

Stay up to date: Tracking state level response to COVID-19 and Impacts to Collections

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1/2 Credit



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This information is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case.

Every effort has been made to assure this information is up-to-date. It is not intended to be a full and exhaustive explanation of the law in any area, nor should it be used to replace the advice of your own legal counsel.

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Credit Card Collections: Three States Have Enacted Restrictions

- Nevada
- Massachusetts
- Washington, DC

Additional States Considering Restrictions Include:

- Massachusetts
- New York
- Ohio



Nevada Shut Down of Collection Agencies

➤ **Background:**

- Directive issued March 20, 2020 by Department of Business and Industry
- Based off the Nevada Governor's emergency directive closing all non-essential businesses
- Dep't of Business and Industry deemed collection agencies non-essential

➤ **What the order does:**

- To enforce the Governor's directive, the Dep't of Business and Industry directed all collection agencies holding a license under Nevada Revised Statutes Chapter 649 to close
- All collection agencies holding a license or certified under Chapter 649 and located out-of-state must cease collection efforts with Nevada consumers and residents

➤ **Timing:**

- Original order lasted until April 16th 2020
- Governor extended state-wide directive until April 30th, so order is in effect until April 30th

Massachusetts Emergency Regulation Restricting Debt Collectors

➤ **Background:**

- Emergency Regulation issued on March 27, 2020 by Massachusetts AG

➤ **What the order does:**

- Illegal for debt collectors to file new lawsuits
- No new bank or wage garnishments
- Debt collection agencies may not make unsolicited collection calls to consumers
- Permissible to respond to request made by the consumer to be contacted

➤ **Timing:**

- In effect for 90 days or until conclusion of the emergency
- Since Governor's order is set to expire May 4th, this emergency regulation is set to expire on/about June 25th

Washington, DC Legislation Restricting Debt Collectors

➤ **Background:**

- Passed by DC City Council

➤ **What the order does:**

- Illegal for debt collectors to file new lawsuits
- No new bank or wage garnishments
- Debt collection agencies may not “initiate a communication” with a debtor through unsolicited collection calls, emails or texts to consumers
- Permissible to send a monthly statement or payment receipt, or deposit a voluntary payment from a consumer (these are not considered to be “initiating a communication”)

➤ **Timing:**

- In effect during public health emergency and for 60 days after its conclusion

Student Loan Debt – Federal Action

➤ **CARES Act**

- Relief applies to student loans held by the U.S. Department of Education
- All payments due will be suspended through September 30, 2020. Interest will not accrue during this period, and accounts will be treated as if payments were made for credit reporting and loan forgiveness program purposes. All involuntary collection for affected loans (including wage garnishment or reduction of tax refund or any other Federal benefit) are also suspended during this period.

➤ **VA Benefit Loans**

- All actions on Veteran debts under the jurisdiction of the Treasury Department suspended.
- Collection actions suspended or repayment terms on preexisting VA debts extended, as the Veteran prefers.

Student Loan & Medical Debt – State Action

- **Nevada, Massachusetts, and Washington D.C.**
- **New York (until May 17th unless further extended)**
 - Applies to student loan and medical debt owed to the State of New York and referred to the Attorney General for collection.
 - All collections halted.
 - Accrual of interest and collection of fees have also been automatically suspended on all outstanding state medical and student debt referred to the OAG for collection.
- **North Carolina (until May 27th unless further extended)**
 - Student loan and medical debt owed to the State of North Carolina.
 - All collections halted.
 - Excludes action where necessary to meet statutes of limitations or other court-imposed deadlines.
- **Illinois**
 - The Illinois Department of Financial and Professional Regulation – Division of Financial Institutions announced new guidance to its regulated entities, including student loan servicers and collection agencies, encouraging debt collectors and debt buyers to work with consumers to accommodate hardships due to the COVID-19 crisis, including to suspend collection activity for a period of at least 60 days

Medical Loan Debt – State Action

➤ **New York**

- Applies to student loan debt owed to the State of New York and referred to the Attorney General for collection.
- Halted all collections.
- Accrual of interest and collection of fees have also been automatically suspended on all outstanding state medical and student debt referred to the OAG for collection.



Garnishment of Federal Stimulus Payments

- Several states have passed prohibitions or limits on garnishment of stimulus funds from individuals.
 - California
 - Indiana
 - Massachusetts
 - New York
 - Oregon
 - Rhode Island
 - Vermont



How We Are Tracking the New Requirements and Proposals

- *Google Alerts*
 - *RMAI alerts*
 - *ACA alerts*
 - *Law firm resources*
- ✓ *Strong project management is key to ensuring compliance with new operational requirements*



RMAI's Hardship Policy

- *Work with and be sensitive to consumers who have encountered unforeseen circumstances.*
- *Temporarily or permanently suspend collection activities when a consumer demonstrates that he or she is experiencing significant financial hardship.*
- *Accept consumer requests in both oral and written form.*
- *Cease collection activities when you learn the consumer's only source of income is from exempt sources, such as Social Security or Supplemental Security Income benefits, and that the consumer has access to no other assets.*
- *Place collection holds with respect to the consumer, including all of the applicable consumer's accounts you may own. In other words, all of the consumer's accounts should be suspended, not just on an account-by-account basis.*
- *Consider some other form of assistance such as an extended grace period, balance reduction, or the suspension of interest.*
- *CARES ACT Stimulus Funds: to the degree the federal stimulus funds are ascertainable, RMAI asks members to avoid soliciting those funds or otherwise attaching those funds for the purposes of satisfying a debt or money judgment. If a consumer wishes to use these funds for the payment of an obligation, that is acceptable, but should not be solicited.*

Coming Soon

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Be sure to join us for the next RMAI webinar:

Preparing for the Post-COVID-19

Regulatory Reckoning

Wednesday, May 6, 2020 at 9:00am PT/12:00pm ET

