



# The Commonwealth of Massachusetts

Office of the Commissioner of Banks

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October 13, 2006

The Division is issuing the following opinion pertaining to the licensing of debt buyers as debt collectors in the Commonwealth in response to several recent inquiries.

The Division licenses and examines entities engaged in the collection of debts in the Commonwealth. It is the Division's position that entities purchasing debt in default at the time of purchase, commonly referred to as "debt buyers", must be licensed as debt collectors. This position is set forth in an Industry Letter issued by the Division dated June 16, 2006. Accordingly, debt buyers, as referred to in the June 16, 2006 Industry Letter, are subject to the Commonwealth's debt collection laws, General Laws chapter 93, sections 24-28, inclusive and the Division's regulation, 209 CMR 18.00 *et seq* (collectively the "Debt Collection Law").

Following the issuance of the June 16, 2006 Industry Letter, the Division received several inquiries as to whether a debt buyer that engages only in the practice of purchasing delinquent consumer debts for investment purposes without undertaking any activities to directly collect on the debt would be considered a debt collector under the Debt Collection Law. This type of debt buyer is typically referred to as a "passive" investor or "passive" debt buyer. It is a common practice for the passive debt buyer to retain a licensed debt collector to directly engage in the collection of its purchased debts.

The Division seeks to ensure that collection activities involving Massachusetts consumers are conducted in accordance with the Debt Collection Law and remain subject to appropriate regulatory oversight. It is the position of the Division that a debt buyer who purchases debt in default but is not directly engaged in the collection of these purchased debts is not required to obtain a debt collector license provided that all collection activity performed on behalf of such debt buyer is done by a properly licensed debt collector in the Commonwealth or an attorney-at-law licensed to practice law in the Commonwealth. *See* Opinion O06059.

This opinion is effective as of October 2, 2006.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,

A handwritten signature in cursive script that reads "Joseph A. Leonard, Jr.".

Joseph A. Leonard, Jr.  
Deputy Commissioner of Banks  
And General Counsel

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