

How to Use This Manual

This book is not intended as a text to be read from cover to cover, and readers who attempt to do so will discover what appears to be a fair bit of duplication. This was done for ease of use, as the book is meant to be used as a reference source for those creditors, collection agencies, debt buyers, and attorneys seeking to determine what restrictions exist on their collection abilities in any given forum. While many of the state statutes are modeled on the FDCPA, a number that are not contain other sets of very similar provisions. In order to avoid making this book too cumbersome to use by referring the reader from chapter to chapter to track the effect of various provisions, the authors have opted to repeat such analysis as pertains to each state's act. The careful reader, however, will not let this repetition blind him or her to the subtleties of law that often distinguish one state act from another. Where these subtle differences exist, the authors have attempted to point them out, and any reader who wants to get a well-rounded idea of business risks in any particular state should find help in that state's chapter.

The book can be read on two levels—that of the interested layperson and that of the legal professional. Each chapter includes, in layman's language, an explanatory overview of the state's debt collection practices statutes and regulations, if any, and the text of any such statutes and regulations. For the especially busy reader, we have also attempted to indicate, in a quick-read, summary fashion, some of the key provisions in each state that are likely to have an impact on collection activity. This is a sort of "what to watch out for in this state" and is contained in a box at the beginning of each relevant chapter. Of course, readers who do business in any particular state, or plan to, are best advised to read the entire chapter. Attorneys and legal researchers, meanwhile, should find the extensive notes in each chapter helpful in navigating through the statutes and regulations. We hope that by providing a single source for all of the statutes and regulations, along with analysis, we will have provided creditors, collection agencies, debt buyers, and attorneys with a tool that will enable them to assess not only their business opportunities, but also their business risks.

The reader is advised to review all of Chapter 1 (the federal law), together with the chapter for the state in which he or she is located and any other state in which he or she does business. A basic understanding of the FDCPA (even for creditors) is usually essential to full understanding and appreciation of the various state acts. State acts generally fall into three categories: regulatory statutes, consumer-protection statutes, or both. In several states creditors themselves can be at risk, so it is hoped that this book will be of use to anyone whose business includes the collection of debts. Of course, no single book can stand as a substitute for legal advice; if that is necessary or desired, the reader is advised to seek the counsel of an attorney.

Caveat Emptor

This book is not a litigation guide. It is intended to assist collection agencies, attorneys, and even creditors in locating various debt collection laws and in providing a basic desk reference on those laws. Unfortunately, there are so many laws that could impact upon fair debt collection practices that we could not cover all of them. Many federal and state causes of action are simply beyond the scope of this book, as we wanted to be able to provide an overview and the text of the various state licensing and fair debt statutes that affect collection agencies and other debt collectors. An excellent resource for those seeking a litigation manual is the National Consumer Law Center's Fair Debt Collection manual. This book has attempted to provide materials not covered by that manual.

While the authors have attempted to be certain the book is up to date, it is still possible that legislative amendments were not available to us at the time that a chapter went to press. Furthermore, we have provided all of the collection agency regulations that we were able to obtain, but we cannot guarantee that

these are all that exist. This book is a guide, but it will not substitute for either direct communication with licensing agencies or retention of local counsel in the various states.

Finally, we want to comment on what is not here. Although we have occasionally provided information on collateral statutes dealing with debt collection (such as debt adjustment), we have not and do not claim to have made a thorough study of such collateral statutes. This book is what it appears to be: a compilation of licensing and fair debt statutes and regulations to give you both quick answers to common questions and a starting point for in-depth research. We hope that you will find it to be useful.

The authors wish to acknowledge and thank Barbara Sinsley and Keith Morris, who are now substantially assisting with the research and writing of this manual. The authors would also like to thank the many people who have helped us with the prior editions, our editors for their editorial contributions and guidance, and Michael Feiwell (fellow attorney and, more importantly, friend) whose input on fair debt issues we highly value, as well as Caryn, Michael, and Joshua Newburger for their continued support and patience. We also wish to express our gratitude to the Commercial Law League of America and its many members, whose leadership and involvement in the area of fair debt collection practices law prompted us to undertake this project.