

**RULES
OF
THE TENNESSEE COLLECTION SERVICES BOARD**

**CHAPTER 0320-05
STANDARDS OF PRACTICE**

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0320-05-.01 DEFINITIONS.

- (1) "Board" means the Tennessee Collection Services Board.
- (2) "Communication" means the conveying of information regarding a debt directly or indirectly to any person through any medium.
- (3) "Consumer" means any natural person obligated or allegedly obligated to pay any debt.
- (4) "Creditor" means any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.
- (5) "Debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.
- (6) "Collection service" has the same meaning as "Collection service" under T.C.A. § 62-20-102.
- (7) "Debt collector" means a person acting on behalf of a collection service licensed or required to be licensed by the Board to collect, or attempt to collect, delinquent accounts, bills or other forms of indebtedness.
- (8) "Location information" means a consumer's place of residence and the telephone number at such place, or the consumer's place of employment.
- (9) "State" means the state of Tennessee.

Authority: T.C.A. § 62-20-104(g). **Administrative History:** Original rule filed March 7, 2018; effective June 5, 2018. Amendment filed May 15, 2019; effective August 13, 2019.

0320-05-.02 ACQUISITION OF LOCAL INFORMATION.

- (1) Any debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall:
 - (a) Identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his employer;

(Rule 0320-05-.02, continued)

- (b) Not state that the consumer owes any debt;
- (c) Not communicate with any such person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has accurate or complete location information;
- (d) Not communicate by post card;
- (e) Not use any language or symbol on any envelope or in the contents of any communication with a person who is not the consumer that indicates that the debt collector is in the debt-collection business or that the communication relates to the collection of a debt; and
- (f) After the debt collector knows the consumer is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period of time to communication from the debt collector.

Authority: T.C.A. § 62-20-104(g). **Administrative History:** Original rule filed March 7, 2018; effective June 5, 2018.

0320-05-.03 COMMUNICATION IN CONNECTION WITH DEBT COLLECTION.

- (1) Communication with the consumer generally
 - (a) Without the prior consent of the consumer provided directly to the debt collector or collection service or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt
 - 1. At any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8:00 a.m. and before 9:00 p.m., local time at the consumer's location;
 - 2. If the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; or
 - 3. At the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.
- (2) Communication with third parties
 - (a) Except as otherwise authorized in this rule, without the prior consent of the consumer provided directly to the debt collector or collection service, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a post-judgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a

(Rule 0320-05-.03, continued)

consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the collection service.

(3) Ceasing communication

- (a) If a consumer notifies a debt collector or collection service in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector or collection service shall not communicate further with the consumer with respect to such debt, except
1. To advise the consumer that the debt collector's further efforts are being terminated;
 2. To notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or
 3. Where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy.
- (b) If such notice from the consumer is made by mail, notification shall be complete upon receipt.

Authority: T.C.A. § 62-20-104(g). **Administrative History:** Original rule filed March 7, 2018; effective June 5, 2018.

0320-05-.04 HARASSMENT OR ABUSE.

- (1) A debt collector or collection service may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of this prohibition, the following conduct is a violation of this section:
- (a) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.
 - (b) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.
 - (c) The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency.
 - (d) The advertisement for sale of any debt to coerce payment of the debt.
 - (e) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the dialed number.
 - (f) Except as provided in section 0320-05-.02, the placement of telephone calls without meaningful disclosure of the caller's identity.

Authority: T.C.A. § 62-20-104(g). **Administrative History:** Original rule filed March 7, 2018; effective June 5, 2018.

0320-05-.05 FALSE OR MISLEADING REPRESENTATIONS.

- (1) A debt collector or collection service may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of this prohibition, the following conduct is a violation of this section:
 - (a) The false representation or implication that the debt collector or collection service is vouched for, bonded by, or affiliated with the United States or State of Tennessee, including the use of any badge, uniform, or facsimile thereof.
 - (b) The false representation of:
 1. The character, amount, or legal status of any debt; or
 2. Any services rendered or compensation that may be lawfully received by any debt collector or collection service for the collection of a debt.
 - (c) The false representation or implication that any individual is an attorney or that any communication is from an attorney.
 - (d) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action.
 - (e) The threat to take any action that cannot legally be taken or that is not intended to be taken.
 - (f) The false representation or implication that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to:
 1. Lose any claim or defense to payment of the debt; or
 2. Become subject to any practice prohibited by this rule.
 - (g) The false representation or implication that the consumer committed any crime or other conduct, which false representation or implication is made to disgrace the consumer.
 - (h) Communicating or threatening to communicate to any person credit information that is known or that should be known to be false, including the failure to communicate that a disputed debt is disputed.
 - (i) The use or distribution of any written communication that simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or State of Tennessee, or which creates a false impression as to its source, authorization, or approval.
 - (j) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.
 - (k) The failure to disclose in the initial communication with the consumer, whether written or oral, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.

(Rule 0320-05-.05, continued)

- (l) The false representation or implication that accounts have been turned over to innocent purchasers for value.
- (m) The false representation or implication that documents are legal process.
- (n) The use of any business, company, or organization name other than the registered name of the debt collector or collection service's business, company, or organization.
- (o) The false representation or implication that documents are not legal process forms or do not require action by the consumer.
- (p) The false representation or implication that a debt collector operates or is employed by a consumer reporting agency.

Authority: T.C.A. § 62-20-104(g). **Administrative History:** Original rule filed March 7, 2018; effective June 5, 2018.

0320-05-.06 UNFAIR PRACTICES.

- (1) A debt collector or collection service may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of this prohibition, the following conduct is a violation of this section:
 - (a) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or is permitted by law.
 - (b) The acceptance by a debt collector or collection service from any person of a check or other payment instrument postdated by more than five (5) days unless such person is notified in writing of the debt collector's intent to deposit such check or instrument not more than ten (10) nor less than three (3) business days prior to such deposit.
 - (c) The solicitation by a debt collector or collection service of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.
 - (d) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.
 - (e) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.
 - (f) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if:
 - 1. There is no present right to possession of the property claimed as collateral through an enforceable security interest;
 - 2. There is no present intention to take possession of the property; or
 - 3. The property is exempt by law from such dispossession or disablement.
 - (g) Communicating with a consumer regarding a debt by post card.

(Rule 0320-05-.06, continued)

- (h) Using any language or symbol, other than the collection service's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt-collection business.

Authority: T.C.A. § 62-20-104(g). **Administrative History:** Original rule filed March 7, 2018; effective June 5, 2018.

0320-05-.07 VALIDATION OF DEBTS.

- (1) Notice of debt; contents. Within five (5) days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing:
 - (a) The amount of the debt;
 - (b) The name of the creditor to whom the debt is owed;
 - (c) A statement that unless the consumer, within thirty (30) days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the collection service;
 - (d) A statement that if the consumer notifies the collection service in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the collection service will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the collection service; and
 - (e) A statement that, upon the consumer's written request within the thirty-day period, the collection service will provide the consumer with the name and address of the original creditor, if different from the current creditor.
- (2) Disputed debts. If the consumer notifies the debt collector or collection service in writing within the thirty-day period described in paragraph (1) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the collection service shall cease collection of the debt, or any disputed portion thereof, until the collection service obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the collection service. Collection activities and communications that do not otherwise violate this rule may continue during the thirty-day period referred to in paragraph (1) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. Any collection activity and/or communication during the thirty-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.
- (3) Legal pleadings. A communication in the form of a formal pleading in a civil action shall not be treated as an initial communication for purposes of subsection (1).
- (4) Notice provisions. The sending or delivery of any form or notice that does not relate to the collection of a debt and is expressly required by the Internal Revenue Code of 1986 [26 USCS §§ 1 et seq.], title V of Gramm-Leach-Bliley Act [15 USCS §§ 6801 et seq.], the Bankruptcy Reform Act of 1978 [11 U.S.C.A. §§ 1 et seq.] or any provision of Federal or Tennessee law relating to notice of data security breach or privacy, or any regulation

(Rule 0320-05-.07, continued)

prescribed under any such provision of law, shall not be treated as an initial communication in connection with debt collection for purposes of this section.

Authority: T.C.A. § 62-20-104(g). **Administrative History:** Original rule filed March 7, 2018; effective June 5, 2018.

0320-05-.08 MULTIPLE DEBTS.

If any consumer owes multiple debts and makes any single payment to any collection service with respect to such debts, such collection service may not apply such payment to any debt that is disputed by the consumer and, where applicable, shall apply such payment in accordance with the consumer's directions.

Authority: T.C.A. § 62-20-104(g). **Administrative History:** Original rule filed March 7, 2018; effective June 5, 2018.

0320-05-.09 FURNISHING CERTAIN DECEPTIVE FORMS.

- (1) It is unlawful to design, compile, and/or furnish any form knowing that such form would be used to create the false belief by a consumer that a person other than the creditor of such consumer is participating in the collection of or in an attempt to collect a debt such consumer allegedly owes such creditor, when in fact such person is not so participating.
- (2) Any person who violates this section shall be liable to the same extent and in the same manner as a debt collector is liable under section 0320-04-.01 for failure to comply with a provision of this rule.

Authority: T.C.A. § 62-20-104(g). **Administrative History:** Original rule filed March 7, 2018; effective June 5, 2018.

0320-05-.10 ADMINISTRATIVE ENFORCEMENT.

The Board shall be authorized to enforce compliance with the rules of this chapter. For purpose of the exercise by the Board of its functions and powers under the Tennessee Collection Service Act, a violation of the rules of this chapter shall be deemed an unfair or deceptive act or practice in violation of the Tennessee Collection Service Act. Any act by a debt collector acting on behalf of a collection service that constitutes a violation of the rules of the board, including those in this chapter, shall constitute a violation by the collection service.

Authority: T.C.A. § 62-20-104(g). **Administrative History:** Original rule filed March 7, 2018; effective June 5, 2018.