

the Procedures, requiring the same or more stringent notifications, obligations and prohibitions, are satisfied.

F. Unfair Practices (Section 808 of the FDCPA; Section 11013.3 of the Maine Act)

Section 808 of the FDCPA prohibits eight specified unfair practices; the preamble to Section 808 prohibits unfairness generally. Section 11013.3 of the Maine Act prohibits precisely the same practices as the FDCPA, plus several additional practices that are not included in the FDCPA,¹¹ and also contains a general prohibition against unfairness. The inclusion of several additional practices in the Maine Act increases the level of protection provided by the Maine Act, as compared with the FDCPA. As such, the Maine Act provides for more extensive obligations and more stringent prohibitions in this area than does the FDCPA, in compliance with Sections 901.4(a)(3) and (4) of the Procedures.

G. Debt Validation (Section 809 of the FDCPA; Section 11014 of the Maine Act)

Section 809 of the FDCPA requires disclosure of the amount of the debt and the creditor, and requires a validation notice. It also requires the debt collector to verify the debt if the consumer disputes it within thirty days. Section 11014 of the Maine Act is identical. Section 901.4(a)(2-4) of the Procedures, requiring that all applicable notifications, obligations and prohibitions be the same or more stringent, are satisfied since the requirements are identical. Therefore, the protection they provide is "substantially similar."

H. Multiple Debts (Section 810 of the FDCPA; Section 11015 of the Maine Act)

Section 810 of the FDCPA directs debt collectors to apply payments for multiple debts in accordance with the directions of the consumer. Section 11015 of the Maine Act is identical. Those requirements are, therefore, also "substantially similar" and the protection they provide is the same. In the same manner, Sections 901.4(a)(3), (4) and (6) of the Procedures are satisfied.

I. Legal Actions by Debt Collectors (Section 811 of the FDCPA; Section 11013.3.N of the Maine Act)

Section 811 of the FDCPA permits debt collectors to bring legal actions against consumers, but only in certain

venues.¹² Section 11013.3.N of the Maine Act prohibits debt collectors from instituting suit in their own names or on behalf of others in any venue. Since no suits are permitted, no venue provisions are appropriate. Since the Maine Act insulates consumer from debt collector lawsuits in Maine, the Maine Act provides greater protection to consumers than does the FDCPA, which permits them. The fact that no suits are permitted also means that the obligations and prohibitions applicable to debt collectors in Maine are more stringent than those contained in the FDCPA, in compliance with Sections 901.4(a)(3) and (4) of the Procedures.

J. Furnishing Deceptive Forms (Section 812 of the FDCPA; Section 11016 of the Maine Act)

Section 812 of the FDCPA prohibits furnishing collection forms, knowing that they would be used to create a false impression that a third party is involved in the collection of the debt. Section 11016 of the Maine Act is identical. Since both statutes are substantively the same, Sections 901.4(a)(3) and (4) of the Procedures are satisfied and the level of protection provided to Maine consumers by the Maine Act is the same as that provided by the FDCPA.

K. Civil Liability (Section 813 of the FDCPA; Section 11054 of the Maine Act)

Section 901.6(d) of the Procedures specifies that no exemption shall extend to the civil liability provisions of Section 813 of the FDCPA, which authorizes aggrieved consumers to sue debt collectors that violate the Act privately. Therefore, Section 813 of the FDCPA is not included within the scope of the exemption granted by the Commission in response to Maine's request.¹³

L. Compliance With Sections 901.4(a)(5) and (6) of the Procedures

Section 901.4(a)(5) and (6) require that (1) the obligations and responsibilities of consumers be no more costly, lengthy or burdensome under the Maine Act than they are under the FDCPA; and (2) consumers' rights and protections be substantially similar to or greater under the Maine Act than those provided by the FDCPA. The Commission has already determined that the protections

provided by the Maine Act are the same or greater than those provided by the FDCPA. In addition, consumers must do nothing more under the Maine Act to receive these protections than they do under the FDCPA. Therefore, the Commission determines that the obligations and responsibilities of consumers under the Maine Act are no greater than those imposed by the FDCPA. Thus, the Maine application complies with Sections 901.4(a)(5) and (6) of the Procedures.

M. Conclusion

Comparison of Sections 803-812 of the FDCPA with pertinent portions of the Maine Act supports the following findings which meet the minimum requirements of Section 901.4(a) of the Procedures: (1) Definitions and rules of construction in the two laws import the same meaning and have the same or similar application; (2) Debt collectors provide all applicable notifications required by the FDCPA under the Maine Act; (3) Debt collectors are required by the Maine Act to take affirmative actions and abide by obligations that are substantially similar to those required by the FDCPA within the same or similar time periods; (4) Debt collectors must abide by the same or more stringent prohibitions under the Maine Act as those under the FDCPA; (5) Obligations and responsibilities of consumers under the Maine Act are no more costly, lengthy or burdensome than those under the FDCPA; and (6) The rights and protections of consumers under the Maine Act are substantially similar to or more favorable than those provided by the FDCPA. Therefore, the provisions of the Maine Act in general are substantially similar to, or provide greater protection than, the provisions of the FDCPA.

II. Enforcement of the Maine Act Is Adequate

In order for an exemption to be granted pursuant to Section 901.6 of the Procedures, the Commission must find that provisions for enforcement of the Maine Act by the State are adequate. In order to make this finding, the Commission must determine that the Maine Act makes sufficient provision for: (1) Administrative enforcement, including the necessary facilities, personnel and funding; (2) civil liability under Section 813 for failure to comply; and (3) a statute of limitations for civil liability of similar or longer duration than that in Section 813 of the FDCPA.¹⁴

¹¹ These include use of a notary to collect, commingling the funds of the debt collector and its client, failing to return collected funds to the creditor, and soliciting loans to pay a debt.

¹² Proper venues are where the real property is located or, if no real property is involved, where the consumer lives or signed the contract.

¹³ The civil liability provisions of Section 11054 of the Maine Act are identical to those in Section 813. This is also true for the statute of limitations provided in Section 11054.4 of the Maine Act (one year) which is the same as that provided in Section 813(d) of the FDCPA for private suits.

¹⁴ Procedures, Section 901.4(b). See also footnote 13. The civil liability provisions and corresponding statute of limitations for private suits are the same.