

personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov."

That's a lot of effort (and a lot of ink) agencies have to spend to educate their debtors. And to make matters worse, the law makes special provision for those California residents who don't communicate primarily in English. Upon discovering this language barrier (in the initial oral contact), the agency must provide a notice including the above statement *in the debtor's own language* within five days.

And don't skimp on the type-size. The text has to be no smaller than that of the text informing the debtor of the debt, and no smaller than 12-point.

But that's not the only parting shot California hurls at debt collectors and creditors. There's one aimed at both of those parties when they're working hospital debts. Hidden in California's Health and Safety Code is an article entitled "Hospital Fair Pricing Policies". Here, creditors and their collection agents working hospital debt are required to provide patients with a "clear and conspicuous notice" of their rights under the Rosenthal and federal Fair Debt Collection Practices Acts, including a statement that the Federal Trade Commission enforces the federal law. They're reminded of their obligation to include the Rosenthal language in their initial notices to patients, and further required to add additional language stating that "nonprofit consumer credit counseling services may be available in the area."

Colorado (Colo. Rev. Stat. §§ 12-14-101 et seq., 4 Code of Col. Regs. § 903-1)

The Colorado law pertaining to collection agencies, also known as the Colorado Fair Debt Collection Practices Act, does not include creditors collecting in their own names. Nor does it include any entity acting as a collection agency for another if they are related by common ownership or affiliated by common control, and if the collector's primary business is not the collection of debts, and if it does not collect debts for non-affiliated entities. However, any entity which uses another name in the collection of its own debts which would indicate that a third party has been engaged to collect the debt, is specifically defined as a collection agency by the statute and is subject to the Colorado Fair Debt Collection Practices Act.

Like Arkansas, Colorado appoints a Collection Agency Board to carry out the provisions of the law. This five-member panel includes three collection professionals (agency or collection managers) and two members of the public not associated with the collection industry.

Many of the restrictions found in the federal FDCPA have been included in the Colorado FDCPA. In fact, it is in many respects almost an exact replica. Only those state provisions differing from or more stringent than the FDCPA have been detailed below:

- A collection agency may not communicate with a debtor who is represented by an attorney regarding the debt (and knows who the attorney is and how to find him) unless the attorney fails to respond within 30 days.
- A collection agency must treat the debtor's written refusal to pay as a notice to cease and desist all communications, and may not communicate further with the debtor except to advise the debtor that it is terminating its efforts, that it may invoke specific remedies that are ordinarily invoked by the collection agency or creditor, or that it intends to invoke a specific remedy.
- A collection agency must include in its initial notice to the debtor the following statements:

"FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.AGO.STATE.CO.US/CADC/CADCMAIN.CFM."

and

"A CONSUMER HAS THE RIGHT TO REQUEST IN WRITING THAT A DEBT COLLECTOR OR COLLECTION AGENCY CEASE FURTHER COMMUNICATION WITH THE CONSUMER. A WRITTEN REQUEST TO CEASE COMMUNICATION WILL NOT PROHIBIT THE DEBT COLLECTOR OR COLLECTION AGENCY FROM TAKING ANY OTHER ACTION AUTHORIZED BY LAW TO COLLECT THE DEBT."

- If these statements appear on the back of the notice, there must be a statement on the front of the notice notifying the debtor of this.
- Any telephone call placed by a collection agency to a debtor must include meaningful disclosure of the caller's identity within sixty seconds of identifying the other party to the call as the debtor.
- A collection agency may not misrepresent the services it renders or the compensation it receives for the collection of a debt.
- A collection agency may not collect any charge not authorized by the agreement creating the debt or permitted by law.
- A collection agency may not communicate credit information to a consumer reporting agency earlier than thirty days after its initial notice to the debtor has been mailed unless the debtor's last known address is known to be invalid, and except in the case of checks, negotiable instruments, or credit card drafts.
- Each collection agency must be owned by or employ as collection manager at least one individual who has been engaged in a responsible position in an established collection agency for at least two years or who has other comparable business experience in collections (as determined by the Collection Agency Board). This collection manager must pass a written examination administered by the administrator of the Uniform

Consumer Credit Code. No person who has been hired as a collection manager whose approval has been revoked by the administrator may be hired again as a collection manager for five years.

But the Colorado Collection Agency Board has not remained mute. The Board has promulgated rules creating further restrictions:

- Collection agencies must maintain records showing the true names of all debt collectors and the one alias that was used by that person, if any, for at least two years after the collector terminates employment.
- Each collector may have only one alias, consisting of a first and last name. No two employees of a collection agency may use the same alias.
- The initial notice to the consumer containing the statement of his rights may consist of two separate pages if the pages are attached together and there is a reference on the first page to the second page.
- Any written notice to a debtor must contain the collection agency's name, address, and telephone number. This information must not appear only on the detachable part of the page intended to be returned to the collection agency.
- A collection agency may not engage in unnecessary additional collection activities on a debtor who is in compliance with a payment arrangement agreed to by the collection agency.
- A collection agency may not collect or attempt to collect costs associated with the collection from the debtor unless authorized by the agreement and not otherwise prohibited by law.
- A collection agency may not add charges for dishonored instruments written to it.
- A collection agency must refund overpayments of more than \$5.00 within 30 days after the end of the month in which the payment was received.
- A collection agency must provide debtors with receipts for cash payments, or other payments which in themselves do not serve as evidence of payment, within 5 business days of receiving the payment.
- A collection agency must provide a debtor with an account statement within 10 days of the debtor's written request. The statement must include information dating to the date of placement at the collection agency, and must contain the debtor's name, the amounts paid, the dates of payment, the allocation of money to principal, interest, court costs, attorneys' fees, and other costs, and the current balance due. Such statement must be provided free of charge once during any 12-month period. If the debtor requests subsequent statements within this period, they must be provided by the collection agency, which may charge a fee of not more than \$5.00 each.
- If an account is paid or settled in full, a collection agency must provide a written statement to that effect, free of charge, within 5 days of the debtor's request.