

Arizona State Statute Regulating Debt Collection / Debt Collectors
Title 32 Professions and Occupations, Chapter 9, Articles 1-3. 32-1001.
Definitions and exemptions

A. In this chapter, unless the context otherwise requires:

1. "Claim" means an obligation for the payment of money or its equivalent and a sum or sums owed, due or asserted to be owed or due to another, for which a person is employed to demand payment and collect or enforce such payment, and includes:

(a) Obligations for the payment of money to another, in the form of conditional sales agreements, notwithstanding the personal property sold thereunder, for which payment is claimed or may be or is repossessed in lieu of payment.

(b) An obligation for the payment of money or its equivalent and a sum or sums owed, due or asserted to be owed or due which is sold or assigned to a purchaser or assignee for which either: (i) The final payment has not been tendered to the seller or assignor.

(ii) Title has not yet passed.

(iii) The purchaser or assignee has a right of recourse against the seller or assignor.

2. "Collection agency" means: (a) All persons engaged directly or indirectly in soliciting claims for collection or in collection of claims owed, due or asserted to be owed or due. (b) Any person who, in the process of collecting debts occurring in the operation of his own business, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts.

3. "Department" means the state banking department.

4. "Financial institution" means a person who does business under any other law of this state or law of another state or the United States relating to banks, trust companies, savings and loan associations, credit unions and savings banks.

5. "Person" means an individual, firm, partnership, association or corporation.

6. "Superintendent" means the superintendent of banks.

32-1004. Exemptions

A. The following persons are exempt from the provisions of this chapter when engaged in the regular course of their respective businesses but shall comply with the requirements of section 32-1051, paragraphs 2 through 7 and section 32-1055, subsection C and subsection D, paragraphs 1, 2, 3 and 5:

1. Attorneys-at-law.

2. A person regularly employed on a regular wage or salary in the capacity of credit person or a similar capacity, except as an independent contractor.

3. Banks, including trust departments of a bank, fiduciaries and financing and lending institutions.

4. Common carriers.

5. Title insurers, title insurance agents and abstract companies while doing an escrow business.

6. Licensed real estate brokers.

7. Employees of licensees under this chapter.

8. Substation payment offices employed by or serving as independent contractors or public utilities.

9. A person licensed pursuant to title 6, chapter 7.
10. A person licensed pursuant to title 6, chapter 9.
11. A person licensed pursuant to title 6, chapter 14, article 1.

12. A participant in a finance transaction in which a lender receives the right to collect commercial claims due the borrower by assignment, by purchase or by the taking of a security interest in those commercial claims.

13. An accounting, bookkeeping or billing service provider that complies with all of the following: (a) Does not accept accounts that are contractually past due at the time of receipt.
(b) Does not initiate any contact with individual debtors except for the initial written notice of the amount owing and one written follow-up notice.
(c) Does not give or send to any debtor a written communication that requests or demands payment.
(d) Does not receive or have access to monies paid by debtors or their insurers. (e) All communications with the debtors are done in the name of the creditor.

14. A person collecting claims owed, due or asserted to be owed or due to a financial institution the deposits of which are insured by an agency of the federal government, or any affiliate of the financial institution, if the person is related by common ownership or affiliated by corporate control with the financial institution and collects the claims only for the financial institution or any affiliate of the financial institution.

15. A person who is licensed pursuant to title 20, chapter 2, article 3, 3.1, 3.2, 3.3 or 3.4 and who is authorized to collect premiums under an insurance policy financed by a premium finance agreement as defined in section 6-1401.

B. For the purposes of subsection A, paragraph 12 of this section:

1. A transaction shall not be deemed a finance transaction if the primary purpose is to facilitate the collection of claims.
 2. "Commercial claim" does not include an account arising from the purchase of a service or product intended for personal, family or household use.
- C. For the purposes of subsection A, paragraph 13, subdivision (b) of this section, the initial written notice and follow-up notice may contain only the following information:
1. The name, address, telephone and telefacsimile numbers of the creditor.
 2. The amount due and an itemization of that amount.
 3. The date payment is due.
 4. The address or place where payment is to be made.
 5. If the payment is past due, that payment is past due.

D. For a person who is exempt under subsection A, paragraph 14 of this section, the superintendent shall investigate complaints of residents of this state relating to any violations of section 32-1051, paragraphs 2 through 7 or section 32-1055, subsection C or subsection D, paragraph 1, 2, 3 or 5 and may examine the books, accounts, claims and files of a person that relate to the complaint. A person who is exempt and who violates the provisions of section 32-1051, paragraphs 2 through 7 or section 32-1055, subsection C or subsection D, paragraph 1, 2, 3 or 5 is subject to the provisions of sections 6-132, 6-136 and 6-137

32-1051. Duties of licensees

An individual, firm, partnership, association or corporation to whom a license is to be issued under this chapter shall:

1. Meet the financial responsibility and bonding requirements of this chapter.
2. Not have been a former licensee under the provisions of this chapter whose license was suspended or revoked and not subsequently reinstated.
3. Deal openly, fairly and honestly in the conduct of the collection agency business.
4. Except for attorneys licensed to practice law, not attempt to collect any collection fee, attorney's fee, court cost or expenses unless the fees, charges or expenses are justly due from and legally chargeable against the debtor, or have been judicially determined, nor shall any licensee engage in any unfair or misleading practices or resort to any oppressive, vindictive or illegal means or methods of collection.
5. Except for attorneys licensed to practice law, not give or send to any debtor, or cause to be given or sent to any debtor, any notice, letter, message or form which:
 - (a) Simulates any legal process.
 - (b) Is ambiguous as to or misrepresents the character, extent or amount of the obligation of the debtor.
 - (c) Represents or infers that the existing obligation of the debtor may be increased by the addition of attorneys' fees, investigation fees, service fees, or any other fees or charges when in fact these fees or charges may not legally be added to the existing obligation of the debtor.
 - (d) Threatens to sell the obligation of the debtor to any person, firm or group.
 - (e) Uses or sets forth the name of or purports to be from any attorney at law or legal firm.
6. Except for attorneys licensed to practice law, not use any letterhead, or literature bearing any heading, slogan or statement representing or inferring that the licensee practices law, renders legal services or advice, or maintains a legal department.
7. Not by the use of any letterhead, advertisement, agreement, form, circular or other printed matter, or otherwise, convey the impression that the individual, firm, partnership, association or corporation is vouched for or is an instrumentality of the state, a political subdivision of the state, or the department.

32-1055. Unlawful acts

- A. It is unlawful for a person to conduct a collection agency in this state without having first applied for and obtained a license under this chapter.
- B. A collection agency licensed under this chapter shall not directly or indirectly aid, abet or receive compensation from an unlicensed person. Nothing in this chapter shall prevent a licensed agency from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside this state.
- C. A licensee shall not advertise a claim for sale or threaten to so advertise a claim as a means of endeavoring to enforce payment, nor shall a licensee agree to do so for the purpose of soliciting claims. This subsection shall not be deemed to affect a licensee acting as assignee for the benefit of a creditor or acting under a court order.
- D. It is unlawful for a person conducting a collection agency in this state to:
 1. Fail to render an account of and pay to the client for whom collection has been made the proceeds collected, less collection charges as agreed to by the person and the client, within thirty days from the last day of the month in which the proceeds were collected. If the amount due the client is less than five dollars, payment may be deferred for an additional thirty days.
 2. Fail to deposit with a local depository all monies collected by the person and due to the person's clients, and to fail to keep these monies deposited until these monies or equivalent amounts are remitted to the person's clients. Notwithstanding this paragraph, if a person conducting a

collection agency does not maintain an office in this state, the person may deposit and keep these monies in a depository in a state where the person maintains the person's principal office. 3. Fail to keep a record of monies collected and the remittance of these monies.

4. Fail to notify the department within ten days of any change of name under which the person does business as a collection agency or address at which the person conducts business.

5. Aid or abet, directly or indirectly, any person, persons or organizations in evading or violating any of the provisions of this chapter.

32-1056. Violation; classification

A. A person operating a collection agency without a license shall be guilty of a class 1 misdemeanor.

B. A licensee violating the provisions of § 32-1055 or the rules and regulations adopted pursuant to this chapter shall be subject to revocation of license and shall be guilty of a class 1 misdemeanor.

32-1057. Prosecution of violations; individual liability

A. The prosecuting officer of a county or city shall prosecute all violations of this chapter occurring within his jurisdiction.

B. An officer or agent of a corporation or association participating in a violation of this chapter by such corporation or association shall be subject to the penalties prescribed by § 32-1056 for an individual.

Updated 11/15/16 <https://www.fair-debt-collection.com/arizona-fair-debt-collection-practices-act.html>