



DEPARTMENT OF BUSINESS, OCCUPATIONAL AND PROFESSIONAL REGULATION
BUREAU OF CONSUMER CREDIT PROTECTION
(207)289-3731

ADVISORY RULING #80
AUGUST 27, 1985

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Re: Supervised lender licensing requirements for assignees under §2-301(2)

The Bureau has received an inquiry from a person, that is a non-bank out-of-state assignee, as to whether or not it must obtain a supervised lender's license in order to undertake direct collections or enforce rights in Maine on defaulted obligations that originated in the State of Maine.

Section 2-301(2) of the Maine Consumer Credit Code requires the licensing, as supervised lenders, of all non-bank entities that are involved in the business of "taking assignments of and undertaking direct collection of payments from or enforcement of rights in this State against debtors arising from supervised lenders" (emphasis added). The inquiry giving rise to this ruling focused on the meaning to be given to the phrase "in this State": whether it applied to the physical location of the assignee or the locus of the subject activities.

The plain meaning of this statutory provision is not discernible as at least two quite different readings are possible. In such a case, legislative intent should be examined for guidance as to meaning.

The phrase "in this State" was added through P.L. 1983, c. 212, §4. There is no legislative history on that particular section of the bill. However, the Bureau was the source of the amendment and it was our intent, to which we testified at the public hearing on the bill, to exclude out-of-state assignees, that is to say, those with no permanent place of business in Maine, from the requirement of licensing. As that provision of the bill was enacted without change, it is safe to conclude that the Bureau's position was accepted by the Legislature as the interpretation to be given to the phrase in question.

It should be remembered that even though an out-of-state assignee need not be licensed, the terms of the contract, and the procedures followed in enforcing it, must still conform to Maine law. Additionally, an out-of-state assignee is subject to periodic Bureau examination, to record keeping requirements and to all other requirements (except the payment of notification and volume fees) to which an in-state assignee would be subject (see §1-201(1), (9)).

/s/ Robert A. Burgess
Robert A. Burgess
Superintendent

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