

# Legal News Round-Up

Keep Current With Industry-Related News From Around The U.S.,  
Courtesy of Our Washington Hot News Correspondent David Goch

## CFPB To Accept Consumer Complaints, Outlines Collection Rules

The Consumer Financial Protection Bureau released a series of bulletins in July informing all companies under bureau jurisdiction that they will be held accountable for unlawful conduct in collecting a consumer's debts.

In the first bulletin, the CFPB stated that entities, including third-party collectors and creditors collecting their own debts, can be held responsible for unfair, deceptive or abusive consumer debt collection practices.

The second bulletin warns companies to avoid deceptive statements concerning the impact debt payments can have on a

consumer's credit score, credit report or creditworthiness.

The CFPB also announced it will begin accepting debt collection complaints and has published action letters for consumers to use when corresponding with debt collectors.

The CFPB Bulletin on Unfair, Deceptive, and Abusive Practices can be found at [http://files.consumerfinance.gov/f/201307\\_cfpb\\_bulletin\\_unfair-deceptive-abusive-practices.pdf](http://files.consumerfinance.gov/f/201307_cfpb_bulletin_unfair-deceptive-abusive-practices.pdf). The CFPB Bulletin on Debt Collectors Discussing Consumers' Credit is available at [http://files.consumerfinance.gov/f/201307\\_cfpb\\_bulletin\\_collections-consumer-credit.pdf](http://files.consumerfinance.gov/f/201307_cfpb_bulletin_collections-consumer-credit.pdf).

## CFPB and FTC Considering New Consumer Debt Documentation Standards for Banks, Creditors

Last summer, the CFPB and Federal Trade Commission told the a Senate banking subcommittee they are assessing the need for new documentation standards banks and other creditors would have to use when providing information on consumers' accounts to collection firms and debt buyers.

Corey Stone, assistant CFPB director for deposits, cash, collections and reporting markets, and James Reilly Duncan, acting associate director for the FTC's Division of Financial Practices, said their agencies have been examining data integrity across a wide spectrum of nonbank creditors, as well as 4,000 debt collection and debt purchasing companies.

They told the Senate Banking Subcommittee on Financial Institutions and Consumer Protection that the two agencies will also work closely to establish clearer guidelines for collectors to use newer communication technologies to reach consumer debtors.



## Bankruptcy-Related Health Care Bill Introduced For Miners

Three congressmen from coal-producing areas have introduced legislation (H.R. 2627) that would ensure continued health care coverage for miners who are in danger of losing their benefits because of Patriot Coal Corp.'s bankruptcy.

Introduced by Rep. Ed Whitfield (R-Ky.), the bill would amend the Surface Mining Control and Reclamation Act of 1977. The legislation would make miners, who are in danger of losing their health care benefits because of Patriot Coal's bankruptcy, eligible for United Mine Workers of America's 1993 Benefit Plan.

## NY Financial Services Dept. Introduces Extensive New Debt Collection Legislation

In a late summer announcement, the New York State Department of Financial Services has proposed sweeping legislation that would crack down on “widespread abuses in the debt collection industry” by requiring better disclosures and transparency, protections against the collection of old debts, improving verification documentation and limiting harassing calls.

The proposed legislation is being issued through DFS’s use of its “gap authority,” which was granted at the time the agency was created.

Debt collectors would be required to disclose that it is illegal to use or threaten violence, use obscene language, or make repeated calls with the intent to annoy, abuse, or harass. Initial disclosures must include a written notice that certain sources of income or assets are exempt from being taken to satisfy judgment.

Debt collectors would also have to provide information on the original creditor, the total due, itemized charges and fees, the name of each creditor or debt collector who levied the fees, and the date and basis for each.

Before accepting payment, the law would require debt collectors to provide clear

notice if they know or have reason to know that the statute of limitations has run out on a debt. If a consumer demands verification, the legislation dictates the information that must be provided and the time limit during which the debt collector must respond.

Within 30 days of request, the debt collector must provide the following:

- Documentation identifying the original creditor, including copies of signed contracts
- A final account statement
- A statement describing the complete chain of title from the original creditor to the present debt owner
- Where applicable, the consumer’s account number with the original creditor at the time of the default
- Records reflecting the amount due and date of any prior settlement agreement reached in connection with the debt

The new regulations will take effect upon publication in the State Register, except provisions detailing documenting information on the debt, which become effective 180 days after publication. Text of the legislation is at <http://www.dfs.ny.gov/legal/regulations/proposed/debt-collection.pdf>



## FCC Suggests Congress Increase Telemarketer Penalties

At a July hearing before the Senate Commerce, Science, and Transportation Committee’s Consumer Protection, Product Safety and Insurance Subcommittee, Eric Bash, associate chief of the Federal Communications Commission’s Enforcement Bureau, said Congress should expand the FCC’s power to punish fraudulent telemarketers.

Bash suggested Congress allow the FCC to impose forfeitures on non-licensee robocall violators without having to first issue a citation, expand the statute of limitations from one to at least two years and increase penalties levied on the violators. Bash also recommended revising The Truth In Caller ID Act.

The FCC has adopted rules to require “prior express written consent” for all auto-dialed or prerecorded telemarketing calls to wireless telephone numbers.

## California Approves New Debt Collection Bill

Governor Jerry Brown (D-Calif.) has signed a bill (S.B. 233) that tightens rules for debt collectors.

The bill prohibits collectors from bringing lawsuits or collecting a debt unless they can verify the ownership and debt amount. It also requires debt buyers to substantiate the validity of a debt before they can

collect — and requires them to direct their efforts to the proper debtor for the correct amount.

The new law takes effect on Jan 1, 2014. More information is available at [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB233&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB233&search_keywords=)