New applicants:

Bond Amounts

(a) Applicants that will undertake $20,000

direct collections

(b) Applicants that will undertake $15,000

repossessions only

(c) Applicants that are letter writing $ 5,000

companies (no direct collections)

2. Existing licensees seeking biennial renewal:

Monthly average of Gross Collections on behalf of Maine creditors (excluding Direct Payments) for the preceding 12 months.

Bond Amount

(a) Over $40,000 a month $50,000

(b) $30,000 - $40,000 a month $45,000

(c) $20,000 - $30,000 a month $35,000

(d) $10,000 - $20,000 a month $25,000

(e) Under $10,000 a month $15,000

3. Other existing licensees seeking biennial renewal:

(a) Applicants that will undertake $15,000

repossessions only

(b) Applicants that are letter writing $ 5,000

companies (no direct collections)

§2. REQUIREMENTS AND PROCEDURES FOR COLLECTION AGENCY OPERATION

A. TRUST ACCOUNT REQUIREMENTS

1. A licensee shall maintain a trust account in accordance with generally accepted accounting principles which shall contain only those funds collected on behalf of Maine creditors.

2. The gross amount of monies collected from debtors shall be deposited into the trust account no later than the day after the actual collection was received from the debtors excluding Saturday, Sunday and holidays.

3. A licensee shall withdraw its commission from monies in the trust account on one specific day of its choosing each month. That day, once chosen, will be the same each succeeding month.

4. In remitting to clients a licensee may offset funds in its trust account against commissions to which it is entitled for payments made by debtors directly to clients. Such offsetting may occur only on the date chose under paragraph (3), above. All offsets shall be accounted for through written documentation evidencing the amount of offset, and all commissions obtained through offsetting shall be withdrawn from the trust account that day.

B. LOCATION AND MAINTENANCE OF BOOKS AND RECORDS

1. A licensee may keep the books and records required by this Rule in a location outside this State with the Superintendent's permission. A licensee desiring to keep its books and records outside of this State shall submit a written request to the Bureau specifying:

(a) The exact location and phone number of the location where the books and records would be kept and maintained;

(b) The express willingness of the licensee to pay the actual costs incurred by the Superintendent in conducting an examination or investigation, including the proportionate part of the salaries and expenses (travel, meal and lodging) of the Bureau's Examiners who conduct the examination or investigation; and

(c) The licensee's recognition of its obligation, and its ability to fulfill its obligation, to produce all such books and records within 72 hours at a place in this State specified by the Superintendent should he so request.

2. In making his determination concerning a request to keep records outside of this State, the Superintendent shall consider at least the following:

(a) The number of consumer complaints against the licensee;

(b) The number of creditor complaints against the licensee;

(c) The extent to which any of the complaints referred to in divisions (a) and (b) are related to record keeping;

(d) The quality of the licensee's past compliance examinations;

(e) The burden placed on the licensee by having to maintain records in this State; and

(f) The burden placed on the Bureau in attempting to perform on-site examination of the licensee's records at their proposed out-of-state location.

The Superintendent shall render his decision on such a request within 30 days.

3. A licensee shall, at a minimum, maintain all records specified in Section 1, subsection B, paragraphs 3, 4, 5, 6, 7, 8, and 9 of this Rule. Records shall be kept current to within one week of the current date. Computerized records which contain the equivalent of the information required to be maintained by this subsection are acceptable.

4. A licensee shall inform the Superintendent of any change in the location of its books and records within ten (10) days of such change.

C. COMMUNICATIONS WITH DEBTORS

1. No licensee may use a form letter in communicating with Maine debtors that has not first been submitted to the Bureau for approval. The Bureau shall approve or disapprove letters within 45 days of receipt. The Bureau may take an additional 15 days to review a letter submitted for approval, if necessary. If a letter is disapproved, the licensee will be notified in writing.

2. A licensee may not accept from any person a check or other payment instrument postdated by more that five days unless that person is notified in writing by the licensee of its intent to deposit the check or instrument, at least three, but not more that ten, business days prior to deposit.

3. A licensee shall be available a minimum of 20 hours a week with sufficient personnel to provide information, personally or telephonically concerning a debtor's account. Such hours shall appear on all communications sent to Maine debtors.

4. A licensee shall disclose the telephone number of its licensed location on the letterhead of all communications sent to Maine debtors.

D. CHANGE IN OWNERSHIP

1. A change in ownership of a sole proprietor or change of 50% or more in ownership of any corporate licensee or of the partners in any partnership licensee, shall require the filing of a new license application.

E. CHANGE IN COLLECTION AGENCY ACTIVITY

A licensee may not change its activities from those specified in its application for an initial license as set forth in §1(B)(11) without first notifying the Superintendent in writing of the intended change. The Superintendent shall determine what additional requirements, including but not limited to, increasing the bond amount or reviewing proposed form letters, are necessary before the licensee may engage in the new activity.

§3. TERMINATION OF BUSINESS

A. PROCEDURES FOR CESSATION OF BUSINESS

1. Any licensee terminating its business shall comply with the following requirements:

(a) Notify the Superintendent of the proposed termination at least 30 days prior to its effective date;

(b) Notify all clients in writing of the proposed termination and its date at least 30 days prior to that date;

(c) Provide all clients with detailed final accountings of all debtor accounts;

(d) Remit all money held in the agency trust account to each respective client;

(e) Return all papers, documents and other property of clients provided to the licensee in connection with its collection efforts to each respective client; and

(f) Return its license to the Superintendent for cancellation.

2. No licensee, when terminating its business, may transfer an account to another licensee without securing the written permission of the client.

AUTHORITY: 32 M.R.S.A., §§582; 573(3),(4),(5),(6); 574; 578; and 580.

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