

Licensing Update: Move Toward Digital Automation

By Anthony D'Elia

This past year proved to be one of continued change in the world of collection agency and debt buyer licensing.

While some jurisdictions have made minor changes to their licensing requirements and processes, others have undertaken more significant changes. For some jurisdictions these changes have included migrating to online filing systems either via proprietary state-based systems or independent systems such as NMLS (Nationwide Multistate Licensing System). NMLS serves as a centralized online licensing and registration database for non-depository financial services firms.

The Connecticut Example

One state that transitioned its licensing of collection agencies and debt buyers to NMLS was Connecticut. Prior to 2015, Connecticut licenses had to be renewed via paper application to the Connecticut Department of Banking (DOB) and they expired annually on September 30. In 2015, all agency and debt buyer licensees were required to transition their Connecticut license to the NMLS system by September 30th. After successful transition, all such licenses would now expire on December 31st, same as licenses in other NMLS states.

For some companies handling this transition on their own, this was their first time navigating NMLS, and the process proved challenging. As acknowledged by Connecticut DOB examiners, overall unfamiliarity with NMLS, among other reasons, caused delays in processing transitions by September 30, 2015 and the subsequent license renewals due December 31, 2015.

For agencies, debt buyers, and some creditors tracking their agency service providers and/or debt buyer licensing, these delays and being unable to see Connecticut licenses renewed through 2016 has been troublesome. Luckily the staff at the Connecticut DOB have been very helpful in providing emails acknowledging the transition of the license to NMLS and that the license application was being reviewed. Most importantly, these emails stated agencies were allowed to continue to collect consumer debts in Connecticut while the renewal was pending.

States Moving Toward Digital Automation

As almost a full year has passed since Connecticut transitioned collection agency and debt buyer licensing to NMLS, states such as Maryland and Oregon have communicated that they will also be transitioning collection agency licensing to NMLS.

This past year, other states, including Alaska and Arkansas have migrated to their own state-based systems, at least for renewal licensing. It seems that automated licensing processes are moving in the right direction.

The benefits of automated licensing systems are numerous and include less paperwork, online payment processing, immediate confirmation of submission, and typically faster application review processing times at the state.

Automation Does Not Excuse Mistakes

While all of these benefits are convenient, licensees must be careful to read all of the application questions carefully, especially those involving prior or pending state, federal, or jurisdictional disciplinary actions and civil litigation filed against the licensee.

One such jurisdiction that requires licensing of both collection agencies and debt buyers and asks questions about disciplinary actions is the New York City Department of Consumer Affairs (DCA). According to the DCA website:

Businesses whose principal purpose is to regularly collect or to attempt to collect personal or household debts from New York City residents must have a Debt Collection Agency license no matter where the agency is located. This licensing requirement includes "debt buyers," businesses that buy overdue debt, and then try to collect money, directly or through the services of another, including by taking consumers to court.

One only needs to review some of the Consent Orders (Settlement Agreements) <http://www1.nyc.gov/site/dca/about/settlement-agreements.page#debt>, entered into by debt collectors in the last few years to not only comprehend the importance of understanding DCA's debt collection laws, but also to carefully read the licensing renewal application disclosure questions.

Based on some of the settlements reached with DCA, failure to disclose information, among other reasons, on NYC license renewal applications has been a cause of large monetary fines being issued against debt collectors.

If an applicant outsources its licensing to a third-party service provider, the applicant must be sure to notify the service provider of any disciplinary actions that have happened. Conversely, licensing support vendors should ensure that licensees review application questions and communicate any relevant information before they submit online licensing applications, either initially or for renewal.

As with any good compliance program, a solid understanding of governing laws and regulations should be used as building blocks. When in doubt on whether a disciplinary action should be disclosed on a licensing application, consult an attorney.

Note: The DCA Debt Collection Agency License is a two-year license that expires on January 31st in odd years. The DCA license renewal is online.



About the Author

Anthony D'Elia has proven track record with over 15 years of insurance experience, including having created one of the East Coast's most successful personal and commercial Insurance agencies. In 2011 he formed Acumen to provide the industry with a true, full-service ARM support company offering E & O insurance, licensing, bonds, auditing, and compliance related services.