



## LEGAL UPDATES

# California Extends Fair Debt Collection Statute To Cover Small Business Debts up to \$500,000

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Similar to the federal Fair Debt Collection Practices Act (FDCPA), California's "Rosenthal Fair Debt Collection Practices Act" (RFDCPA) has historically regulated the manner in which debt collectors interact with borrowers that owe a "consumer debt" or "consumer credit" that was incurred by an individual "primarily for personal, family, or household purposes."

In particular, the RFDCPA prohibits debt collectors from certain activities, including but not limited to: using profane or obscene language, contacting a debtor's employer without prior authorization, communicating with a debtor represented by counsel, and/or sending written communications intended to embarrass the debtor. Notably, the RFDCPA covers the conduct of professional debt collectors **and** original creditors collecting their own debt, whereas the FDCPA applies solely to professional debt collectors. Violations of California's RFDCPA can subject a debt collector to actual and punitive damages, as well as an award of attorney fees and costs in favor of the debtor.

On September 24, 2024, California Governor Gavin Newsom signed [Senate Bill 1286](#) into law, which substantially extends the reach of California's RFDCPA beyond "consumer debt" and "consumer credit," and confirms that RFDCPA's restrictions now apply to certain commercial transactions. The new legislation is the first of its kind to expand the regulation of debt collection from consumer transactions into the commercial space.

Specifically, on and after July 1, 2025, the RFDCPA will apply to "covered commercial credit" and "covered commercial debt." Both terms are defined as "money due or owing or alleged to be due or owing from a natural person to a lender, commercial financing provider... or a debt buyer," provided that the total value of the covered and noncovered transactions between the parties is no more than five hundred thousand dollars (\$500,000). Senate Bill 1286 confirms that the types of commercial debt covered by the RFDCPA include those arising from accounts receivable transactions, factoring, asset-based lending, commercial loans, open-end credit, and lease financing. Importantly, Senate Bill 1286 also provides that, in addition to individual borrowers, a "debtor" under the RFDCPA includes a natural person that guarantees a payment obligation owed by another person or entity. Therefore, even if the borrower is a business entity, efforts to

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collect against a personal guarantor will be covered by the RFDCPA, provided the transaction amount is less than \$500,000.

In light of Senate Bill 1286, lenders, debt collectors, commercial finance providers, equipment lessors and debt buyers that transact business in the State of California should review their existing debt collection practices and make appropriate adjustments to ensure compliance before the effective date of July 1, 2025.

### **Key Takeaways:**

- The RFDCPA will apply to debt collectors and creditors collecting certain commercial debts under \$500,000.
- The RFDCPA will apply to a commercial loan where the borrower is a natural person, and to commercial guaranties executed by an individual guarantor.
- The RFDCPA will apply to covered commercial debt "*entered into, renewed, or sold, or assigned*" after July 1, 2025.

Lathrop GPM's Financial Services attorneys are experienced with all facets of creditors' rights and financial services and are prepared to help clients navigate the new requirements of Senate Bill 1286. Please reach out to your Lathrop GPM attorney or the author of this alert if you have further questions.