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California DFPI Publishes Notice of Proposed Rulemaking for Debt Collector Licensing

By: [Melissa Richards](#)

As a follow up to my [article](#) on December 4, 2020, reporting that California enacted **SB 908 – the Debt Collection Licensing Act, Financial Code Division 25, Sections 100000, et seq.**, the administering agency **Department of Financial Protection and Innovation** issued its [Notice of Proposed Rulemaking](#) on Friday, April 23rd. The proposed regulations for Debt Collection Licensing Act will be installed in Title 10, California Code of Regulations, Subchapter 11.3 “Debt Collection Licensing Act.” A copy of the proposed rulemaking text is [here](#).

The proposed rulemaking would adopt the license application forms, requirements to obtain a license as a debt collector, and other requirements related to licensure such as surety bonds, copies of debt collection documents to be sent to consumers, pre-licensure reporting of debt collection activity in California, and the inclusion of any **Affiliates** that also engage in California debt collection to be listed under a single enterprise license. The proposed regulations require applicants to apply for and maintain their debt collection license through the **Nationwide Multistate Licensing System & Registry (NMLS)** by using application forms **MU1** for the person and its affiliates to be listed in a single enterprise license, **MU2** background check information for individual “control persons,” and **MU3** identifying branch office locations and their respective branch managers.

The proposed regulations also cover these licensing issues:

- Final rulemaking in advance of SB 908’s **January 1, 2022 operative date**. Consistent with the new Financial Code Section 100000.5, the proposed regulations would adopt the license application and procedures to allow debt collectors to apply for a license in advance of SB 908’s January 1, 2022 operative date. DFPI is targeting final rulemaking to take effect by November 19, 2021.
- Provides a list of what information is required from MU1 and MU2 applicants in order for the DFPI to investigate whether they meet the standards for licensure.
- Provides the processes to challenge information entered by the DFPI representatives in the NMLS, to submit and maintain a surety bond (\$25,000 is the minimum required by statute), and to change information in the license application including changes in key personnel, branch offices, and ownership over a 10% threshold.
- Specifies the acts that may constitute grounds for the DFPI to deny a debt collection license.

The comment period for DFPI proposed rules **ends June 8, 2021**. The DFPI expects to issue additional regulations in 2022 in a separate rulemaking to address further licensing administration issues including

the requirements for maintaining books and records, annual reporting, and for surety bond amounts based on a licensee's volume of debt collection in the preceding year.

As a reminder, Debt Collection Licensing is required for consumer debt collectors who are collecting debts made to natural person borrowers primarily for personal, family or household purposes. Covered "debt collectors" include those collecting on their own account or for the account of others, as well as debt buyers. See, Cal. Financial Code §100001(a). "Debt collector" also includes any person who composes and sells, or offers to compose and sell, forms, letters and other collection media used or intended to be used for debt collection. See, Cal. Financial Code §100002. Covered consumer debt includes "charged-off consumer debt" as defined in Cal. Civil Code § 1788.50. Persons that are exempt from debt collection licensing but still subject to all provisions of the California Rosenthal Debt Collection Act are depository institutions; consumer debt collectors licensed under California's Real Estate Law, Residential Mortgage Lending Act or Financing Law; foreclosure trustees; student loan servicers; and persons subject to California's Karmette Rental-Purchase Act. See, Cal. Financial Code §100001(b).

Please reach out to Melissa Richards for assistance in understanding the proposed DFPI regulations for Debt Collection Licensing and for licensing application preparation on the NMLS system. Expect further Client Alerts on DFPI rulemaking developments to implement California's Debt Collection Licensing Act.



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