

under that Section are the same as those in Section 805(c) of the FDCPA.

D. Harassment and Abuse (Section 806 of the FDCPA; Section 11013.1 of the Maine Act)

1. Publication of Debtor Lists

Like Section 806(3) of the FDCPA, Section 11013.1.C of the Maine Act prohibits publication of lists of consumers who refuse to pay debts. Both state and federal laws, however, except publications to consumer reporting agencies or persons meeting the requirements of their respective credit reporting acts, as defined in Sections 603(f) or 604(3) of the federal Fair Credit Reporting Act ("federal FCRA") for the FDCPA and Title 10 of the Maine Fair Credit Reporting Act ("Maine FCRA") for the Maine Act.

The definition of a consumer reporting agency (Section 603(f), federal FCRA; Section 1312.9, Maine FCRA) and the parties who have a permissible purpose to receive the lists at issue (Section 604(3), federal FCRA; Section 1312.1.33, Maine FCRA) are essentially the same in both statutes. In fact, the Maine FCRA is based upon, and was designed to supplement, the federal FCRA.⁷ Since the definitions are the same, the limits on distribution of debtor lists are also the same. Thus, the state law referenced in Section 11013.1 of the Maine Act is substantially similar to Sections 603(f) and 604(3) of the federal FCRA; it follows that the Maine Act's reference to the Maine FCRA does not adversely affect the level of protection afforded by the Maine Act as compared to Section 806(3) of the FDCPA.

2. Reports to Consumer Reporting Agencies [Sections 806(3) and 807(8) of the FDCPA; Section 11013.4 of the Maine Act]

There is nothing in the FDCPA that prohibits a collection agency from reporting credit information to a consumer reporting agency. As discussed above, Section 806(3) expressly permits distribution of debtor lists to credit bureaus; Section 807(8) prohibits the communication of false credit information and requires that a disputed debt be reported as disputed. The Maine Act contains the same

prohibitions. In addition, however, Section 11013.4 of the Maine Act prohibits a debt collector from reporting a debt solely in its own name and requires instead that the name of the original creditor also be included. The FDCPA contains no comparable requirement. The additional Maine provision is designed to allow consumers who review their credit reports to determine the source of a listed trade line rather than require them to contact the collection agency to determine the identity of the original creditor. Thus, the provision makes it easier for consumers to verify the existence of debts as well as the parties to whom they are owed. It provides greater protection in this area than does the FDCPA.

3. Shame Automobiles and Shame Cards

Section 11013.1G. of the Maine Act specifically prohibits the use of shame cards, shame automobiles and similar devices.⁸ Section 806 of the FDCPA contains no comparable prohibition. In all other respects, Section 11013.1 of the Maine Act and Section 806 of the FDCPA are identical. Thus, to the extent that "shame" devices are still in use, the Maine Act arguably provides greater protection in this area than does the FDCPA.

4. Compliance With Section 901.4(a) of the Procedures

The obligations and prohibitions applicable to debt collectors required by Section 806 of the FDCPA are substantially the same as those required by Section 11013.1 of the Maine Act. Therefore, Sections 901.4(a)(3) and (4) of the Procedures are satisfied.

E. False and Misleading Representations (Section 807 of the FDCPA; Section 11013.2 of the Maine Act)

The two Acts prohibit the same false, deceptive or misleading representations in the same manner except for the following:

1. Reference to the Maine Consumer Credit Code

Both Section 807(6) of the FDCPA and Section 11013.2.F(2) of the Maine Act address false representations of the effect of a sale or transfer of interest in a debt on the consumer. The two provisions are the same, except that the Maine Act refers to practices prohibited

by Title 9-A of the Maine Consumer Credit Code and the FDCPA does not.⁹ Title 9-A of the Maine Consumer Credit Code prohibits a number of actions that are not prohibited by the FDCPA, including confessions of judgment, post-dated instruments, use of cross-collateral and wage assignments. These and other similar provisions all inure uniquely to the benefit of consumer-debtors in the State of Maine. Reference to these practices in Section 11013.2.F(2) of the Maine Act, therefore, provides an added measure of protection not present in Section 807(6) of the FDCPA.

2. Reference to Maine Fair Credit Reporting Act

Section 11013.2.P. of the Maine Act prohibits the false representation or implication that a debt collector operates or is employed by a "consumer reporting agency," as defined by Title 10, Section 1312, Subsection 4, of the Maine Fair Credit Reporting Act. Section 807(16) of the FDCPA contains identical language, except that it refers to a "consumer reporting agency" as defined by the federal Fair Credit Reporting Act, 15 U.S.C. 1681a(f). As discussed previously, the definitions of "consumer reporting agency" in both the Maine Act and FDCPA are basically the same and the term has the same meaning in both statutes.¹⁰ Thus, Section 11013.2.P. of the Maine Act is substantially similar to Section 807(16) of the FDCPA.

3. Compliance With Section 901.4(a) of the Procedures

Section 807(11) requires that debt collectors clearly disclose the nature and purpose of all communications made to collect a debt. The Maine Act contains an identical requirement. Since the same notification is mandated by both Acts, Section 901.4(a)(2) of the Procedures, which requires that all notifications be the same, is satisfied insofar as Section 807(11) is concerned. Similarly, since the FDCPA and the Maine Act are identical in this area, with the exception of references to state law, Sections 901.4(a) (2), (3) and (4) of

⁹ The Maine Act prohibits: 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 the Act or the Maine Consumer Credit Code, Title 9-A. (Emphasis added.) The FDCPA is the same except for the underlined portion.

¹⁰ The definition of "consumer reporting agency" in the Maine Act refers to "investigative consumer reports" as well as "consumer reports" while the definition in the FDCPA refers only to "consumer reports." For these purposes, they are the same.

⁷ Maine points out that in most cases in Maine FCRA is more restrictive than the federal FCRA. The Maine FCRA (1) limits the cost of credit reports; (2) limits the time in which a credit reporting agency must investigate and verify or delete trade lines; and (3) requires compliance by any credit reporting agencies serving users in the State of Maine. The law also requires registration of credit reporting agencies operating within the State.

⁸ A shame car is an automobile with the name of the collection company emblazoned on the door that is parked in front of the debtor's residence and left there. A shame card is a calling card containing the name of the collection agency that is left posted on the debtor's door or other conspicuous spot that can be observed by others.