



August 26, 2022

California Department of Financial Protection and Innovation
Legal Division, Attn: Sandra Navarro, Legal Assistant
2101 Arena Boulevard
Sacramento, CA 95834
Via Email: (regulations@dfpi.ca.gov)

Re: Comment on Second Rulemaking Under Debt Collection Licensing Act (PRO 05-21)

Dear Ms. Navarro:

I am writing on behalf of the California Credit Union League (League), one of the largest state trade associations for credit unions in the United States, representing the interests of approximately 230 California credit unions and their more than 11.6 million members.

Background

On December 22, 2021, regulations issued by the California Department of Financial Protection and Innovation (DFPI) took effect pertaining to the license application form and procedures under the Debt Collection Licensing Act (DCLA) [(Sen. Bill No. 908 (Chap.163, Stats. 2020); Cal. Fin. Code, § 100000, et seq.)] (First Rulemaking). On July 15, 2022, the DFPI issued draft regulations related to the scope, annual report, and document retention requirements of the DCLA (Proposed Second Rulemaking).

We respectfully offer the following comments and feedback on the Proposed Second Rulemaking for your further consideration.

Scope of Licensing Requirements – 10 CCR §1850.1

Section 1850.1(a) of the draft regulations indicates that “[e]mployees of debt collectors are not required to be licensed under the Debt Collection Licensing Act when acting within the scope of their employment with a debt collector licensed pursuant to Division 25 of the Financial Code, commencing with Section 100000.” The term “employee,” as defined in §1850(i), means “[a]n individual whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person and whose compensation for federal income tax purposes is reported, or required to be reported, on a W-2 form or international equivalent, issued by the controlling person.”

The League thanks the DFPI for appropriately tailoring the licensing requirement to the DCLA-covered debt collectors and clarifying that individual employees acting within the scope of their employment with a licensed debt collector are not required to be individually licensed.

However, while §1850.1(a) addresses employees acting within the scope of their employment with a *licensed* debt collector, it does not specifically address employees acting within the scope of their employment with an entity that is *expressly exempt* from the DCLA's licensing requirements. Financial Code §100001(b)(1) provides that the DCLA (with limited exception), and the licensing obligation in particular, do not apply to certain entities already regulated under other laws, including state and federal credit unions.

In light of §1850.1(a), it would be reasonable to infer that an individual employee of an exempt depository institution under §100001(b)(1), when acting as the agent of the depository institution, would also be covered by this exemption and therefore not required to be individually licensed under the DCLA, although this is not expressly stated. If this interpretation is incorrect, we respectfully seek the DFPI's further clarification on this matter.

Final Comments

The League once again thanks the DFPI for its current clarifications with regard to employees of licensed debt collectors. However, we would welcome the DFPI's further clarification that an individual employee of an exempt depository institution would also be excluded from the licensing requirement in order to avoid any potential misinterpretations. Thank you for the opportunity to comment on the proposal. If you have any questions regarding our comments, please do not hesitate in contact me.

Sincerely,

Diana R. Dykstra
President/CEO
California Credit Union League