



## Active v. Passive Asset Buyers

ACA International (ACA) supports the reasonable licensure of **active asset buyers** as debt collectors. ACA recognizes state and local governments have a legitimate interest in protecting consumers from improper and abusive debt collection practices, and wholeheartedly supports such initiatives. However, asset buyers not participating in collection activity should not be subject to unnecessary and unreasonable licensing requirements. ACA urges state legislatures and regulatory agencies to recognize the distinction between an active asset buyer, one who initiates direct contact with consumers by engaging in collection activity and a passive debt buyer, one who uses the services of third-party collection agencies, in determining what businesses may be required to obtain a collection license.

Asset buyers, also termed debt buyers or debt purchasers, purchase charged-off account receivables, often from originating creditors. These receivables are generally purchased for less than the original value of the account. Importantly, the asset buying industry serves the economy by offering creditors and lenders the opportunity to obtain a return on uncollected receivables, thus reducing the cost of credit to consumers and generating greater access to credit.

Today, the collection industry is strictly regulated through existing and overlapping federal, state, and local laws and regulations governing collection practices, credit reporting, and data privacy and security. While certain asset buyers actively engage in the collection process, others do not.

An **active asset buyer** purchases charged-off account receivables and directly engages in the collection of those receivables with the consumer. Active asset buyers seek out those that owe debts by making telephone calls, sending letters and otherwise reaching out and directly communicating with the consumer in an attempt to collect the debt. ACA recognizes these collection activities must always be executed in accordance with and subject to the laws and regulations of the jurisdiction in which the consumer currently resides, including state and local licensing requirements as well as federal laws, rules and regulations.

A **passive asset buyer** purchases charged-off accounts receivable, but does not attempt to collect those receivables by directly initiating contact with the debtor in an attempt to collect the debt. Rather, collection activity is pursued by a retained third-party collection agency or law firm who conducts the collection process directly with the consumer. These retained businesses, rather than the passive debt buyer, are the debt collectors subject to laws and regulations of the jurisdiction in which the consumer currently resides, including state and local licensing requirements. ACA believes it is these businesses, rather than the passive debt buyer, that bears the responsibility of obtaining proper authorization to do business in a particular jurisdiction and complying with all laws, rules and regulations that affect them as debt collectors.

In summary, ACA asks state regulators to recognize the fundamental differences between a passive and active asset buyer. ACA believes a passive asset buyer does not need to be licensed as a collection agency but should only be responsible for hiring collection agencies who are properly licensed and otherwise entitled to do business in a jurisdiction.