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BROADER THAN ADVERTISED: NEW COLLECTION PROHIBITIONS IN NEW YORK

Effective March 29th, New York law prohibits “principal creditors” and “debt collection agencies” from making (i) any representation that a person is required to pay the debt of a family member in a way that contravenes with the federal Fair Debt Collection Practices Act and (ii) any misrepresentation regarding the family member’s obligation to pay such debt. See N.Y. Gen. Bus. Law § 601-a.

“Principal creditor” includes (i) any person to whom a consumer claim is owed, due or asserted to be owed or due or (ii) any assignee for value of such person. “Debt collection agency” means a person engaged in business, the principal purpose of which is to regularly collect or attempt to collect debts (i) owed or due or asserted to be owed or due another or (ii) obtained by, or assigned to, such person that are in default when obtained or acquired by such person.

While the New York legislature passed the new law to address legal obligations of a deceased debtor’s family member with respect to the deceased’s debts, the language of the statute is not so limited. The new law applies to any representation made to a debtor’s family member regarding the family member’s obligation to pay the debtor’s debt, regardless of whether the debtor is alive or dead.

The new law reflects the sensitivity around the collection of debts from a decedent’s estate, but has broader effect. □

✧ *Mike Tomkies and Susan Manship Seaman*

DEALING WITH MULTISTATE DEBT COLLECTION COMPLIANCE?

We publish an easy-to-use reference that compiles state and federal laws governing debt collection practices. Our DEBT COLLECTION DIGEST is organized topically, includes the federal Fair Debt Collection Practices Act and Commentary for easy cross-reference, and covers autodialer and monitoring and recording statutes. **Contact us for details.**

Darrell L. Dreher
ddreher@dtlaw.com

Elizabeth L. Anstaett
eanstaett@dtlaw.com

Emily C. Cellier
ecellier@dtlaw.com

Susan L. Ostrander
sostrander@dtlaw.com

2750 HUNTINGTON CENTER
41 S. HIGH STREET
COLUMBUS, OHIO 43215
TELEPHONE: (614) 628-8000 FACSIMILE: (614) 628-1600
WWW.DTLAW.COM

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Michael C. Tomkies
mtomkies@dtlaw.com

Susan M. Seaman
sseaman@dtlaw.com

Lindsay P. Valentine
lvalentine@dtlaw.com

Judith M. Scheiderer
jscheiderer@dtlaw.com

Robin R. De Leo
robin@deher-la.com