



To: Department of Financial Protection and Innovation  
Attn: Sandra Sandoval, Regulations Coordinator  
300 S. Spring Street, Suite 15513  
Los Angeles, California 90013

From: Online Lenders Alliance

Date: June 7, 2021

Re: Comments on Proposed Rulemaking Under the California Debt Collection Licensing Act (“PRO 02/20 TEXT: DEBT COLLECTION”)

Dear Ms. Sandoval,

The Online Lenders Alliance (OLA) represents the growing industry of companies offering loans online and companies that provide services to online lenders. OLA members abide by a rigorous set of Best Practices and a Code of Conduct that go beyond what is statutorily required to ensure customers are fully informed and fairly treated. OLA also serves as a resource to federal and state policymakers on issues related to access to credit.

OLA submits this letter as a comment to the proposal to adopt new regulations (Proposal) under the Debt Collection Licensing Act (DCLA) issued by the Department of Financial Protection and Innovation (Department) on April 8, 2021. We appreciate the opportunity to comment and provide preliminary feedback.

Our concerns center on the real-world impacts of the proposed regulations and the ability for covered persons to comply in a manner that is both unambiguous and realistic. Without further explanation and bright-line clarification of certain definitions and activities, covered persons might be at risk of non-compliance without knowing. Put another way, for a covered person to know that they are, in fact, a covered person, clear definitions are imperative.

More specifically, the universe of potentially covered persons must know *exactly* what constitutes the activity of debt collection as defined in Fin. Code § 100002(i) – and equally as important, what *does not* constitute debt collection.

For example, the definition of “debt collection” in Fin. Code § 100002(i) is vague and seemingly encompassing of every activity that could be deemed as an “act or practice in connection with the collection of consumer debt.” But what, exactly, is an “act or practice” in this context? What are the outer parameters of this threshold in which an “act or practice” does not rise to the level of debt collection? Does “act or practice” in this context capture a landlord calling a tenant inquiring about unpaid rent? Does it capture communications, electronic or otherwise, intended to remind a debtor that a payment was missed? Does it capture efforts to restructure repayment plans in the event a debtor has suffered financial hardship?

Confusing matters more, there seems to be unreconciled friction between the definitions of “debt collection” and “debt collector” – while the definition of “debt collector” clearly captures *only* those persons who “in the ordinary course of business, regularly, on the person’s own behalf or on behalf of others, engages in debt collection[,]” the definition of “debt collection” on the other hand, captures any “act or practice in connection with the collection of consumer debt.” These differences in definition have severe consequences when read in context with Fin. Code § 100001(a). § 100001(a) explicitly 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” (**bold** emphasis added). So, if the broader definition of “debt collection” is the trigger for licensure under the DCLA, what is the purpose of having the narrower definition of “debt collector”? It would logically follow that all “debt collectors” are engaged in “debt collection” but not all those engaged in “debt collection” are in fact “debt collectors.” If this is not the case, why have the two separate definitions? And why, then, have the broader threshold of “debt collection” be the watermark for DCLA licensure as opposed to the narrower definition of “debt collector”?

These are just a few concerns our membership has related to the implementation of DCLA’s vague definitions and the ability of *potentially* covered persons to know when the threshold of “debt collection” is met. Likewise, the definitions of “consumer credit transaction” and “consumer debt/credit” should be clarified in a manner similar to “debt collection” and “debt collector.”

OLA stands ready to work with the Department to clarify the above issues. We appreciate the opportunity to comment and look forward to a collaborative process moving forward with DCLA implementation and regulatory promulgation.

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read "Andrew M. Duke". The signature is fluid and cursive, with a large, stylized initial "A" and "D".

Andrew Duke  
President and CEO  
Online Lenders Alliance