

Debt Buyer License or Collection Agency Registration – Which do you need?

House Bill 2356 (Oregon Chpt. Laws 625) was passed during Oregon's 2017 legislative session. It requires persons engaged in debt buying in Oregon to obtain a debt buyer license as of January 1, 2018. The Department of Consumer and Business Services' Division of Financial Regulation has begun the process of implementing HB 2356. The division adopted temporary rules, which allow debt buyers to begin applying for debt buyer licenses through the NMLS as of November 1, 2017.

Who needs a debt buyer license? Persons engaged in debt buying in Oregon must obtain a license by January 1, 2018, in order to comply with HB 2356. A debt buyer is defined as “a person that regularly engages in the business of purchasing charged-off debt for the purpose of collecting the charged-off debt or hiring another person to collect or bring legal action to collect the charged-off debt.”

Who needs a collection agency registration? Collection Agencies are defined as:

“(A) A person directly or indirectly engaged in soliciting a claim for collection, or collecting or attempting to collect a claim that is owed, *due or asserted to be owed or due to another person* or to a public body at the time the person solicits, collects or attempts to collect the claim;

(B) A person that directly or indirectly furnishes, attempts to *furnish, sells or offers to sell forms represented to be a collection system* even if the forms direct the debtor to make payment to the creditor and even if the forms may be or are actually used by the creditor in the creditor's own name;

(C) A person that, in attempting to collect or in collecting the person's own claim, uses a fictitious name or any name other than the person's own that *indicates to the debtor that a third person is collecting or attempting to collect the claim*;

(D) A person in the business of engaging in the solicitation of the right to repossess or in repossessing collateral security due or asserted to be due to another person; or

(E) A person that, in the collection of claims from another person:

(i) *Uses any name other than the name regularly used in the conduct of the business out of which the claim arose*; and

(ii) *Engages in any action or conduct that tends to convey the impression that a third party has been employed or engaged to collect the claim.*” ORS 697.005.

The debt buyer license is different than the collection agency registration for persons collecting on third party debt. While some businesses may engage in activity regulated by both HB 2356 and ORS 697 and will need both the license and registration, many businesses will need *either* a debt buyer license *or* a collection agency registration. The division recognizes that some may make the business decision to maintain a collection agency registration *and* obtain a debt buyer license based on factors unrelated to Oregon compliance requirements.

To determine whether you need a debt buyer license or a collection agency registration, first ask: is the debt collection related to a debt which I now own due to purchase or assignment? If the answer is yes, you likely need a debt buyer license. For collection agency registration ask: am I attempting to collect debt for a third party or using a name which gives the impression that I'm collecting for someone else? If the answer is yes, then you likely need a collection agency registration. If you both buy charged off debts for the purposes of collection *and* attempt collection on behalf of a third party may need to obtain both the debt buyer license and the collection agency registration.

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