

§11020. Collection action to collect credit card and student loan debts; additional requirements for collection action

1. Applicability. This section applies to any collection action against a consumer to collect a credit card or student loan debt initiated by a debt collector.

[PL 2021, c. 245, Pt. F, §2 (NEW).]

2. Commencement of collection action. A collection action may not be commenced in small claims court pursuant to Title 14, chapter 738. A collection action is commenced upon the filing or serving of a complaint that provides notice of the complaint in the same manner as other civil complaints and satisfies the requirements of this section.

[PL 2021, c. 245, Pt. F, §2 (NEW).]

3. Notice of complaint. In a collection action subject to this section, the debt collector shall attach to the front of the complaint a one-page form notice to the consumer as developed by the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection. The form notice must be written in language that is plain and readily understandable by the general public and, at a minimum, must contain the following:

A. A statement that failure to answer the complaint may result in entry of judgment in the amount demanded by the debt collector; and [PL 2021, c. 245, Pt. F, §2 (NEW).]

B. A sample answer and an explanation that the consumer may fill out the form and return it to the court as the answer to the complaint. If the consumer returns the form to the court, the consumer does not need to file a more formal answer or responsive pleading. [PL 2021, c. 245, Pt. F, §2 (NEW).]

[PL 2021, c. 245, Pt. F, §2 (NEW).]

4. Entry of judgment. A court may not enter judgment unless it specifically finds that all the requirements of this section and all other applicable requirements of this chapter are met, including, but not limited to, whether the plaintiff has produced evidence that is admissible pursuant to the Maine Rules of Evidence on all required elements of its claim.

[PL 2021, c. 245, Pt. F, §2 (NEW).]

5. Default judgment. If the defendant has failed to plead or otherwise defend, the plaintiff may apply for entry of default and a default judgment. The judge overseeing the action is responsible for entering a default and a default judgment, not the clerk of the court. Regardless of whether the defendant appears in the action or the judgment is based on a proposed order concerning a settlement, the court may not enter judgment in favor of the plaintiff unless the court determines that all the requirements of this section and all other applicable requirements of this chapter are met, including, but not limited to, whether the plaintiff has produced evidence admissible pursuant to the Maine Rules of Evidence on all required elements of its claim.

[PL 2021, c. 245, Pt. F, §2 (NEW).]

6. Exclusion. This section does not apply to any collection action brought by a supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A.

[PL 2021, c. 245, Pt. F, §2 (NEW).]

7. Rules. The Supreme Judicial Court may adopt rules necessary to implement the provisions of this section.

[PL 2021, c. 245, Pt. F, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 245, Pt. F, §2 (NEW).

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