



STATE OF CONNECTICUT
DEPARTMENT OF BANKING
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Jorge L. Perez
Commissioner

MEMORANDUM

TO: All Connecticut Consumer Collection Agency Licensees

FROM: Jorge L. Perez, Banking Commissioner *J. L. P.*

RE: No Action Position on Mortgage Servicer Licensure Requirement for Licensed Consumer Collection Agencies

DATE: January 31, 2018

Licensed consumer collection agencies that receive payments on delinquent or defaulted residential mortgage loan debt of Connecticut consumer debtors have inquired whether they would need to obtain a mortgage servicer license from this department pursuant to Section 36a-718 of the Connecticut General Statutes.

Section 36a-718(a) provides that:

On and after January 1, 2015, no person shall act as a mortgage servicer, directly or indirectly, without first obtaining a license under section 36a-719 from the commissioner for its main office and each branch office where such business is conducted, unless such person is exempt from licensure pursuant to subsection (b) of this section.

In addition, Section 36a-715(3) of the Connecticut General Statutes defines "mortgage servicer" to mean:

(A) . . . any person, wherever located, who, for such person or on behalf of the holder of a residential mortgage loan, receives payments of principal and interest in connection with a residential mortgage loan, records such payments on such person's books and records and performs such other administrative functions as may be necessary to properly carry out the mortgage holder's obligations under the mortgage agreement including, when applicable, the receipt of funds from the mortgagor to be held in escrow for payment of real estate taxes and insurance premiums and the distribution of such funds to the taxing authority and insurance company, and (B) includes a person who makes payments to borrowers pursuant to the terms of a home equity conversion mortgage or reverse mortgage.

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As background, Section 36a-800(2) of the Connecticut General Statutes, as amended by Public Act 17-233, defines “consumer collection agency”, in pertinent part, to mean:

[A]ny person (A) engaged as a third party in the business of collecting or receiving payment for others on any account, bill or other indebtedness from a consumer debtor, [or] (B) engaged in the business of collecting on any account, bill or other indebtedness from a consumer debtor for such 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

As defined, “consumer collection agency” explicitly excludes “(v) a person who services loans or accounts for the owners thereof when the arrangement includes, in addition to requesting payment from delinquent consumer debtors, the providing of other services such as receipt of payment, accounting, record-keeping, data processing services and remitting, for loans or accounts which are current as well as those which are delinquent”. As a result, a person who services a residential mortgage loan portfolio that includes current residential mortgage loan debt as well as delinquent debt would not be considered a consumer collection agency.

Nonetheless, licensed consumer collection agencies that receive payments from Connecticut consumer debtors on residential mortgage loans, all of which are delinquent or defaulted, may engage in “servicing” and be considered “mortgage servicers” requiring licensure pursuant to Sections 36a-715 through 36a-719l, inclusive, of the Connecticut General Statutes. There is currently no exemption from such mortgage servicer licensure requirement for licensed consumer collection agencies. However, this department recognizes that licensed consumer collection agencies are already licensed and regulated by this department in connection with the receipt of payments on defaulted or delinquent mortgage loans and the requirement that a licensed consumer collection agency obtain a separate license as a mortgage servicer from this department for such activities may be redundant and unduly burdensome.

Accordingly, pursuant to Section 36a-1-8 of the Regulations of Connecticut State Agencies, this department takes a “no-action” position regarding the mortgage servicer licensing requirement set forth in Section 36a-718 for licensed consumer collection agencies whose servicing of residential mortgage loans is limited to receiving payments from Connecticut consumer debtors on delinquent or defaulted residential mortgage loan debt for a third party or such person’s own account if the indebtedness was acquired from another person and the indebtedness was either delinquent or in default at the time it was acquired. Please be advised that such consumer collection agencies still remain subject to all other requirements and standards imposed on mortgage servicers pursuant to Sections 36a-715 to 36a-719l, inclusive, of the Connecticut General Statutes, as applicable.

If you have any questions, please contact Anne Cappelli at anne.cappelli@ct.gov or (860) 240-8206.