

**BUREAU OF CONSUMER FINANCIAL PROTECTION
PAPERWORK REDUCTION ACT SUBMISSION
INFORMATION COLLECTION REQUEST**

**SUPPORTING STATEMENT PART A
REGULATION F: FAIR DEBT COLLECTION PRACTICES ACT - STATE
APPLICATION FOR EXEMPTION (12 CFR 1006.2)
(OMB CONTROL NUMBER: 3170-XXXX)**

OMB TERMS OF CLEARANCE:

Not applicable. This is a new information collection request.

ABSTRACT:

This Rule establishes procedures and criteria whereby states may apply to the Consumer Financial Protection Bureau (CFPB) for exemption of a class of debt collection practices within the applying state from the provisions of the Fair Debt Collection Practices Act (FDCPA) as provided in section 817 of the Act, 15 U.S.C. 1692. The information collection request seeks Office of Management and Budget (OMB) approval for the state application contained in 12 CFR § 1006.2.

PART A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection:

Under 15 U.S.C. § 1692o, the Bureau has the authority to exempt from the FDCPA any class of debt collection practices within any State if the Bureau determines that under the laws of that State that class of debt collection practices is subject to requirements substantially similar to those imposed by the FDCPA, and that there is adequate provision for enforcement of such requirements.

The Bureau issued Regulation F to implement this statutory provision. Regulation F sets forth the standards that a state must meet to apply for and obtain an exemption. Regulation F specifically provides that any state may apply for a determination that, under the laws of that state, any class of debt collection practices within that state is subject to requirements that are substantially similar to, or provide greater protection for consumers than, those imposed under sections 803 through 812 of the FDCPA, and that there is adequate provision for state enforcement of such requirements. 12 CFR § 1006.2. Such an application must be in writing, addressed to the Bureau, signed by the Governor, Attorney General or state official having primary enforcement or responsibility under the state law which is applicable to the class of debt collection practices, and shall be supported by the documents specified in the regulation. *Id.*

Regulation F also specifies the documentation that a state must submit to support its application, including: (1) a copy of the relevant state law with requirements similar to those contained in sections 803 and 812 of the FDCPA; (2) a comparison between the relevant state law and these FDCPA provisions; (3) a copy of the relevant state law permitting enforcement of the relevant state law; (4) a comparison between the relevant state law's enforcement provisions and the enforcement provisions in section 814 of the FDCPA; and (5) information identifying the state officials responsible for enforcing the relevant state law and describing the powers and resources these state officials can or will use in enforcement. 12 CFR § 1006.3.

If the Bureau determines based on the application and supporting documents that the state meets the standard for an exemption set forth above, Regulation F states that the Bureau will exempt the class of debt collection practices in the state from the requirements of sections 803 through 812 and section 814 of the FDCPA. 12 CFR § 1006.6. The Bureau must publish a notice of its granting of an exemption in the Federal Register, provide a copy of the notice to the state official that applied for the exemption, and furnish a copy of the notice to the federal agencies with the authority to enforce the FDCPA under section 814 of the Act as well as the Attorney General of the United States. 12 CFR § 1066.6(a)&(b). The Bureau's granting of an exemption generally continues until such time as the Bureau revokes it.

2. Use of the Information:

The information contained in the request for an exemption is used by the CFPB to evaluate whether the protection afforded by the laws of the applying state provide equal or greater protection to consumers than the requirements of the FDCPA, thereby entitling the state to the exemption permitted under section 817 of the FDCPA.

3. Use of Information Technology:

To ensure that the process of applying for an exemption is both easy and fast, states may submit applications and supporting documentation to the Bureau in paper or electronic form. 12 CFR § 1006.3.

4. Efforts to Identify Duplication:

This requirement is unique to the requirements of the FDCPA, therefore the request for an exemption is not duplicating any existing collection of information contained in any regulatory or statutory requirement administered by the Bureau

5. Efforts to Minimize Burdens on Small Entities:

This requirement applies only to States and therefore no small entities are involved or burdened by this collection

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

As discussed above, failing to collect this information may leave the Bureau without the necessary information as to state law to allow the Bureau to consider and grant the exemption request. Failing to collect this information may also deprive interested states of permissible exemptions to the FDCPA.

7. Circumstances Requiring Special Information Collection

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR §1320.5(d)(2).

8. Consultation Outside the Agency

In accordance with 5 CFR §1320.8(d)(1), the Bureau has published a notice Federal Register allowing the public 60 days to comment on this proposed collection of information. No relevant comments were received. Further and in accordance with 5 CFR §1320.5(a)(1)(iv), the Bureau also published a notice in the Federal Register allowing the public 30 days to comment on the submission of this information collection request to OMB.

9. Payments or Gifts to Respondents

Not applicable. The information collection does not provide for making payments or gifts to respondents.

10. Assurances of Confidentiality

Because this collection of information does not involve the collection of information from or about individuals, the Privacy Act of 1974, as amended, 5 U.S.C. § 552a, is not implicated. Therefore, no privacy impact assessment has been conducted nor has the Bureau published a Systems of Records Notice relative to this collection of information.

11. Justification for Sensitive Questions

Not applicable. The collection of information does not impact individuals and does not collect information that would be considered private.

12. Estimated Burden of Information Collection

The information sent under the exemption provisions of the rule is primarily information which the state officials providing the notice would have already collected and have available at the time request is sent. The requirements apply to all fifty (50) states, the District of Columbia, and all five (5) inhabited U.S. territories; therefore the total number of potential respondents is 56. It is estimated that compiling and sending the requested information would require no more than 2

hours of additional work. To date, only one state (Maine) has applied for an exemption under rules to implement Section 817 of the FDCPA. There is no requirement that states submit any documents annually, but rather only if either the FDCPA or state law change. Accordingly, the Bureau estimates the burden on states and territories as follows:

Burden Hour Summary

Information Collection Requirement	No. of Respondents	Type of IC	Frequency	Annual Responses	Average Response Time	Annual Burden Hours	Hourly Rate	Hourly Costs
State Application for Waiver	1	Reporting	1	1	2	2	\$50 ¹	\$100

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

There should be minimal annualized costs for the state officials to collect and submit this information, consisting of only the *de minimis* costs related to compiling the information and transmitting it to the CFPB

14. Estimated Cost to the Federal Government

The Bureau does not incur any new or unique costs as a result of this collection of information.

15. Program Changes or Adjustments

Since this is a new information collection request, all the burden is considered a program change. When the Bureau published an interim final rule (IFR) on December 16, 2011 (76 FR 78121 / RIN 3170-AA06) it determined that the IFR did not implicate the Paperwork Reduction Act (PRA). Said IFR is available at <https://www.federalregister.gov/articles/2011/12/16/2011-31733/fair-debt-collection-practices-act-regulation-f>. Pursuant to the PRA rules at 5 CFR § 1320.3(c)(4)(i) with respect to reporting requirements in a “rule of general applicability,” the Bureau has since determined that the state application contained in 12 CFR § 1006.2 is subject to the PRA and requires OMB approval thereunder.

16. Plans for Tabulation, Statistical Analysis, and Publication

Not applicable. The information will not be published.

17. Display of Expiration Date

There are currently no forms or other instruments associated with this information collection on which to display the OMB-assigned expiration date. The OMB control number will be displayed in the Code of Federal Regulations and the OMB number and expiration date will be displayed on the Federal government’s electronic PRA docket at www.reginfo.gov.

¹ Bureau of Labor Statistics May 2014 Occupational Employment and Wage Estimates <http://www.bls.gov/oes/current/oes.htm#13-0000>

18. Exceptions to the Certification Requirement

The Bureau certifies that this collection of information is consistent with the requirements of 5 CFR § 1320.9, and the related provisions of 5 CFR § 1320.8(b)(3) and is not seeking an exemption to these certification requirements.