**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**030 BUREAU OF CONSUMER CREDIT PROTECTION**

**Chapter 300: COLLECTION AGENCIES: APPLICATION AND RECORD KEEPING REQUIREMENTS**

**SUMMARY**

This chapter replaces Bureau rule 02-030, Chapter 300. This Regulation sets forth bond requirements, trust account requirements, location of books and records, and requirements for communications with debtors under the *Maine Fair Debt Collection Practices Act*.

**I.** **Authority**

Pursuant to 32 M.R.S. § 11034, the Superintendent may establish reasonable rules, not inconsistent with the *Maine Fair Debt Collection Practices Act*, pertaining to the operation of the business of licensees as deemed necessary to safeguard the interest of the public.

Title 32 M.R.S. §11031(2) authorizes the Administrator to establish routine technical rules to move debt collector licensing to the Nationwide Multistate Licensing System (NMLS), including rules setting requirements for application for, amendment of or revocation of a license or any other such activities as the Administrator considers necessary.

**II. Purpose**

This Chapter repeals and replaces the current Chapter 300 to effectuate Maine’s transition of debt collector licensing to the Nationwide Multistate Licensing System (“NMLS”). This Chapter repeals licensing requirements in Chapter 300 that were superseded by licensing requirements in Rule 705, clarifies surety coverage requirements for residential real estate property preservation provider and debt buyer licensees, and repeals the requirement that licensees receive pre-approval of form letters used in communicating with Maine debtors.

**III. Definitions**

For the purpose of this chapter, the following terms have the following meanings

1. “Administrator” means the Superintendent of the Bureau of Consumer Credit Protection.
2. “Bureau” means the Maine Bureau of Consumer Credit Protection.”
3. “Debt buyer” has the same meaning as defined at 32 M.R.S. § 11002(5-A).
4. “Debt collector” has the same meaning as defined at 32 M.R.S. § 11002(6).
5. “Repossession activities” means engaging in business or accepting employment to locate or recover collateral that has been sold under a security agreement or used as security in a loan transaction, excluding secured parties that use their own employees to repossess collateral.
6. “Residential real estate property preservation services” has the same meaning as defined at 32 M.R.S. § 11002(8-B).
7. “Nationwide Multistate Licensing System,” herein referred to as “NMLS,” means the nationwide multistate licensing system and registry for mortgage lender licensing and loan brokering referred to in 9-A M.R.S. §13-102(8) (previously the “Nationwide Mortgage Licensing System”).
8. **General Provisions**
9. **Bond Requirements.**
	1. **Bond Amounts for New Applicants:**
		1. Applicants that will undertake direct collections or are debt buyers: $20,000
		2. Applicants that will undertake repossession or residential property preservation services activities only: $15,000
		3. Applicants that are letter writing companies (no direct collections): $5,000
	2. **Bond Amounts for Existing Licensees Seeking Renewal:**
		1. Licensees that undertake direct collections or are debt buyers: monthly average of gross Maine collections on behalf of creditors (excluding Direct Payments) for the preceding 12 months:
			1. Over $40,000 a month: $50,000
			2. $30,000 - $40,000 a month: $45,000
			3. $20,000 - $30,000 a month: $35,000
			4. $10,000 - $20,000 a month: $25,000
			5. Under $10,000 a month: $15,000
		2. Other existing licensees seeking renewal:
			1. Applicants that undertake repossession or residential property preservation services activities only: $15,000
			2. Applicants that are letter writing companies (no direct collections): $ 5,000
10. **Trust Account Requirements.**
	1. A licensee shall maintain a trust account in accordance with generally accepted accounting principles which shall contain only those funds collected on behalf of Maine creditors.
	2. The gross amount of monies collected from debtors shall be deposited into the trust account no later than the day after the actual collection was received from the debtors excluding Saturday, Sunday and holidays.
	3. A licensee shall withdraw its commission from monies in the trust account on one specific day of its choosing each month. That day, once chosen, will be the same each succeeding month.
	4. In remitting to clients a licensee may offset funds in its trust account against commissions to which it is entitled for payments made by debtors directly to clients. Such offsetting may occur only on the date chose under paragraph (3), above. All offsets shall be accounted for through written documentation evidencing the amount of offset, and all commissions obtained through offsetting shall be withdrawn from the trust account that day.
11. **Location and Maintenance of Books and Records.**
	1. A licensee may keep the books and records required by this Rule in a location outside this State with the Superintendent's permission. A licensee desiring to keep its books and records outside of this State shall submit a written request to the Bureau specifying:
		1. The exact location and phone number of the location where the books and records would be kept and maintained;
		2. The express willingness of the licensee to pay the actual costs incurred by the Superintendent in conducting an examination or investigation, including the proportionate part of the salaries and expenses (travel, meal and lodging) of the Bureau's Examiners who conduct the examination or investigation; and
		3. The licensee's recognition of its obligation, and its ability to fulfill its obligation, to produce all such books and records within 72 hours at a place in this State specified by the Superintendent should he so request.
	2. In making his determination concerning a request to keep records outside of this State, the Superintendent shall consider at least the following:
		1. The number of consumer complaints against the licensee;
		2. The number of creditor complaints against the licensee;
		3. The extent to which any of the complaints referred to in divisions i. and ii. are related to record keeping;
		4. The quality of the licensee's past compliance examinations;
		5. The burden placed on the licensee by having to maintain records in this State; and
		6. The burden placed on the Bureau in attempting to perform on-site examination of the licensee's records at their proposed out-of-state location.
	3. The Superintendent shall render his decision on such a request within 30 days.
	4. A licensee shall inform the Superintendent of any change in the location of its books and records within ten (10) days of such change.
12. **Communications With Debtors**
	1. A licensee may not accept from any person a check or other payment instrument postdated by more that five days unless that person is notified in writing by the licensee of its intent to deposit the check or instrument, at least three, but not more that ten, business days prior to deposit.
	2. A licensee shall be available a minimum of 20 hours a week with sufficient personnel to provide information, personally or telephonically concerning a debtor's account. Such hours shall appear on all communications sent to Maine debtors.
	3. A licensee shall disclose the telephone number of its licensed location on the letterhead of all communications sent to Maine debtors.
13. **Procedures For Cessation of Business**
	1. Any licensee terminating its business shall comply with the following requirements:
		1. Notify the Superintendent of the proposed termination at least 30 days prior to its effective date;
		2. Notify all clients in writing of the proposed termination and its date at least 30 days prior to that date;
		3. Provide all clients with detailed final accountings of all debtor accounts;
		4. Remit all money held in the agency trust account to each respective client; and
		5. Return all papers, documents and other property of clients provided to the licensee in connection with its collection efforts to each respective client.
	2. No licensee, when terminating its business, may transfer an account to another licensee without securing the written permission of the client.
14. **Routine technical rule.** This is a routine technical rule as authorized by 32 M.R.S. § 11031(2).

STATUTORY AUTHORITY:

 32 M.R.S. § 11031(2), 32 M.R.S. § 11034

EFFECTIVE DATE: