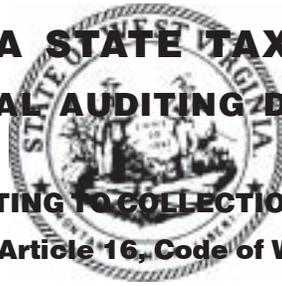


WEST VIRGINIA STATE TAX DEPARTMENT

INTERNAL AUDITING DIVISION

INFORMATION RELATING TO COLLECTION AGENCY ACT, 1973

(Chapter 47, Article 16, Code of West Virginia)



WHO IS COVERED BY THE ACT?

“Collection Agency” means and includes all persons, firms, corporations and associations:

- (1) directly or indirectly engaged in the business of soliciting from or collecting for others any account, bill or indebtedness due or asserted to be owed or due another and all persons, firms, corporations and associations directly or indirectly engaged in asserting, enforcing or prosecuting those claims;
- (2) which, in attempting to collect or in collecting his or its own accounts or claims uses a fictitious name or names other than **his or** its own name;
- (3) which attempts to or does give away or sell to others any system or series of letters or forms for use in the collection of accounts or claims which assert or indicate directly or indirectly that the claims or accounts are being asserted or collected by any person, firm, corporation or association other than the creditor or owner of the claim or account.

WHO IS EXEMPT FROM THE ACT?

The term “collection agency” shall not mean or include:

- (1) regular employees of a single creditor or of a collection agency licenses hereunder;
- (2) banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) building and loan associations;
- (6) industrial loan companies;
- (7) small loan companies;
- (8) abstract companies doing an escrow business;
- (9) duly licensed real estate brokers or agents when the claims or accounts being handled by such broker or agent are related to or in connection with such brokers’ or agents’ regular real estate business;
- (10) express and telegraph companies subject to public regulation and supervision;
- (11) attorneys at law handling claims and collections in their own names and not operating a collection agency under the management of a layman;
- (12) any person, firm, corporation or association acting under the order of any court of competent jurisdiction; or
- (13) any person collecting a debt owed to another person only where:
 - (a) both persons are related by wholly-owned, common ownership or affiliated by wholly-owned corporate control;
 - (b) the person collecting the debt acts only on behalf of persons related as described in paragraph (a) of this subdivision; and
 - (c) debt collection is not the principal business of the person collecting the debt.

REQUIREMENTS

A. LICENSE

No person, firm, corporation or association shall operate a collection agency or the business of a collection agency in this state without having first applying for and obtaining a **Business Registration Certificate**.

B. BOND

Each applicant shall file with the Tax Commissioner a continuing surety bond executed by a corporation licensed to transact business in the State of West Virginia in the amount of \$5,000.00. A separate bond shall be filed for each agency including the principal office and each branch office thereof.

C. OUT-OF-STATE COLLECTION AGENCIES

Out-of-state collection agencies without an office in this state and the only contact with residents of this State for the collection of debts is by letter and telephone calls, is required to designate to the Tax Commissioner a resident agent (name, address and telephone number) upon whom notices, orders or other communications may be served and upon whom process may be served. West Virginia Secretary of State may be designated as the resident agent for service of process pursuant to **WV Code § 56-3-33**.

D. EXEMPTION FROM REQUIREMENTS IN ITEMS A, B AND C ABOVE

In order to claim this exemption from registration, all three of the following conditions must be met.

1. Is not required by law to collect or withhold a tax; and
2. Does not claim exemption from payment of the West Virginia Consumers Sales and Service Tax or Use Tax; and
3. Had a gross income from business activity of \$4,000.00 dollars or less from operations in all states during the Income Tax year most recently completed.

RECORD KEEPING

A record of all sums collected by each collection agency and all disbursements must be maintained or made available at agency's principal office of business in this State. These records must be maintained for a period of six years from the date of last entry. Inspection of these records shall be open to the Tax Commissioner or his duly appointed agent.

F. PAYMENTS TO CUSTOMERS

Each collection agency shall, within a period of thirty days after the close of each and every calendar month, pay to such agency's customers the net proceeds due on all collections made during the preceding calendar month.

PENALTY

Any person, firm, corporation or association violating any of the provisions of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars.

GENERAL INFORMATION

Information provided herein is of a general nature only. We want to be of help but if you desire a formal clarification or if you want a policy determination, then all questions shall be submitted in writing and a written reply will be provided.

IF ADDITIONAL INFORMATION IS REQUIRED, CONTACT:

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Internal Auditing Division
Post Office Box 2666
Charleston, West Virginia 25330
Telephone Number: (304) 558-8500**