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## Proposed Legislation Would Expand California's FDCPA to Cover Small Business Debt\*

California Senate Bill (SB) 1286 has been introduced to expand the scope of the Rosenthal Fair Debt Collection Practices Act (RFDCPA). Currently, the RFDCPA prohibits debt collectors from engaging in unfair or deceptive acts or practices in the collection of consumer debts. If enacted, SB 1286 would extend the protections in the RFDCPA to apply to certain covered commercial debt in addition to consumer debt.

Unlike the federal Fair Debt Collections Practices Act (FDCPA), which primarily applies to persons collecting debts on behalf of others, the RFDCPA specifically applies to any person who engages in debt collection on behalf of themselves or others. Thus, if the legislation is passed as currently drafted, a bank engaging in the collection of its own covered commercial business debts would be subject to the provisions of the RFDCPA.

To accomplish these changes, SB 1286 introduces new definitions. It defines covered commercial debt and covered commercial credit as money, property, or their equivalent that is owed or alleged to be owed by a natural person to a lender, a "commercial financing provider" (as defined in Section 22800 of the California Financial Code), or a "debt buyer" (as defined in California Financial Code Section 1788.50) due to a "covered commercial credit transaction." The bill defines "covered commercial credit transaction" as a transaction where one person acquires property, services, or money on credit from another person, with a total value of no more than \$500,000. This credit is primarily intended for purposes other than personal, family, or household use.

The RFDCPA currently prohibits debt collectors from engaging in various conduct in the collection of consumer debt. However, SB 1286 would replace many of the references to consumer debt with "covered debt," encompassing both consumer debt and covered commercial debt. Thus, any action that debt collectors were previously prohibited from engaging in with respect to the collection of consumer debt would now apply to the collection of covered commercial debt.

Of note, the proposed bill has already been amended after receiving feedback from stakeholders, most recently on April 25, 2024. Further refinements to the bill may still occur before it is brought to a vote.

We will continue to monitor this legislation and provide updates on future developments. If you have any questions, please contact Joel Cook at [JCook@ABLAWyers.com](mailto:JCook@ABLAWyers.com) or Harry Khalsa at [HKhalsa@ABLAWyers.com](mailto:HKhalsa@ABLAWyers.com).

\* Janet Bonnefin is retired from the practice of law with the firm.

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