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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.*)

TITLE 1.6C. FAIR DEBT COLLECTION PRACTICES [1788 - 1788.33] (*Title 1.6C added by Stats. 1977, Ch. 907.*)

ARTICLE 1. General Provisions [1788 - 1788.3] (*Article 1 added by Stats. 1977, Ch. 907.*)

1788. This title may be cited as the Rosenthal Fair Debt Collection Practices Act.

(Amended by Stats. 2000, Ch. 375, Sec. 5. Effective January 1, 2001.)

1788.1. (a) The Legislature makes the following findings:

(1) The banking and credit system and grantors of credit to consumers are dependent upon the collection of just and owing debts. Unfair or deceptive collection practices undermine the public confidence, which is essential to the continued functioning of the banking and credit system and sound extensions of credit to consumers and small businesses.

(2) There is need to ensure that debt collectors and debtors exercise their responsibilities to one another with fairness, honesty and due regard for the rights of the other.

(b) It is the purpose of this title to prohibit debt collectors from engaging in unfair or deceptive acts or practices in the collection of consumer debts and small business debts and to require debtors to act fairly in entering into and honoring those debts, as specified in this title.

(c) Nothing in this title is intended to create or impose an additional licensing requirement under Division 25 (commencing with Section 100000) of the Financial Code on a debt collector with respect to the collection of covered commercial debt or covered commercial credit.

(d) The provisions of this title related to covered commercial credit or covered commercial debt apply to covered commercial credit or covered commercial debt entered into, renewed, sold, or assigned on or after July 1, 2025.

(Amended by Stats. 2024, Ch. 522, Sec. 1. (SB 1286) Effective January 1, 2025.)

1788.2. (a) Definitions and rules of construction set forth in this section are applicable for the purpose of this title.

(b) The term "debt collection" means any act or practice in connection with the collection of covered debts.

(c) The term "debt collector" means any person who, in the ordinary course of business, regularly, on behalf of that person or others, engages in debt collection. The term includes any person who composes and sells, or offers to compose and sell, forms, letters, and other collection media used or intended to be used for debt collection.

(d) The term "debt" means money, property, or their equivalent that is due or owing or alleged to be due or owing from a natural person to another person.

(e) The term "consumer credit transaction" means a transaction between a natural person and another person in which property, services, or money is acquired on credit by that natural person from the other person primarily for personal, family, or household purposes.

(f) The terms "consumer debt" and "consumer credit" mean money, property, or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction. The term "consumer debt" includes a mortgage debt.

(g) The term "person" means a natural person, partnership, corporation, limited liability company, trust, estate, cooperative, association, or other similar entity.

(h) (1) Except as provided in Section 1788.18, the term "debtor" means a natural person from whom a debt collector seeks to collect a covered debt that is due and owing or alleged to be due and owing from that person.

(2) In relation to a covered commercial debt or covered commercial credit, a “debtor” shall mean a natural person who guarantees an obligation related to a covered commercial credit transaction.

(i) The term “creditor” means a person who extends covered credit to a debtor.

(j) The term “consumer credit report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under any applicable federal or state law or regulation. The term does not include (a) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (b) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (c) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys that person’s decision with respect to that request, if the third party advises the consumer of the name and address of the person to whom the request was made, and the person makes the disclosures to the consumer required under any applicable federal or state law or regulation.

(k) The term “consumer reporting agency” means any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties and uses any means or facility for the purpose of preparing or furnishing consumer credit reports.

(l) The term “covered debt” means a consumer debt or a covered commercial debt.

(m) The term “covered credit” means consumer credit or covered commercial credit.

(n) The terms “covered commercial debt” and “covered commercial credit” mean money due or owing or alleged to be due or owing from a natural person to a lender, a commercial financing provider, as defined in Section 22800 of the Financial Code, or a debt buyer, as defined in Section 1788.50, by reason of one or more covered commercial credit transactions, provided the total amount of all covered commercial credit transactions and all other noncovered commercial credit transactions due and owing by the debtor or other person obligated under the transactions to the same lender, commercial financing provider, or debt buyer is no more than five hundred thousand dollars (\$500,000).

(1) For credit owed to a lender or commercial financing provider, the total value of credit per transaction is determined as of when the transaction is first entered into and is the maximum amount that the creditor is contractually required to provide or make available to the debtor over the life of the transaction or is the maximum amount that is enumerated in an open-end credit agreement.

(2) The value of credit for each transaction for a debt buyer is the amount owing or alleged to be owing to the debt buyer when the debt buyer acquires the rights of the lender or commercial financing provider in the commercial credit.

(o) The term “covered commercial credit transaction” means a transaction between a person and another person in which a total value of no more than five hundred thousand dollars (\$500,000), is acquired on credit by that person from the other person for use primarily for other than personal, family, or household purposes.

(Amended by Stats. 2024, Ch. 522, Sec. 2. (SB 1286) Effective January 1, 2025.)

1788.3. Nothing contained in this title shall be construed to prohibit a credit union chartered under Division 5 (commencing with Section 14000) of the Financial Code or under the Federal Credit Union Act (Chapter 14 (commencing with Section 1751) of Title 12 of the United States Code) from providing information to an employer when the employer is ordinarily and necessarily entitled to receive such information because he is an employee, officer, committee member, or agent of such credit union.

(Added by Stats. 1977, Ch. 907.)