

New Mexico

Summary

Does not require licensing for debt buying companies collecting their own debt. Note: using a name other than the debt buyer's name "that would indicate that a third person is collecting or attempting to collect such debts" would subject the debt buyer to licensure.

Requires licensing of collection agencies except when collecting debt "not incurred in New Mexico from debtors located in this state by means of interstate communications, including telephone, mail or facsimile transmission, from the person's location in another state." A collection agency must have a licensed "Collection Agency Manager." The Collection Agency Manager must be physically present at least seventy-five percent (75%) of the time during which the office is open for business. Collection agencies are required to post a bond.

Resources

Licensing Information:

http://www.rld.state.nm.us/financialinstitutions/Collection_Agencies_Managers_and_Repossessors.aspx

Statutes:

[http://www.rld.state.nm.us/uploads/files/New%20Mexico%20Collection%20Agency%20Regulatory%20Act\(1\).pdf](http://www.rld.state.nm.us/uploads/files/New%20Mexico%20Collection%20Agency%20Regulatory%20Act(1).pdf)

Rules: http://www.rld.state.nm.us/uploads/files/NMAC%2012_24_2-%20Collection%20Agencies.pdf

Statutory Provisions

61-18A-2. Definitions.

As used in the Collection Agency Regulatory Act [61-18A-1 NMSA 1978]:

...

C. "collection agency" means any person engaging in business for the purpose of collecting or attempting to collect, directly or indirectly, debts owed or due or asserted to be owed or due another, where such person is so engaged by two or more creditors. The term also includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. The term does not include:

...

(7) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due to another to the extent such activity:

- (a) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement;
- (b) concerns a debt which was originated by such person;
- (c) concerns a debt which was not in default at the time it was obtained by such person; or
- (d) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor;

E. "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;

F. "debt" means any obligation or alleged obligation of a debtor 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;

G. "debt collector" means a collection agency, a reposessor, a manager, a solicitor and any attorney-at-law collecting a debt as an attorney on behalf of and in the name of a client;

H. "debtor" means any natural person obligated or allegedly obligated to pay any debt;

I. "location information" means a debtor's place of abode and his telephone number at such place or his place of employment;

J. "manager" means a natural person who qualifies under the Collection Agency Regulatory Act to be in full-time charge of a licensed collection agency, and to whom a manager's license has been issued by the director;

K. "person" means an individual, corporation, partnership, association, joint-stock company, trust where the interests of the beneficiaries are evidenced by a security, unincorporated organization, government or political subdivision of a government;

L. "reposessor" means a person engaged solely in the business of repossessing personal property for others for a fee. The term does not include a duly licensed collection agency; and

M. "solicitor" means a natural person who, through lawful means, communicates with debtors or solicits the payment of debts for a collection agency licensee by the use of telephone, personal contact, letters or other methods of collection conducted from and within the licensee's office.

61-18A-5. Unlawful to conduct collection agency or engage in the business of a reposessor without license.

A. No person shall conduct within this state a collection agency, act as a collection agency manager or engage within the state in the business of collecting claims for others or of soliciting the right to collect or receive payment from another of any claim or advertise or solicit either in print, by letter, in person or otherwise, the right to collect or receive payment for another of any claim or seek to make collection or obtain payment of any claim on behalf of another without having first applied for and obtained the licenses required by the Collection Agency Regulatory Act [61-18A-1 NMSA 1978].

B. No person shall conduct within this state the business of a reposessor without having first applied for and obtained a reposessor's license.

C. No person shall be considered to be engaged in collection activity within this state if that person's activities regarding this state are limited to collecting debts not incurred in New Mexico from debtors located in this state by means of interstate communications, including telephone, mail or facsimile transmission, from the person's location in another state.

61-18A-8. Applications; required information.

The application for a collection agency license shall state, among other things that may be required, the name of the applicant together with the name under which the applicant will do business and the location by street number and city in this state of the office of the business for which the license is sought.

In the case of an individual, the application shall state the full residence address of the applicant; in the case of a partnership, the application shall state the true names and complete residence addresses of all partners; in the case of a corporation, the application shall state the true names and complete residence addresses of all directors and officers, the true names and residence addresses of all holders of ten percent or more of the corporation's outstanding stock and other securities and the number of shares or units of each and of all classes held by each and the total number of shares or units of each class issued and outstanding; and in the case of a non-stock corporation or an unincorporated association, the true names and complete residence addresses of all officers, directors and trustees.

The application shall state the name of the licensed manager who will be actively in charge of the collection agency for which the license is sought.

61-18A-14. License to foreign corporation or partnership.

No collection agency license shall be issued to any foreign corporation or partnership unless it has fully complied with the laws of the state of New Mexico so as to entitle it to do business within this state, and provided further that such foreign corporation or partnership shall establish and maintain a full time bona fide collection agency in this state at all times during the life of any license issued to it. All records of such local collection agency must be maintained at the principal office in New Mexico of such agency.

61-18A-15. Surety bond.

A. Prior to the issuance of any collection agency or reposessor's license or renewal there of a surety bond in the penal sum of five thousand dollars (\$5,000), which may by regulation or order of the director be increased, shall be filed with the division. The bond shall run to the people of the state of New Mexico, shall be executed and acknowledged by the applicant as principal and by a corporation which is licensed by the superintendent of insurance of this state to transact the business of fidelity and surety insurance, as surety. * * *