

**GOVERNMENT GAZETTE
OF THE HELLENIC REPUBLIC**

Vol. I

Number 68

May 5, 2009

LAW No 3758

*Debtors' Notification Companies
for Debts Due and other provisions.*

THE PRESIDENT OF THE HELLENIC REPUBLIC

We issue the following Law voted by the Parliament:

Article 1

Aim

The aim of the present law is to establish principles of transactional behaviour, operation rules and State monitoring of Debtors' Notification Companies for Debts Due (henceforth "Companies"), to regulate their relation with their creditors and debtors, as well as to prohibit assignment of debt due to third parties.

Article 2

Field of application

Companies function according to the present law and are obliged to observe the provisions of the legislation in force on consumer's protection, on private life's protection, on banking confidentiality, on good faith and transactional ethics, in order to ensure the legality of their action in the market and at the same time the respect of the personality and the economic freedom of debtors.

Article 3

Definitions

For the purposes of the law, the following terms are defined as follows:

1. “Debtors”: natural or legal persons, such as borrowers, guarantors or consumers, as defined in the Civil Code and the legislation in force on consumer’s protection.
2. “Creditors”: all natural or legal persons that have transactions in the market and provide their customers any kind of credit, such as credit institutions, limited liability credit companies, insurance companies, public utilities, fixed and mobile electronic communications providers, consumers' products and services companies.
3. “Debtors’ Notification Companies for Debts Due”: capital companies having exclusive statutory aim extrajudicial notification of debtors for debts owed and due towards creditors, before judicial actions and the compulsory execution proceedings begin, as a result of credit contracts and guarantees and legal commercial transactions, such as product purchase, services, granting of loans, guarantees and credit, use of credit cards, as well as the negotiation of time, way and other terms of debts payment, by order and for account of creditors, in accordance with the principles of article 4 of the present law.
4. “Debt due”: the amount of money that the debtor legally owes to the creditor and that had to be paid at a designated date or specific time limit from termination, if such a time limit was set and the amount was owed and due.
5. “Debtors’ Notification for Debts Due” (henceforth “Notification”): all the extrajudicial actions that the Companies take in order to notify their debtors for their debts towards creditors defined by contracts and other legal documents, such as loan contracts, invoices, bills of lading, dispatch notes, that govern the relation between creditor and debtor.
6. “Durable medium”: any instrument which enables to store information in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.

Article 4

Principles that govern debtors’ Notification for debts due

1. The business activity in general of Companies in the market is ruled by the principles of professional ethics, decency, transactional integrity, honesty in communication, transparency, respect of the personality, the private life, the

health, the security, the banking confidentiality and the conventional and economic freedom.

2. Companies' intervention regards merely debtors' notification for debts owed and due towards creditors and negotiation of time, way and other terms of debts payment, by order and for account of creditors. Creditors are prohibited to sign contracts for the purposes of the present law with companies not included in the Register of article 7 of the present. They are not allowed to assign a notification order for the same debt to more than one Notification Companies.

3. Companies are prohibited to collect in any way debts, as well as to assign part or all of their activity within the meaning of the paragraph 5, article 3 to another physical or legal person.

4. Prior to any Notification action, a debt confirmation, by any means available, by the creditor to the debtor is needed as well as debtor's identification and notification about forwarding his/her data to the Company, in accordance to article 11 of law No 2472/1997, in the version in force. Communication with the debtor should be done, in accordance to the principles of paragraph 1, within a legitimate period of time and at a disturbance frequency not more than once every second day. A telephone communication at the debtor's workplace is permitted only provided the debtor has given this specific telephone number as his/her only communication number.

5. Notification assignment from creditor to the Company is done in writing or via a durable medium to store information within the meaning of paragraph 6, article 3. Provisions of article 10, law No 2472/1997 (Government Gazette 50A) on confidentiality and processing security apply accordingly to the Company as well.

6. The creditor is not allowed to give a debtors' notification order for debts due that do not fall within the meaning of paragraph 4, article 3 or that are under settlement or arrangement or the time of writing-off has expired. No debtors' notification order is allowed for debts resulting by abusive general terms of transactions judged as abusive by irrevocable judicial decision as well as the terms mentioned at the ministerial decrees issued by the authority of

paragraph 21, article 10 of the law No 2251/1994 (GG 191A), in the version in force.

7. The debtor is not charged with expenses for the Notification assignment of the creditor to the Company.

Article 5

Unlawful and misleading practices of Companies towards debtors

Companies are prohibited to use unlawful and misleading practices towards their debtors, such as:

1. During the communication with the debtor, the company's employees falsely imply an identity different than their own, such as employees of the creditors, lawyers or process servers.
2. Exercise any kind of physical violence or psychological pressure towards debtors or their family about risking their job, their property or their life.
3. It is prohibited to Show provocative behaviour or use insulting expressions against debtors or their family.
4. Slander or threat to slander the debtors at their workplace or family.
5. Take advantage of circumstances of objective weakness of the debtor.
6. Threat to take unlawful measures against the debtor.
7. Misleading information of the debtor.
8. Visit debtors at their house or workplace, as well at other strictly personal places, such as hospitals.
9. Disturb debtors' family within the meaning of case 4.
10. Misleading use and presentation of documents that falsely imply that they are documents issued by the court.
11. Any kind of communication including inaccurate information about the consequences of non-payment.
12. Communicate with debtors for debts resulting by abusive general terms of transactions judged as abusive by irrevocable judicial decision as well as the terms mentioned at the ministerial decrees issued by the authority of paragraph 21, article 10 of the law No 2251/1994 (GG 191A), in the version in force.

Article 6

Special obligations of the Companies

1. Companies are obliged to have sufficient administrative and technological infrastructure including, at least, one complete telephone switchboard and computer network. Companies must have employees of secondary education at least, providing them regularly with further training about the current legal framework and particularly the provisions of the present and the legislation on protection of personal data, so that they have the proper, in accordance with the law and transactional ethics, behaviour towards their debtors. Companies should have at least three hundred fifty thousand (350,000) euros of own funds.
2. During their oral communication with debtors, Companies are obliged to show the caller ID, to provide full and clear Notification to debtors, not only about the name and function of the employee making the call, but also about the Company's register number within the meaning of article 7 and the purpose of their communication. In all written communications, either by letter or by durable medium, within the meaning of paragraph 6, article 3, Companies are obliged to specify their complete trade name, the address of their registered office, with the name of the street, number, town, postal code, telephone number, fax number and electronic address, as well as the Company's Register number within the meaning of article 7. It is prohibited for Companies to appropriate in any way during their communication with debtors the name of their creditors-contractors.
3. If debtors make such a request, Companies are obliged to provide them in writing and free of charge full and precise information about the amount and origin of the debt due, per capital, interests, expenses and surcharge, as they are defined by the creditor, within ten (10) working days after the first oral communication.
4. All Notification activities assigned each time are set with clarity in the contract governing the relations between creditor and Company.
5. Companies are prohibited to take action taken exclusively by lawyers or process servers, namely search the land registries or cadastral office, attend to public authorities, communication of judicial or extrajudicial acts, set the proceedings for compulsory execution or in any way participate in it, in accordance with the provisions of the Code on Lawyers (L.P. 3026/1954, GG

235A) and the Code on process servers (L. 2318/1995, GG 126A), in the version in force. Companies are prohibited to assign the legal claim of debts to lawyers and process servers of their choice, a task belonging exclusively to creditors.

6. Companies are prohibited to have access to data of economic behaviour, such as “TIRESIAS S.A.” or other data in order to certify the debtor’s borrowing capability.

Article 7

Companies Register

1. Companies enter obligatory in the Register Debtors' Notification Companies for Debts Due (henceforth “Register”) where permanent representatives data are also entered.

2. The Register is a public book, held at the Ministry of Development, in electronic form and the access is free of charges. The Minister of Development, by decision, regulates more specific issues of the Register's operation, every detail, technical or not, related to its operation, as well as criteria and supporting documents required for a Company to enter in the Register.

3. Companies are obliged, prior to commencement of activities, to submit an application for entering in the Register. The stamp, documents and contracts signed by Companies must have their registration number.

4. Entering in the Register is necessary so that the Company can declare the beginning of their operation at the competent public economic service and can be proved by relevant registration certificate at the Register granted by the Ministry of Development.

5. If the Company does not meet the standards of the present law, the Minister of Development, by justified decision, made within a month after the application for entering in the Registered, rejects the Company's registration.

6. In case a registered Company violates the provisions of the present law, the Minister of Development, by justified decision, may proceed to the sanctions stipulated in article 10 of the present. Erasing a company from the Register brings automatically the recall of its operating license. The decision on erasing a Company from the Register is communicated to the competent

Authority responsible for granting an operating license and to the competent public economic service.

Article 8

Confidentiality protection

1. Companies must attend to protecting professional and personal confidentiality. More specifically, they ought to avoid any kind of exposure of debtors' personal data and in particular of their personal data related to economic data, such as account numbers, credit card numbers, consumers loans, electronic transactions, within the framework of the current legislation on debtors' confidentiality and personal life and of the decisions of independent authorities charged with their application.
2. Creditor provides the Company with the necessary for their communication debtor's data. Companies are prohibited to communicate this data to third parties, with or without counterpart, as well as to use it for other purposes. Third parties, within the meaning of the present law, are also Companies' subsidiaries.
3. If Companies, within the framework of creditors' assignment, proceed to debt settlement or arrangement, they are allowed to record the phone calls they have with the debtors, after notifying them, in order to obtain evidence of the transaction realized. In cases of simple debtors' notification for their debts, recording is prohibited. The Creditor is the one responsible to process the relevant data and can assign the Company to keep such data. The Creditor should inform the debtor for the processing in question.

Article 9

Companies' relation with Creditors

1. Each Company should provide creditors with transparent, professional and effective services. In case of arrangement between debtor and creditor, all activities performed by the Company to disturb the debtor are paused as long as the arrangement is valid.
2. With the creditor's care and responsibility, orders on the basis of the contract between himself/herself and the Company should determine in whole debts per capital, interests and expenses, in accordance with the present law.

3. Each Creditor is obliged to provide an order of notification only for debts due, within the meaning of paragraph 4, article 3, not resulting by abusive general terms of transactions judged as abusive by irrevocable judicial decision as well as the terms mentioned at the ministerial decrees issued by the authority of paragraph 21, article 10 of the law No 2251/1994 (GG 191A), observing the provisions on confidentiality and personal data protection. Violation of this obligation means civil liability of the creditor to compensate the Company and the debtor. Creditors are prohibited, under penalty of invalidation, to sign contracts with Companies not registered according to article 7 of the present. Violation of these provisions impose sanctions stipulated in article 10 on both debtors and Companies.

4. Companies are not allowed to deviate from creditors' orders nor their remuneration should be connected to debtor's selection of a specific way of payment. Creditors are prohibited to transfer debts to be collected to Notification Companies within the meaning of paragraph 3, article 4 or to any third party.

5. Violation of the provisions of the present article constitutes exclusive responsibility of the creditor towards the debtor.

Article 10

Sanctions

1. Subject to current provisions on personal data protection of laws such as 2472/1997 (G.G. 50A) and 3471/2006 (G.G. 133A) and other more precise provisions, by decision of the Minister of Development a fine of five thousand (5,000) up to five hundred thousand (500,000) euros is imposed to Companies violating the provisions of the current law. In case of relapse, the maximum amount of fine is doubled and the Minister of Development can order even the temporary elimination of the Company from the Register for a period of time from one (1) up to six (6) months and in case of further relapse, the Minister can order the Company's permanent elimination.

2. The amounts of fine imposed are public income and are received in accordance with K.E.Δ.E. provisions (L.P. 356/1974, G.G. 90A) and may change by a common decision by Ministers of Economy and Finance and Development.

3. Sanctions imposed as above is independent to other civil, penal or disciplinary sanction that the present law and current legislation may stipulate.

Article 11

Register Service

The General Secretary of Consumer at the Ministry of Development has independent Register Service for holding and handling the Register, for granting registration certificate, for managing the Register, for handling submitted complaints, for proceeding to controls to ensure that the current legislation is observed and to record the sanctions imposed according to article 10, as well as to erase a Company from the Register, according to paragraph 6, article 7. This service is composed by employees of the Ministry of Development under the status stipulated by the Status Code of Political and Administrative Civil Servants Legal Persons of Public Law (L. 3528/2007, G.G. 26A). The Minister of Development by decision determines the specific details for the department's organization and operation, the control procedure, the cooperation of control services with other competent services and agents, the commencement of activities, as well as all special issues and details. The Ministries of Economy and Finance and Development decide in common on remuneration issues of the control services' members.

Article 12

Transitional provisions

Within two (2) months after the issuing of the ministerial decision stipulated in paragraph 2, article 7 of the present law, all Companies already functional should submit to the Ministry of Development the supporting documents defined by this decision for entering in the Register and receive the related certificate.

Article 13

Other provisions

At the end of subsection c, paragraph 6, article 4a of the law No 2251/1994 the following text is added: "The time limit is considered valid if the notification is sent before the end of the time limit."