

FTC Seeking Public Comment on Collection of Decedents' Debts

October 7, 2010

The FTC released a [proposed policy statement](#) with a call for public comments on October 4, 2010. The policy statement clarifies when the FTC will take action under the Fair Debt Collection Practices Act (FDCPA) and the FTC Act against companies collecting the debts of deceased consumers.

In general, the FDCPA permits collectors to contact the decedent's spouse or the executor or administrator of the decedent's estate. State probate laws have expanded the list of persons authorized to pay a decedent's debts beyond the FDCPA categories. The proposed enforcement policy statement seeks to reconcile the FDCPA's requirements with state probate law developments by stating that the FTC will not take enforcement action for violations of Section 805(b) of the FDCPA against collectors communicating with a person authorized to pay the debts from assets in the decedent's estate.

The proposed statement also clarifies how a debt collector may locate the appropriate person with whom to discuss the decedent's debt and emphasizes that misleading consumers about their personal obligation to pay a decedent's debt is a violation of the FDCPA and Section 5 of the FTC Act. The statement notes that in order to avoid giving the misleading impression that the person is personally liable or could be required to pay the decedent's debt with his own assets or jointly held assets, debt collectors may need to affirmatively disclose that this is not the case.

The FTC is accepting public comments on the proposed policy statement until November 8, 2010.