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CA-DFPI TO ISSUE CONDITIONAL DCLA LICENSES IN JANUARY 2023, SAFE HARBOR TO EXPIRE DECEMBER 31

The California Department of Financial Protection and Innovation ("DFPI") plans to start issuing conditional licenses on January 1, 2023 to debt collectors that have applied under the state's Debt Collection Licensing Act ("DCLA"). The DFPI also plans to end the regulatory safe harbor allowing debt collectors that have applied for a license to continue to collect consumer debt in California at the same time.

The DCLA is a wide-reaching licensing statute that by its terms requires license for a "debt collector" (as defined by the DCLA) to engage in "debt collection" (as defined by the DCLA). However, when parties applied for licenses, the DFPI could not begin processing the applications because the Federal Bureau of Investigation required changes to the DFPI's procedures with regard to requesting FBI background checks, a mandatory prerequisite to issue a DCLA license. The DFPI announced earlier this year it would permit any applicant to operate without a license while their application was pending. See our [ALERT](#) dated June 20, 2022. The California Legislature also passed A.B. 158 which grants the DFPI statutory authority to issue conditional licenses that permit a debt collector to operate in California while their application is pending. Licenses will be issued conditionally upon the applicant passing the required examination when the FBI background check becomes available.

The DFPI reported recently that 1,300 applications have been filed so far and about half of them have been assigned to examiners for review. Conditional license approvals will be conducted through the Nationwide Multistate Licensing System.

Debt collectors that submit applications prior to December 31, 2022 will still be allowed to operate while their applications are pending. However, debt collectors that file applications after January 1, 2023 will have to wait until their license applications are actually approved before they can operate in California, except in circumstances where the applicant is a new company. The DFPI is working on a process to identify new companies that file applications after January 1 to keep them from having to wait for their application to be approved prior to being able to begin operations.

We have monitored the Debt Collection Licensing Act since it was first passed and will continue to provide updates on the scope and status of the licensing requirement. The DFPI is currently considering proposed regulations that will exempt first-party collections structures from licensing. See our [ALERT](#) dated July 19, 2022. ☐

✧ *Mike Tomkies and Benjamin Hurford*

DEALING WITH MULTISTATE DEBT COLLECTION COMPLIANCE? We routinely advise on collection-related activities and the regulated activities of creditors, third party debt collectors, debt buyers and loan servicers. We also 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 ADAD and monitoring and recording statutes. **Contact us for details.**

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