

Independent Study Paper Title : Unfair Collection on Credit Card Debt
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ABSTRACT

The objective of this study is to address prominent unfair activities of credit card debt collection in Thailand and how Thai regulatory shortcomings – especially when compared to those of the United States – contribute to such practices. Though credit card creditors can exercise their right to collect overdue payments themselves, they commonly avoid this complex process and instead choose to pursue payment of debt, either by themselves, through an affiliated company or by engaging the services of a third party collector – which is becoming increasingly popular. In pursuit of maximizing their economic interests, debt collectors have pushed ethical boundaries with abusive techniques to pressure debtor payment, ranging from undue harassment to even the threatening of a debtor’s life. The Foundation for Consumers estimates more than 2,000 debt collection cases in violation consumer rights. Should this invasion of personal privacy continue, the victimized Thai family will be increasingly exposed to the loss of jobs, personal bankruptcies, and marital instability – ultimately contributing to social instability.

It is found that at present, Thailand does not have specific law regulating the collection of credit card debt. The Civil and Commercial Code, Penal Code and Consumer Protection laws all have their inadequacies in addressing the aforementioned debt collection problem. Moreover, two effective notifications issued by the Bank of Thailand regarding the undertakings of credit card businesses enact merely one part regarding demand for debt repayment and the process of debt collection. Such rules provided therein are general, with mention only of select written aspects of debt collection and not of other activities – such as verbal communication, unreasonable conduct along privacy boundaries and prohibited practices. Moreover, both notifications are applicable only to banks and non-banks,

therefore excluding outsourced debt collectors. In light of this, The Bank of Thailand issued a Guideline for the Collection of Debt. However, this guideline is ineffective and inadequate as it has no legal sanction and still does not apply to third party debt collectors. Moreover, it still fails to address many key issues consumers face with abusive practices. In contrast, the United States enacted the Fair Debt Collection Practices Act in 1977 providing a comprehensive delineation of rules, regulations and procedures to ensure the protection of debtors from abusive, deceptive and unfair debt collection practices.

With the advantages of such regulations surmounting, it is recommended that Thailand first enact specific law – in the form of a Parliamentary Act – specifically regarding the rules, procedures and conditions of credit card collection. This Act should be applicable to bank and non-bank creditors and outsource debt collectors. Detailed explanations of measures and acceptable practices have been proposed including:

- 1) The written and verbal communication limitations.
- 2) The rights of debtors to be upheld
- 3) The unfair and prohibited collection activities
- 4) The punishment of fines and imprisonment terms.