



August 19, 2021

INVITATION FOR COMMENTS ON PROPOSED SECOND RULEMAKING  
UNDER THE DEBT COLLECTION LICENSING ACT

BACKGROUND

In September 2020, the California Legislature enacted the Debt Collection Licensing Act (“DCLA”) to authorize the Commissioner of Financial Protection and Innovation (“Commissioner”) to license, investigate, and examine debt collectors, and to enforce the Rosenthal Fair Debt Collection Practices Act (“Rosenthal Act”) and the Fair Debt Buying Practices Act (“FDBPA”). Prior to enactment of the DCLA, debt collectors were not required to be licensed in California. The DCLA is operative on January 1, 2022.

On April 8, 2021, the Commissioner initiated a rulemaking to adopt regulations related to the requirements for licensure under the DCLA (“first rulemaking”). In the Initial Statement of Reasons for the first rulemaking, the Department of Financial Protection and Innovation (“Department”) stated that it anticipated subsequent rulemaking related to other parts of the DCLA. The Commissioner is now considering a second rulemaking to adopt regulations on the topics discussed below.

POTENTIAL TOPICS FOR RULEMAKING

The Department has identified the below areas of the DCLA where rulemaking may be appropriate. The Department seeks input from stakeholders in developing regulations in these areas, and has formulated questions to assist interested parties in providing input. The Department also invites stakeholders to provide example language for regulations relating to their responses to the questions below.

- I. Scope of the DCLA
  - A. The DCLA defines several terms in Financial Code section 100002, including “debt,” “debt collection,” “person,” “consumer credit transaction,” “debt collector,” and “debt buyer.” Which of these definitions, if any, are unclear? Are the definitions of these terms the same as those in the Rosenthal Act and FDBPA?

- B. The DCLA states that “[n]o person shall engage in the business of debt collection in this state without first obtaining a license pursuant to this division.”<sup>1</sup> Are regulations needed to clarify the term “engage in the business of debt collection”?
  - C. The DCLA defines a debt collector as “any person who, in the ordinary course of business, regularly, on behalf of that person or others, engages in debt collection.”<sup>2</sup> Are regulations needed to clarify the term “in the ordinary course of business” or “regularly”?
  - D. Financial Code section 100001, subdivisions (b)(1) and (c) provide exemptions from the DCLA. Is further clarification needed regarding which entities or transactions are exempt?
  - E. The DCLA defines a “debtor” as “a natural person from whom a debt collector seeks to collect a consumer debt that is due or owing or alleged to be due or owing from the person.”<sup>3</sup> Is the term “due or owing” clear?
  - F. The DCLA grants the Department authority to enforce the Rosenthal Act and the FDBPA against persons required to be licensed under the DCLA and persons expressly exempt from licensure, including certain federally-regulated entities.<sup>4</sup> Is further clarification needed regarding against whom the Department can enforce the Rosenthal Act and the FDBPA?
- II. Annual Reports
- A. What terms in Financial Code section 100021 need clarification and how should those terms be defined?
  - B. Is there additional information the Department should require from licensees in their annual reports?
- III. Higher Bond Amounts
- A. Should the Department require higher bond amounts pursuant to Financial Code section 100019, subdivision (e)(2)?
  - B. If the Department should require higher bond amounts, what amounts are appropriate and how should they relate to the number of affiliates under the

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<sup>1</sup> Fin. Code § 100001, subd. (a).

<sup>2</sup> Fin. Code § 100002, subd. (j).

<sup>3</sup> Fin. Code § 100002, subd. (k).

<sup>4</sup> Fin. Code § 100005, subd. (b) and Fin. Code § 100001, subd. (b)(2).

license and the dollar amount of consumer debt collected by the licensee?  
Specifically:

1. At what point should the bond amounts begin to increase?
2. What formula is appropriate for calculating the higher bond amount?
3. Should the amounts be set based on tiers? If so, what should be the boundaries between the tiers?

#### TIME FOR COMMENTS

The Commissioner invites interested parties to submit comments by October 5, 2021.

#### WHERE TO SUBMIT COMMENTS

You may submit comments by any of the following means:

##### Electronic

Comments may be submitted electronically to [regulations@dfpi.ca.gov](mailto:regulations@dfpi.ca.gov). Include "PRO 05-21" in the subject line.

##### Mail

Department of Financial Protection and Innovation  
Legal Division  
Attn: Sandra Sandoval, Legal Analyst  
300 S. Spring Street, Suite 15513  
Los Angeles, CA 90013

#### CONTACT PERSONS

Questions regarding this invitation for comments may be directed to Emily Gallagher, Senior Counsel, at [emily.gallagher@dfpi.ca.gov](mailto:emily.gallagher@dfpi.ca.gov).