C.L. "BUTCH" OTTER
Governor

GAVIN M. GEE
Director

Policy Statement 2009-01

This Supersedes the Department's Debt Buyer Policy Dated August 1, 2005

DEPARTMENT POLICY CONCERNING DEBT BUYERS

The Idaho Department of Finance continues to receive inquiries from companies engaged in the business of purchasing delinquent debt and assigning the same for collection to law firms or collection agencies. Sometimes these buyers of delinquent or defaulted debts feel that they are not subject to the provisions of the Idaho Collection Agency Act (Act) because the collection efforts against Idaho debtors are undertaken by their agents, and not by them.

The Act applies to those who "[e]ngage or offer to engage in this state, directly or indirectly, in the business of collecting any form of indebtedness for that person's own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired" (Idaho Code § 26-2223(6)).

Because debt buyers' business is, in fact, the collection of debts, the Department is of the opinion that debt buyers are subject to the provisions of the Act as being, at a minimum, engaged indirectly in the business of collecting indebtedness. Nevertheless, the Department will take a "no action" position as to the licensing provisions of the Act with regard to debt buyers if:

1. For all of its debt collection activities in Idaho, the debt buyer utilizes only the services of an authorized licensee under the Act; and
2. The debt buyer has no debt collection-related contact with an Idaho consumer, whether or not initiated by the debt buyer, relating to actual or alleged debt; and
3. The debt buyer does not report, or cause to be reported, a debt on an Idaho consumer's credit report; and
4. No attorney for the debt buyer initiates contact against an Idaho consumer in the debt buyer's name; and
5. No attorney for the debt buyer files a lawsuit against an Idaho consumer in the debt buyer's name.

If a debt buyer complies with the provisions of 1, 2, 3, 4, and 5, above, the Department will take a "no action" position against the debt buyer with regard to the licensing provisions of the Act relating to its collection activities in Idaho.

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Gavin M. Gee date
Director
Idaho Department of Finance