



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
COLLECTION SERVICE BOARD
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2014 Tennessee Collection Service Board Legislative Update

The Tennessee General Assembly has recently made changes to statutes which may impact you as a holder of a license with the Tennessee Collection Service Board ("Board"). These new changes as set out in the following Public Chapters specifically amend the Tennessee Collection Service Act (the "Act", Tenn. Code Ann. § 62-20-101, et seq.) as follows:

Public Chapter No. 996, amends Tenn. Code Ann. Title 62, Chapter 20 relative to the Tennessee Collection Service Board as follows:

- (1) Amends Tenn. Code Ann. § 62-20-102 of the Act to exclude from the definition of "collection service" any person that engages in the collection of notes or guarantees;
- (2) Amends Tenn. Code Ann. § 62-20-103 to exclude certain kinds of businesses (banks, credit unions, etc.) from the license requirements of the Act. This section of the Act is further amended to exclude any business which purchases debts, but does not attempt to collect the debt except through a collection agency licensed by the Board or through a Tennessee-licensed attorney from the license requirements of the Act.
- (3) Amends Tenn. Code Ann. § 62-20-105 to provide that the license requirement of the Act shall not impair or impede any obligation(s) related to a debt or any right to sell, purchase, assign or take assignment of a debt. This section of the Act is further amended to provide that no debt which has already been collected voluntarily or through a final court judgment may be set aside based on the lack of a collection service license. Additionally, even if a company is alleged to have engaged in unlicensed conduct, which is grounds for the imposition of sanctions under the Act, the Board may impose any lawful sanction on the company, but the Board may not use unlicensed conduct as a basis for the denial of a collection service license. Further, a company which has allegedly engaged in unlicensed conduct may cure such conduct by filing an application for a collection service license with the Board. Finally, although a company which has allegedly engaged in unlicensed conduct may be subject to certain sanctions by the

Board, any such company shall not be subject to other civil action or claim or defense based on such alleged unlicensed conduct.

(4) Amends Tenn. Code Ann. § 62-20-127 to add a requirement for a collection service agency licensed by the Board to take valid assignment of any debt. Specifically, in addition to the existing requirements relative to the assignment of a debt, the assignment of an assigned debt must not transfer title or any ownership interest in the debt to the licensed collection service agency.

A copy of the new law is available for review on the website of the Tennessee General Assembly here: <http://state.tn.us/sos/acts/108/pub/pc0996.pdf>.

Public Chapter No. 815, amends Title 40, Chapter 29, relative to restoration of citizenship. This Act allows certain persons beginning on January 1, 2015, who have had their rights of citizenship restored to petition the court for a certificate of employability. If a person obtains such a certificate, an agency may not deny the issuance, restoration or renewal of an occupational license solely on the person's past record of criminal activity but, instead, must consider each such applicant on a case-by-case basis. The certificate of employability preempts any existing rule that authorizes or requires the denial or refusal to issue, restore or renew a license based on the person's past record of criminal history; however, any agency may promulgate new rules which allow or require such a denial or refusal to issue, restore or renew a license notwithstanding the certificate based on the time elapsed since the criminal offense or the nature of the offense having a direct bearing on the fitness or ability to perform any duty or responsibility necessarily related to the sought license. Further, employers that hire individuals holding a certificate of employability may be provided with defenses to certain civil actions based on such hiring. This law became effective on April 28, 2014. A copy of the new law is available for review on the website of the Tennessee General Assembly here: <http://state.tn.us/sos/acts/108/pub/pc0815.pdf>.

Public Chapter No. 881, amends Tenn. Code Ann. §§ 62-76-201 and 202, and Tenn. Code Ann. §§ 68-1-129 and 130, relative to each board and commission created under Title 62. This Act requires each board and commission in consultation with the division of Regulatory Boards develop a plan to create an apprentice program for use by such board or commission. The details of the plan shall include specific items set out in the Public Chapter and shall be submitted to the speaker of the senate, the speaker of the house of representatives, the government operations committees of the senate and the house of representatives, the commissioner of commerce and insurance, the commissioner of health and the commissioner of labor and workforce development on or before December 31, 2014. If any board or commission has statutorily created apprenticeship programs or previously had such programs, it shall submit a similar report detailing information about such programs as set out in the Public Chapter. This law became effective on May 1, 2014. A copy of the new law is available for review on the website of the Tennessee General Assembly here: <http://state.tn.us/sos/acts/108/pub/pc0881.pdf>.

If you have any questions or concerns about these new laws, please contact us by email at reg.boards@tn.gov.