

Regulatory Analysis Form

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REVIEW COMMISSION



IRRC Number: 2174

(1) Agency

Office of Attorney General
Bureau of Consumer Protection

(2) I.D. Number (Governor's Office Use)

59-08

(3) Short Title

Debt Collection Trade Practices - Repeal

(4) PA Code Cite

37 Pa. Code Chapter 303

(5) Agency Contacts & Telephone Numbers

Primary Contact: Frank T. Donaghue 787-9707
Secondary Contact: David Sumner 787-9707

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The sole purpose of this regulation is to delete from the Code Chapter 303 which was expressly repealed by Act 2000-7 of March 28, 2000.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Act of March 28, 2000, P.L. 23, No. 7, 73 P.S. §2270.1, 6 (Known as the Fair Credit Extension Uniformity Act)

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated, although it is necessary to reflect the repeal of Chapter 303 by Act 2000-7.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Act 2000-7 effectively rendered Chapter 303 of no legal effect. Chapter 303 should therefore be deleted from the Pa. Code to avoid confusion by the public and any others needing to know the current law governing debt collection practices in Pennsylvania, now contained in Act 2000-7.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environment or general welfare risks associated with this rulemaking.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Anyone who needs to know the current law governing debt collection practices in Pennsylvania. Benefits cannot be quantified.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

N/A

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The regulation only deletes repealed language. It does not require compliance.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

None. Public comment is unnecessary and impractical.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

N/A

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

N/A

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

N/A

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. N/A

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.
N/A.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no non-regulatory alternatives.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Pending adoption of this regulation, an Editor's Note was added to Chapter 303 by the LRB to indicate that the chapter was repealed by Act 2000-7.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

N/A

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation deletes entire Chapter 303.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No. This is a final-omitted rulemaking under §204(3) of the Commonwealth Documents Law.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

N/A

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

N/A

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

Although the regulation becomes effective upon publication in the Pa. Bulletin, Chapter 303 is already of no legal effect due to its March 28, 2000 repeal by Act 2000-7.

(31) Provide the schedule for continual review of the regulation.

N/A

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REFERENCE BUREAU
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

2184

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Copy below is hereby approved as to form and legality Executive or Independent Agencies

By: _____
(DEPUTY ATTORNEY GENERAL)

Office of Attorney General

(AGENCY)

BY *Christine J. Pappas*

DOCUMENT/FISCAL NOTE NO. 59-08

4-5-01
DATE OF APPROVAL

DATE OF APPROVAL

DATE OF ADOPTION _____

(~~Deputy General Counsel~~)
(~~Chief Counsel - Independent Agency~~)
(Strike inapplicable title)

Check if applicable
Copy not approved. Objections attached.

BY *[Signature]*

Check if applicable. No Attorney General Approval or objection within 30 days after submission.

TITLE Director,
Bureau of Consumer Protection

NOTICE OF FINAL-OMITTED RULEMAKING

Title 37 - LAW
OFFICE OF ATTORNEY GENERAL
PART V. - BUREAU OF CONSUMER PROTECTION
Chapter 303

Debt Collection Trade Practices-Repeal

PREAMBLE

Purpose and Statutory Authority

Notice is hereby given that the Office of Attorney General, through its Bureau of Consumer Protection, proposes to amend Title 37 Pa. Code Chapter 303 pertaining to Debt Collection Trade Practices by deleting the entire chapter, as set forth in the attached Annex A.

Chapter 303 was expressly repealed by Section 6 of the Act of March 28, 2000, P.L. 23, No. 7, 73 P.S. 2270.1, *et seq.*, known as the Fair Credit Extension Uniformity Act ("Act 2000-7"). Act 2000-7 establishes and describes unfair or deceptive acts or practices with regard to the collection of debts, effectively replacing the provisions of Chapter 303. The Office of Attorney General is not proposing any regulations under Act 2000-7 at this time.

Omission of Proposed Rulemaking

Proposed rulemaking is omitted pursuant to Section 204(3) of the Commonwealth Documents Law, 45 P.S. 1204(3) insofar as the absolute repeal of Chapter 303 by Act 2000-7 renders notice of proposed rulemaking impracticable and unnecessary.

Fiscal Impact

This regulation has no fiscal impact on the general public or government agencies.

Effective Date

This final regulation will go into effect upon publication in the *Pennsylvania Bulletin*.

Contact Person

Questions or comments regarding this final regulation with proposed omitted may be addressed to Frank T. Donaghue, Director, Bureau of Consumer Protection, Office of Attorney General, 14th Floor, Strawberry Square, Harrisburg, Pa. 17120, telephone (717) 787-9707. Questions or comments may also be e-mailed to consumers@attorneygeneral.gov or faxed to (717) 787-1190.

Regulatory Review

Under Section 5.1 of the Regulatory Review Act, 71 P.S. 745.5a(c), the Office of Attorney General submitted a copy of the regulation with proposed rulemaking omitted on _____ to the Independent Regulatory Review Commission (“IRRC”) and to the Chairpersons of the House and Senate Judiciary Committees. In accordance with Section 5(d) of the Act, the regulation was (deemed) approved by the House Judiciary Committee on _____ and (deemed) approved by the Senate Judiciary Committee on _____. IRRC met on _____ and (deemed) approved the regulation.

In addition to submitting the regulation, the Office of Attorney General has provided the Commission and the Committees with a copy of a detailed regulatory analysis form prepared by the Office of Attorney General in compliance with Executive Order 1982-2, “Improving Government Relations.”

Sunset Date

No sunset date is proposed for this regulation since it deletes a chapter of the *Pennsylvania Code* which was repealed by legislation.

Findings

The Office of Attorney General finds that:

(1) Notice of proposed rulemaking is impracticable and unnecessary under Section 204(c) of the Commonwealth Documents Law because Chapter 303 was rendered of no effect by its absolute repeal by Act 2000-7 which became effective on June 26, 2000.

(2) The adoption of this rulemaking in the manner provided in this order is

necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Office of Attorney General, acting under the authorizing statutes, orders that:

(1) The regulations of the Office of Attorney General, 31 Pa. Code Chapter 303, are amended by deleting Chapter 303 (relating to Debt Collection Trade Practices) in its entirety.

(2) The Office of Attorney General has reviewed the regulation for approval as to form and legality as required by law.

(3) The Office of Attorney General shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

FRANK T. DONAGHUE
Director, Bureau of Consumer Protection

ANNEX A

Title 37 - LAW

Chapter 303. **[Reserved]**

[§ 303.1. Scope of chapter.

Without limiting other practices which may be unlawful under section 1--9.2 of the Unfair Trade Practices and Consumer Protection Law (73 P. S. §§ 201- 1--201-9.2) this chapter establishes what shall be considered unfair methods of competition and unfair or deceptive acts or practices with regard to the collection of debts.

§ 303.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Communication or communicating--Conveying information regarding a debt to a person directly or indirectly through any medium.

Conducting business within this Commonwealth--A creditor or debt collector conducting business from within this Commonwealth and a creditor or debt collector collecting or attempting to collect a debt from a person present within this Commonwealth.

Contact--A conversation or correspondence which is not a communication and in which the creditor or debt collector does not disclose information regarding the debt.

Creditor--A person, including agents, servants or employes conducting business under the name of a creditor and within this Commonwealth, to whom a debt is owed or alleged to be owed.

Debt--An actual or alleged past-due obligation, claim, demand, note or other similar liability of a debtor to pay money, arising out of a single account as a result of a

purchase, lease or loan of goods, services or real or personal property for personal, family or household purposes or as a result of a loan of money or extension of credit which is obtained primarily for personal, family or household services; provided, however, that money which is owing or alleged to be owing as a result of a loan secured by a purchase money mortgage on real estate may not be included within the definition of debt.

Debt collector--A person not a creditor conducting business within this Commonwealth, acting on behalf of a creditor, engaging or aiding directly or indirectly in collecting a debt owed or alleged to be owed a creditor or assignee of a creditor.

(i) The term does not include:

(A) A person while attempting to collect a debt on behalf of a creditor, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for creditors to whom it is so related or affiliated and if the principal business of the person is not the collection of debts.

(B) A person while serving or attempting to serve legal process on another person in connection with the judicial enforcement of a debt.

(ii) The term does include:

(A) A creditor who, in the process of collecting his own debt, uses a name other than his own which would indicate that a third person is collecting or attempting to collect the debt.

(B) A person who sells or offers to sell forms represented to be a collection system, device or scheme which is intended or designed to collect debts.

Debtor--A natural person who owes or is alleged to owe a debt or one who has incurred or is alleged to have incurred liability for the debt, including, but not limited to a co-maker, guarantor, surety or parent if the debtor is under the age of 18. The term includes the debtor's guardian, executor or administrator.

Discussion--A two-way communication regarding the debt.

Person--A natural person, corporation, trust, partnership, incorporated or unincorporated association, and other legal entity; provided, however, that if a creditor

or debt collector is comprised of more than one affiliate or employs more than one

natural person, the individuals shall be considered to be one and the same person with respect to a debt owed or alleged to be owed to the creditor.

§ 303.3. General provisions.

While engaged in the collection of debts, it shall be an unfair or deceptive act or practice for a creditor or debt collector to engage in any of the following acts or practices:

(1) Using a false personal, business, company or organizational name; provided, however, that a natural person representing a creditor or debt collector may utilize a personal name other than his actual name, if he uses only one assumed name at all times and provided that a mechanism is established by the creditor or debt collector to identify the person using an assumed name.

(2) Falsely representing, directly or by implication, that the creditor or debt collector has information in his possession or something of value for the debtor, in order to obtain information about the debtor or the debtor's whereabouts or in order to obtain information from the debtor.

(3) Falsely representing, directly or by implication, the character, extent or amount of a debt or a fee related to the debt, or the status of the debt in a legal proceeding.

(4) Falsely representing, directly or by implication, including but not limited to the use of a certification, badge, uniform or facsimile thereof, that a creditor or debt collector is vouched for by, bonded by, affiliated with or is an instrumentality, agency or official of a governmental entity.

(5) Falsely representing, directly or by implication, the identity of a creditor or debt collector, including but not limited to misrepresenting that a creditor or debt collector is an attorney or any other officer of the court.

(6) Falsely representing, directly or by implication, the nature of a contact or communication, including but not limited to the following:

(i) That a contact or communication is from an attorney or other officer of the court.

(ii) That documents are legal process.

(iii) That documents are not legal process.

(iv) That documents do not necessitate action by the debtor.

(7) Using, distributing or selling a written document which simulates or is falsely represented to be a document authorized, issued or approved by an attorney, a court, a government official or other governmental authority or which would otherwise reasonably tend to create in the mind of a person a false impression about its source, authorization or approval.

(8) With regard to a postdated check or other postdated payment instrument:

(i) Failure by debt collectors to comply with section 808(2-4) of the Fair Debt Collection Practices Act (15 U.S.C.A. § 1692(f)(2-4)).

(ii) Soliciting by creditors from a person an instrument which is postdated by more than 5 days, unless the person is notified in writing of the creditor's intent to deposit the check or instrument not more than 10 nor less than 3 bank business days prior to the date the deposit is made.

(iii) Soliciting by creditors a postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.

(iv) Threatening by creditors to deposit a postdated check or other postdated payment instrument prior to the date of the check or instrument.

(v) Debt collectors and creditors: presenting by debt collectors and creditors for payment an instrument after the creditor or debt collector has been notified by the debtor that there may not be funds sufficient to honor the instrument.

(9) Falsely representing, directly or by implication, that a sale, referral or other transfer of a debt shall cause a debtor to lose a defense to the debt or shall cause the debtor to be subjected to harsh, vindictive or abusive collection attempts or a practice prohibited by this chapter.

(10) Falsely representing, directly or by implication, that an account or accounts have been turned over to innocent purchasers for value.

(11) Threatening or representing, directly or by implication, that nonpayment of a debt will result in the arrest or imprisonment of a person or the seizure, garnishment, attachment or sale of property or wages of a person, or that an action to effect dispossession of real or personal property will be taken, unless the action is lawful and the creditor or debt collector intends to take the action.

(12) Falsely representing that a debtor has committed a crime or has engaged in other conduct, the purpose of the representation being to subject the debtor to disgrace. A false representation will be prima facie evidence of violation of this paragraph.

(13) With regard to debt collectors, collecting or attempting to collect debts in violation of 18 Pa.C.S. § 7311 (relating to unlawful collection agency practices).

(14) Representing, directly or by implication, that certain action will be taken if the action cannot legally be taken or if the action is not intended to be taken.

(15) Conveying or threatening to convey credit information, which is known or should be known to be false, including the failure to convey the fact that a debt is disputed by the debtor if such is the case. Creditors in compliance with Part D--Credit Billing--of the Consumer Credit Protection Act (15 U.S.C.A. §§ 1601--1666j) shall be considered to be in compliance with this paragraph.

(16) Falsely representing, directly or by implication, that a creditor or debt collector operates or is employed by a consumer reporting agency as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C.A. § 1681a(f)).

(17) Causing expense to a person for a contact or communication before the true purpose of the contact or communication is known to the person or by concealment or misrepresentation of the true purpose of the contact or communication.

(18) Otherwise using a false representation or deceptive means to collect or attempt to collect a debt or to obtain information from or about the debtor.

(19) Publishing a list of debtors who allegedly refuse to pay debts, except to a consumer reporting agency or as otherwise permitted by State or Federal law.

(20) Advertising for sale a debt in order to coerce payment of the same.

(21) Using profane, obscene or other language the natural consequence of which is to

abuse the hearer or reader.

(22) Using or threatening the use of an unlawful action, the purpose of which is to harm the physical person, reputation or property of a person in order to coerce payment of the debt.

(23) Continuing to pursue collection procedures when the creditor or debt collector knows or has reason to know that another person is attempting to collect the same debt.

(24) Visiting a person, causing a telephone to ring or engaging a person in telephone conversation at an unusual time or place or a time or place known or which should be known to be inconvenient to the person called or visited. For the purpose of this paragraph, in the absence of knowledge to the contrary, a convenient time shall be between 8 a.m. and 9 p.m.

(25) With regard to communications with third parties:

(i) Without the written consent of the debtor given directly to the creditor or debt collector subsequent to the commencement of collection activities or without the express permission of a court of competent jurisdiction or as reasonably necessary to effectuate a post-judgment judicial remedy, communicating, threatening to communicate or implying the fact of a debt to any person other than the debtor in any manner.

(ii) Notwithstanding the provisions of subparagraph (i), while otherwise in conformity with this chapter, communications regarding the debt shall be permitted to the following:

(A) A consumer reporting agency as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C.A. § 1681a(f)), if otherwise permitted by law.

(B) The attorney of the creditor, debt collector or debtor.

(C) Other persons who the creditor or debt collector reasonably believes has extended or will extend credit to the debtor.

(D) Debt collector, if the creditor is the communicator.

(E) Creditor, if the debt collector is the communicator.

(F) Seller of the goods or services which are now in whole or in part the subject of the

debt.

(G) A prior holder of the instrument evidencing the debt.

(H) A prospective purchaser of the debt.

(I) Another party expressly authorized by law.

(iii) Notwithstanding the provisions of subparagraph (i), while otherwise in conformity with this chapter and unless expressly prohibited by the debtor, a creditor or debt collector shall be permitted one communication to a nondebtor spouse regarding the debt: provided, however, that the spouse of the debtor may expressly authorize additional communications.

(26) Abusing or harassing the debtor, directly or indirectly, through third party contacts.

(27) Otherwise abusing or harassing a person in connection with the collection of a debt.

(28) Obtaining or attempting to obtain a waiver of the requirements of this chapter from a person by contract or otherwise.

§ 303.4. Communications and contacts with the debtor.

While engaged in the collection of debts, it shall be an unfair or deceptive act or practice for a creditor or debt collector to engage in any of the following acts or practices:

(1) Communicating with or contacting the debtor without initially disclosing the identity of the caller, including the name of the person calling, the company or firm represented, the name of the creditor if a different company or firm and other information necessary to identify the caller. For the purposes of this section, when contacting a third party during an attempt to communicate with the debtor, the caller shall disclose the caller's name and, only if expressly requested, the name of the employer of the caller.

(2) Abusing or harassing the debtor by telephone. For the purposes of this section, a rebuttable presumption of abuse or harassment shall be created if a creditor or debt collector continues to telephone the debtor during a 7- dayperiod following a telephone discussion between the creditor or debt collector and the debtor. Evidence of reasonable followup activity may be sufficient to rebut the presumption of abuse or harassment. However, in no event may the creditor or debt collector place telephone calls to the debtor

at the place of employment of the debtor, which is not the current billing address of the account, unless:

(i) The creditor or debt collector has been unable to effect a discussion regarding the debt with the debtor during the preceding 30-day period by telephone calls or personal visits.

(ii) The creditor or debt collector does not know or has no reason to know that the employer of the debtor prohibits the contacts.

(3) Placing telephone calls to the debtor at the place of employment of the debtor after the debtor has notified the creditor or debt collector in writing not to place the calls.

(4) Abusing or harassing the debtor by household visits. For the purposes of this paragraph, a rebuttable presumption of abuse or harassment shall be created if the creditor or debt collector continues to visit the household of the debtor during a 30-day period following a visit which resulted in a discussion between the creditor or debt collector and the debtor. Evidence of reasonable followup activity may be sufficient to rebut the presumption of abuse or harassment.

(5) Entering the household of a debtor unless expressly invited inside by the debtor or an adult person in the household of the debtor.

(6) Failing to leave the debtor's premises when asked to do so by the debtor or a person in the household of the debtor.

(7) Mailing communications to the debtor at the debtor's place of employment, unless the current billing address of the account is the debtor's place of employment or unless the debtor specifically consents to the communications in writing subsequent to the commencement of collection activities.

(8) Visiting the debtor at the debtor's place of employment, unless in response to a written request from the debtor.

(9) If a communication could reasonably be expected to be overheard by a third party not authorized by the debtor, confronting a debtor at the creditor's or debt collector's place of business, at places agreed to by the debtor, or at a public place.

(10) Except as provided in § 303.3(25) (relating to general provisions), communicating

with or contacting a person other than the debtor's attorney, if the creditor or debt collector knows or has reason to know that the debtor is represented by an attorney with respect to the debt, and has knowledge of or can readily ascertain the address of the attorney, unless any of the following apply:

(i) The attorney fails to respond within a reasonable period of time to a communication from the creditor or debt collector. For the purposes of this subparagraph, 14 calendar days shall be considered a reasonable time.

(ii) The attorney authorizes direct contact or communication with the person.

(iii) Contact is necessary to perfect or preserve rights against the debtor or collateral securing the debt.

(iv) Direct contact with the debtor is required by an applicable State or Federal law, regulation or court order.

(11) If a debtor notifies a debt collector in writing that the debtor refuses to pay a debt or that the debtor wishes the debt collector to cease further communication or contact with the debtor, the debt collector may not communicate with or further contact the debtor with respect to the debt, except to do any of the following acts:

(i) To advise the debtor that the debt collector's further efforts are being terminated.

(ii) To notify the debtor that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by the debt collector or creditor.

(iii) Where applicable, to notify the debtor that the debt collector or creditor intends to invoke a specified remedy.

(12) Where the creditor or debt collector has two or more accounts involving the debtor, utilizing the procedures otherwise permitted by this chapter in order to abuse or harass the debtor.

§ 303.5. Locator information.

Except as provided in § 303.3(25) (relating to general provisions), while engaged in the collection of debts, it shall be an unfair or deceptive act or practice for a creditor or debt collector to contact persons for the purpose of seeking information as to the location of the

debtor, the debtor's residence, a telephone number at the residence and the debtor's place of employment, unless the creditor or debt collector shall:

(1) First attempt to obtain locator information from the attorney of the debtor if the creditor or debt collector knows or has reason to know that the debtor is represented by an attorney with respect to the debt.

(2) Make a reasonable effort to ascertain the location information elsewhere.

(3) Disclose the name of the caller, and only if expressly requested, the name of the employer of the caller.

(4) State that the purpose of the contact is solely for the confirmation or correction of location information regarding the debtor.

(5) Not state or imply that the debtor owes a debt.

(6) Not contact the person more than once unless requested to do so by the person, or unless the creditor or debt collector has reason to believe that the earlier response of the person is erroneous or incomplete and that subsequently the person now has correct or more complete location information of which the creditor or debt collector is unaware.

§ 303.6. Mandatory disclosures.

It shall be an unfair or deceptive act or practice for a debt collector to fail to comply with section 809(a) of the Fair Debt Collection Practices Act (15 U.S.C. § 1692(a)).

§ 303.7. Disputed debts.

While engaged in the collection of debts, it shall be an unfair or deceptive act or practice for the creditor or debt collector to engage in the following practices:

(1) Failing to suspend collection activities until the creditor or debt collector has investigated and responded to a written allegation of the debtor that the amount owed is not owed, is inaccurate or is otherwise in error; provided, however, there may be no obligation to respond to duplicative requests.

(2) Failing to suspend collection activities until the creditor or debt collector has responded to a written request from the debtor for copies of materials which substantiate

the debt; provided, however, there may be no obligation to respond to duplicative requests.

§ 303.8. Bona fide errors.

A creditor or debt collector may not be held liable in an action for a violation of this chapter if the creditor or debt collector shows by a preponderance of the evidence that the violation was both not intentional and:

(1) Resulted from a bona fide clerical error, notwithstanding the maintenance of procedures reasonably adapted to avoid a clerical error.

(2) Resulted from good faith reliance upon incorrect information offered by a person other than an agent, servant or employe of the creditor or debt collector.

§ 303.9. Interpretation.

(a) This chapter may not exempt a person from complying with existing laws or standards which have the effect of law.

(b) This chapter may in no way limit other debt collection practices which may be deemed unlawful under sections 1--9.2 of the Unfair Trade Practices and Consumer Protection Law (73 P. S. §§ 201-1--201-9.2).]



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

April 9, 2001

MIKE FISHER
ATTORNEY GENERAL

Strawberry Square
Harrisburg, PA 17120
(717) 787-9707

Honorable Stewart J. Greenleaf
Chairman, Judiciary Committee
Senate of Pennsylvania
19 East Wing, Main Capitol
Harrisburg, PA 17120

Re: Office of Attorney General Regulation
Debt Collection Trade Practices-Repeal

Dear Chairman Greenleaf:

Transmitted herewith is the final regulation amending Title 37 Pa. Code Chapter 303 (Debt Collection Practices) by deleting the entire chapter. Act 2000-7 establishes and describes unfair or deceptive acts or practices with regard to the collection of debts, effectively replacing the provisions of Chapter 303. The statutory authority for this regulation is found at 73 P.S. §2270.1,6.

The Office of Attorney General is promulgating this final regulation with omission of proposed rulemaking, as the absolute repeal of Chapter 303 by Act 2000-7 renders notice of proposed rulemaking impracticable and unnecessary. The regulation is being concurrently submitted to the House Judiciary Committee and the Independent Regulatory Review Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank T. Donaghue".

Frank T. Donaghue
Chief Deputy Attorney General
Bureau of Consumer Protection

FTD:mlm
Enclosure

cc: Gregory E. Dunlap, Esq.
Mary S. Wyatte, Esq.



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

April 9, 2001

MIKE FISHER
ATTORNEY GENERAL

Strawberry Square
Harrisburg, PA 17120
(717) 787-9707

Honorable Thomas P. Gannon
Chairman, Judiciary Committee
Pennsylvania House of Representatives
49 East Wing, Main Capitol
Harrisburg, PA 17120

Re: Office of Attorney General Regulation
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Sincerely,

A handwritten signature in black ink, appearing to be 'Frank T. Donaghue'.

Frank T. Donaghue
Chief Deputy Attorney General
Bureau of Consumer Protection

FTD:mlm

Enclosure

cc: Gregory E. Dunlap, Esq.
Mary S. Wyatte, Esq.

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.D. NUMBER: 59-08

SUBJECT: Debt Collection Trade Practices-Repeal

AGENCY: Office of Attorney General
Bureau of Consumer Protection

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

RECEIVED
2001 APR -9 PM 3:32
INDEPENDENT REGULATORY REVIEW COMMISSION

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
4/9/01	<u>J. Sedese</u>	<u>HOUSE COMMITTEE</u>
4/9/01	<u>R. Dennis</u>	<u>SENATE COMMITTEE</u>
4/9/01	<u>Steph J. Hoff</u>	<u>INDEPENDENT REGULATORY REVIEW COMMISSION</u>
_____	_____	<u>ATTORNEY GENERAL</u>
_____	_____	<u>LEGISLATIVE REFERENCE BUREAU</u>