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Illinois Appeals Court Finds Buyer of Defaulted Mortgages Subject to Licensing

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An interesting collection licensing case was recently decided in Illinois. The case considered whether the state's collection agency license applied to a person who purchased defaulted mortgage loans and these enforced those loans judicial foreclosures.

The case, *People ex rel Laskowski v. Axiom Fin. Servs., LLC*, involved a company that brought three judicial foreclosure proceedings to enforce defaulted mortgage loans that it had purchased. Of those three proceedings, one involved a judgment and sale, one resulted in a judgment, and one was still pending. One of the borrowers sued the company, claiming that it was acting as a collection agency without an Illinois license.

The trial court dismissed that claim, finding that the company was not acting as a collection agency by enforcing a debt that it owned through judicial foreclosure. The borrower then appealed.

The appeals court reversed, finding that the company was subject to licensing. The company argued that a person collecting their own debt is not a collection agency. In support of that position, the company relied on the Supreme Court's decision in *Henson v. Santander Consumer USA Inc*. In *Henson*, the Supreme Court found that a person purchasing and then collecting defaulted debt was not collecting debt "due another" under the Fair Debt Collection Practices Act. The company also argued that debt collection is distinct from judicial foreclosure, and that the latter has its own regulatory framework.

The Illinois appellate court, however, found that the collection license applied. The court focused on the plain language of the Collection Agency Act, which expressly applies to a debt buyer, meaning a person who purchases delinquent or charged off debts. The court rejected the company's FDCPA argument, finding that the language of the two laws was different and the Illinois requirement was unambiguous.

It's not hard to see the logic in the company's position - there are meaningful conceptual and regulatory differences between ordinary debt collection and enforcement of a mortgage through foreclosure. As the court noted, one of the policy reasons behind the collection license is the protection of the public. With that in mind, it's worth noting that the Illinois Mortgage Foreclosure law comprehensively regulates foreclosures in the state, requiring a court judgment and subjecting the entire process to the court's oversight. That line of reasoning, however, did not sway the appeals court from its focus on the plain language of the Illinois statute. The decision is also an important reminder that state collection agency laws do not necessarily track the FDCPA and may expressly regulate creditors, debt buyers, or other entities that would fall outside the federal statute.

For companies purchasing, servicing, or enforcing consumer debt, the licensing analysis can be particularly complicated because the answer may vary significantly from state to state and may depend on the type of debt, how it was acquired, and the activities undertaken to enforce it. Companies should consider these requirements before acquiring a portfolio or beginning collection or enforcement activities in a new state. Hudson Cook regularly advises creditors, debt buyers, servicers, and other financial services companies on state licensing requirements and can help companies determine whether their activities trigger collection agency or other consumer financial services licensing requirements.

People ex rel Laskowski v. Axiom Fin. Servs., LLC, 2026 IL App (3d) 250359.

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