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The California Association of Collectors (“CAC”) is a not-for-profit California statewide association of collection agencies, which collect debts assigned to them for collection purposes by original creditors, debt buyers and governmental agencies. CAC provides educational opportunities and conferences for its Members and it engages in legislative advocacy efforts on behalf of its Members.

Throughout 2020, CAC worked very closely with Senator Robert Wieckowski and his staff in negotiating the provisions of SB 908, the Debt Collection Licensing Act (“Act”). These efforts culminated in CAC sending a letter of support for SB 908 to Governor Newsom.

CAC has reviewed the Proposed Regulations under the Act issued by the Department of Financial Protection and Innovation (“DFPI”) and offers the below comments. Please note that the following comments are directed only to the Proposed Regulations about which CAC has concerns. CAC has determined that the Proposed Regulations not included below are acceptable.

1. **Section 1850(c) – Definition of Branch Office.** As a result of the COVID-19 pandemic, employers (including the Members of CAC) were compelled to having substantial segment of their workforce work from home. As California has begun to emerge from the restrictions imposed as a result of the pandemic, many employers are considering (for a variety of reasons) having at least a portion of their workforce continue to work from home.

Section 1850(c) defines a “branch office” as “a location other than the applicant’s principal place of business identified in a license application or an amended application.”

Will the DFPI consider the home of an employee of a debt collector who works from home as a branch office? Will a debt collector be required to file a Form MU3 for each employee who works from home?

Section 100001(a) of the Act states that a separate license shall not be required for each branch office. CAC requests that the Commissioner confirm that branch offices will not be required to obtain a separate license.

2. **Section 1850.7(a)(2) – Registered Agent.** In the negotiation of SB 908, the parties specifically agreed to eliminate the requirement of a debt collector to appoint the Commissioner as its agent for service of process. The requirement to have the Commissioner appointed as the agent for service for debt collectors was deleted from SB 908 at the specific request of CAC. The second sentence of Section 1850.7(a)(2) should be deleted since it is contrary to the legislative intent of SB 908.
3. **Section 1850.7(a)(6)(A) – Passport Requirement.** This section requires certain individuals to provide both a government-issued identification number and a passport number. Such individuals should not be required to obtain a passport to be compliant with SB 908. The passport requirement should be removed.

4. **Section 1850.7(a)(10)(D) – Vendors.** This section is overly broad. As written, this regulation requires applicants to provide the names of all their vendors. This is excessive and should be limited to those vendors who have contact with an applicant’s consumers. For example, an applicant should not be obligated to provide the name of its advertising or marketing vendors who have no contact with consumers. Further, the applicant should be required only to provide the names of its current vendors, not prospective or former vendors.
5. **Section 1850.7(a)(15) – Surety Bond.** SB 908 is a California statute designed to protect California consumers. The surety bond should be based on the sums collected from California consumers, not all consumers nationwide. This is expressed in SB 908. The first bullet point of this section should limit the inquiry of the amount of debt collected from California consumers.
6. **Section 1850.7(a)(16) – Registration of Branch Offices.** This section requires debt collectors to register each branch office by filing with the Commissioner a Form MU3 for each branch office. As noted above, Section 100001(a) of the Act states that a separate license shall not be required for each branch office. CAC requests that the Commissioner confirm that a debt collector will not be required to obtain a separate license for each branch location.
7. **Section 1850.7(d) – Deadline for Application Amendments.** In this section, the deadline to file amendments to applications is 10 calendar days, which is contrary to the deadline of 30 calendar days in Section 100018(a) of the Financial Code.
8. **Section 1850.8 – Appointment of Commissioner as Agent for Service of Process.** As noted above, this section is contrary to legislative intent. In the negotiations of SB 908, the parties expressly agreed to delete the requirement for a debt collector to appoint the Commissioner as its agent for service of process. Such an appointment is unnecessarily duplicative since California law already requires entities to appoint an agent for service of process, and this appointment will impose significant potential liability on the DFPI. This section should be deleted in order to be consistent with the legislative intent.
9. **Section 1850.10 – Foreign Individuals.** This section is not referenced in SB 908 and the information and documents sought from foreign individuals is unnecessary and/or excessive. The requirements for foreign residents should be more consistent with what U.S. residents are obligated to provide.
10. **Section 1850.50 – Surety Bond.** This section permits the Commissioner to increase a debt collector’s bond amount based on the number of its affiliates and the total amount of debt collected from consumers. In making this determination, the Commissioner should examine only the amount of debt collected from California consumers. The Act is focused on the collection of “California consumer accounts,” which are defined in Financial Code Section 100002(b). Debt collected from consumers in other states is irrelevant. This should be clarified in Section 1850.50(d) and (e).

Also, to be consistent with SB 908, new Section 1850.50(h) should be added to the Proposed Regulations read as follows:

(h) When the Commissioner requests a new bond, a licensee may provide the commissioner a refundable deposit in the amount of twenty-five thousand dollars (\$25,000) in lieu of the bond while the licensee pursues a new bond.

11. **Advisory Committee.** The Proposed Regulations do not refer to the Debt Collection Advisory Committee, the inclusion of which was an important part of the negotiations of SB 908. The regulations should be revised to note the existence and role of the Committee, as follows:

Section 1850.70 (Debt Collection Advisory Committee) *The Commissioner will establish a Debt Collection Advisory Committee to advise the Commissioner on matters relating to debt collection or the debt collection business, including proposed fee schedules and the mechanics and feasibility of implementing requirements proposed in regulations.*

Will the Committee be permitted to advise the Commissioner regarding the Proposed Regulations prior to their adoption?

CAC appreciates the opportunity to provide these comments to the Proposed Regulations. Please contact Tom Griffin, CAC's legal counsel (916-567-7389 or tgriffin@hsmlaw.com) with any questions you may have regarding the above comments.

Respectfully Submitted,

Cindy Yaklin

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