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ADVISORY OPINION

Repossession Companies Acting as Collection Agencies

The Executive Director of the Colorado Collection Agency Board recently became aware that some creditors hire repossession companies to enforce security interests by repossessing collateral and also ask the repossession company to attempt to obtain the debtors payment on the underlying debt. It is the opinion of the Executive Director that repossession companies that do this on a regular basis are “collection agencies” under § 12-14-103(2)(a) of the Colorado Fair Debt Collection Practices Act, C.R.S. (“Act”). Accordingly, such repossession companies must comply with all of the Act’s provisions, including, without limitation, obtaining a collection agency license.¹

The Act’s general definition of “collection agency” includes a person who “[r]egularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.”² If a repossession company requests the debtor to make a payment on the debt, whether to prevent the immediate repossession of the collateral or otherwise, it is collecting or attempting to collect a debt. So long as the repossession company does this on a regular basis,³ it is a “collection agency” within the Act’s general definition and subject to all of the Act’s provisions.

The Federal Fair Debt Collection Practices Act (“federal act”) defines “debt collector” similar to the general definition of “collection agency” in Colorado’s

¹ This letter is an advisory opinion of the Executive Director, issued pursuant to Act § 12-14-113(5).

² See Act § 12-14-103(2)(a)(II)(A).

³ As a rule of thumb, this office considers the term “regularly” to mean the collection of more than approximately 10 to 25 debts in any twelve-month period. However, this is not a hard and fast rule. Whether one “regularly” collects debts may depend on a number of factors.

Act.⁴ The federal act also includes a definition specifically applicable to repossession companies that “debt collector” includes “any business the principal purpose of which is the enforcement of security interests.”⁵

In an Informal Staff Letter, the FTC concluded that an attorney who engages in judicial replevin actions (which are actions to enforce security interests) was a “debt collector” within this special definition.⁶ The letter noted that if the attorney also informally attempted to collect the underlying debt, then the attorney would fall within the general definition of “debt collector” (i.e., one who collects or attempts to collect the debts of another).

The same conclusion applies here. If a repossession company also attempts to collect the underlying debt, it is a “collection agency” for all purposes under the Colorado Act’s general definition. Such repossession companies must obtain a Colorado collection agency license. Collecting debts without a valid license is a violation of the Act and may have serious consequences. These include civil and criminal liability.

Information about obtaining a collection agency license is available by calling the Colorado Collection Agency Board at (303) 866-5706, or going to its Web site at “www.ago.state.co.us” under the “Collection Agency Board” heading.



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⁴ 15 U.S.C. §§ 1692.

⁵ 15 U.S.C. § 1692a(6). Colorado’s Act contains a parallel provision at § 12-14-103(2)(d).

⁶ FTC Informal Staff Letter (Nierengarten, Aug. 26, 1987).