



PROTECTING THE INTEGRITY OF IDAHO FINANCIAL MARKETS SINCE 1905

**Idaho Department of Finance
Guidance Statement
2020-07-CFB
DEBT BUYERS AND APPLICATION OF
THE IDAHO COLLECTION AGENCY ACT**

Issue Date: July 1, 2020 (Replaces Policy Statement 2009-01)

I. Background

The Idaho Department of Finance regularly receives inquiries from companies engaged in the business of purchasing delinquent debt and assigning the same for collection to law firms or other collection agencies. At times, these buyers of delinquent or defaulted debt have asserted 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.

II. Application of the Act to Debt Buyers

The Act applies to all those who “[engage] 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 interprets the above provision to apply to a debt buyer, where at a minimum, the debt buyer engages indirectly in the business of collecting upon an indebtedness.

III. Passive Debt Buyer Activities

Notwithstanding the above conclusion, the Department interprets that the purposes of the Act are met where a debt buyer’s activities are passive in nature. That is, where the debt buyer does not engage in any direct collection related activities, and where any instance of the debt buyer’s indirect collection activity in Idaho comply with the following five conditions:

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1. For all of its debt collection activities in Idaho, the debt buyer utilizes only the services of an entity licensed 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 debts; 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.

IV. Summary

If a debt buyer complies with the provisions of items 1 through 5, above, the Department will take no action against the debt buyer with regard to the licensing provisions of the Act. It should be noted that such activities are still subject to examination and investigation pursuant to the Act, as applicable.

Contact - You may direct comments or requests for additional information regarding this Guidance Statement to:

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Frequently Asked Questions and Responses:

Question: Why does numbered paragraph 2 of the Debt Buyer Guidance indicate that if an Idaho consumer calls us or writes to us we lose the Department's no action position as described in the Guidance?

Answer: Numbered paragraph 2 is intended to convey that a Debt Buyer not holding a license under the Idaho Collection Agency Act cannot engage in **any** type of collection activity with

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Idaho consumers/debtors and meet conditions of the Guidance. If a Debt Buyer is contacted by debtors against whom it holds delinquent accounts, the Debt Buyer must not engage in any discussion regarding the debt. Otherwise, the Debt Buyer must obtain a license under the Idaho Collection Agency Act.

Question: Does numbered paragraph 4 of the Debt Buyer Policy prohibit our company from seeking the services of an attorney to undertake direct collection of payments when that attorney holds a collection agency license under the Idaho Collection Agency Act?

Answer: No. Numbered paragraph 4 is not intended to apply where the attorney is also an authorized licensee under the Idaho Collection Agency Act.

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