

SUBCHAPTER I—FAIR DEBT COLLECTION PRACTICES ACT

PART 901—PROCEDURES FOR STATE APPLICATION FOR EXEMPTION FROM THE PROVISIONS OF THE ACT

- Sec.
901.1 Purpose.
901.2 Application.
901.3 Supporting documents.
901.4 Criteria for determination.
901.5 Public notice of filing.
901.6 Exemption from requirements.
901.7 Adverse determination.
901.8 Revocation of exemption.

AUTHORITY: Pub. L. 95-109, 91 Stat. 874, 15 U.S.C. 1692o; 5 U.S.C. 552.

SOURCE: 44 FR 21005, Apr. 9, 1979, unless otherwise noted.

§ 901.1 Purpose.

This part establishes procedures and criteria whereby States may apply to the Federal Trade Commission for exemption of a class of debt collection practices within the applying State from the provisions of the Fair Debt Collection Practices Act as provided in section 817 of the Act, 15 U.S.C. 1692o.

§ 901.2 Application.

Any State may apply to the Commission pursuant to the terms of this Rule for a determination that, under the laws of that State,¹ any class of debt collection practices² within that State is subject to requirements that are substantially similar to, or provide greater protection for consumers than, those imposed under sections 803 through 812 of the Act, and that there is adequate provision for State enforcement of such requirements. The application shall be in writing, addressed to the Commission, signed by the Governor, Attorney General or State official having primary enforcement or responsibility

¹Any reference to State law herein includes a reference to any regulations that implement State law and formal interpretations thereof by a court of competent jurisdiction or duly authorized agency of that State.

²As applicable, references to "class of debt collection practices" in this rule include one or more such classes of debt collection practices.

under the State law which is applicable to the class of debt collection practices, and shall be supported by the documents specified herein.

§ 901.3 Supporting documents.

The application shall be accompanied by the following, which may be submitted in paper or electronic form:

(a) A copy of the full text of the State law that is claimed to contain requirements substantially similar to those imposed under sections 803 through 812 of the Act, or to provide greater protection to consumers than sections 803 through 812 of the Act, regarding the class of debt collection practices within that State.

(b) A comparison of each provision of sections 803 through 812 of the Act with the corresponding provision of the State law, together with reasons supporting the claim that the corresponding provisions of the State law are substantially similar to or provide greater protection to consumers than provisions of sections 803 through 812 of the Act and an explanation as to why any differences between the State and federal law are not inconsistent with the provisions of sections 803 through 812 of the Act and do not result in a diminution in the protection otherwise afforded consumers; and a statement that no other State laws (including administrative or judicial interpretations) are related to, or would have an effect upon, the State law that is being considered by the Commission in making its determination.

(c) A copy of the full text of the State law that provides for enforcement of the State law referred to in paragraph (a) of this section.

(d) A comparison of the provisions of the State law that provides for enforcement with the provisions of section 814 of the Act, together with reasons supporting the claim that such State law provides for administrative enforcement of the State law referred to in paragraph (a) of this section that is substantially similar to, or more extensive than, the enforcement provided under section 814 of the Act.

(e) A statement identifying the office designated or to be designated to administer the State law referred to in paragraph (a) of this section, together with complete information regarding the fiscal arrangements for administrative enforcement (including the amount of funds available or to be provided), the number and qualifications of personnel engaged or to be engaged in enforcement, and a description of the procedures under which such State law is to be administratively enforced. The statement should also include reasons to support the claim that there is adequate provision for enforcement of such State law.

[44 FR 21005, Apr. 9, 1979, as amended at 64 FR 34533, June 28, 1999]

§ 901.4 Criteria for determination.

The Commission will consider the criteria set forth below, and any other relevant information, in determining whether the law of a State is substantially similar to, or provides greater protection to consumers than, the provisions of sections 803 through 812 of the Act regarding the class of debt collection practices within that State, and whether there is adequate provision for State enforcement of such law. In making that determination, the Commission primarily will consider each provision of the State law in comparison with each corresponding provision in sections 803 through 812 of the Act, and not the State law as a whole in comparison with the Act as a whole.

(a) In order for provisions of State law to be substantially similar to, or provide greater protection to consumers than the provisions of sections 803 through 812 of the Act, the provisions of State law³ at least shall provide that:

(1) Definitions and rules of construction, as applicable, import the same meaning and have the same application as those prescribed by sections 803 through 812 of the Act.

³This subsection is not be construed as indicating that the Commission would consider adversely any additional requirements of State law that are not inconsistent with the purpose of the Act or the requirements imposed under sections 803 through 812 of the Act.

(2) Debt collectors provide all of the applicable notifications required by the provisions of sections 803 through 812 of the Act, with the content and in the terminology, form, and time periods prescribed by this part pursuant to sections 803 through 812; however, required references to State law may be substituted for the references to Federal law required in this part. Notification requirements under State law in additional circumstances or with additional detail that do not frustrate any of the purposes of the Act may be determined by the Commission to be consistent with sections 803 through 812 of the Act;

(3) Debt Collectors take all affirmative actions and abide by obligations substantially similar to, or more extensive than, those prescribed by sections 803 through 812 of the Act under substantially similar or more stringent conditions and within the same or more stringent time periods as are prescribed in sections 803 through 812 of the Act;

(4) Debt Collectors abide by the same or more stringent prohibitions as are prescribed by sections 803 through 812 of the act;

(5) Obligations or responsibilities imposed on consumers are no more costly, lengthy, or burdensome relative to consumers exercising any of the rights or gaining the benefits of the protections provided in the State law than corresponding obligations or responsibilities imposed on consumers in sections 803 through 812 of the act.

(6) Consumers' rights and protections are substantially similar to, or more favorable than, those provided by sections 803 through 812 of the Act under conditions or within time periods that are substantially similar to, or more favorable to consumers than, those prescribed by sections 803 through 812 of the Act.

(b) In determining whether provisions for enforcement of the State law referred to in § 901.3(a) are adequate, consideration will be given to the extent to which, under State law, provision is made for administrative enforcement, including necessary facilities, personnel, and funding.

[44 FR 21005, Apr. 9, 1979, as amended at 64 FR 34533, June 28, 1999]