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LAW NO. 21,320 AMENDS THE CHILEAN CONSUMER PROTECTION ACT ON EXTRAJUDICIAL COLLECTION PROCEEDINGS

On April 20, 2021, Law No. 21,320 (the "Law"), which amends Law No. 19,496 on Chilean Consumer Protection Act ("CPA") regarding extrajudicial collection proceedings and other consumers' rights was published in the official gazette.

The Law, which shall be effective immediately, introduced several amendments to the CPA, regarding new principles that will inform the extrajudicial collection proceedings, new duties and legal limitations to suppliers. In this regard, the Law limits the amount of telephone calls or visits that may be made weekly, among other restrictions.

Below is a detail of its main contents:

Inspiring principles for all extrajudicial collection actions:

The Law amends article 37 of the CPA, by establishing several principles which every extrajudicial collection action, not matter its nature, communication method or opportunity, should comply with:

• Proportionality
• Reasonableness
• Justifiability
• Transparency
• Truthfulness
• Respect of consumers' dignity & physical and psychological integrity
• Respect of the consumers' home privacy

Actions that would violate the principles that inspire all extrajudicial collections

The Law understands that the following situations conform a non-compliance to the above principles:

• When suppliers or collection companies make more than**1 visit or telephone contact per week**, with the purpose of making the debtor

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aware of the existence of the debt and information aimed to obtain its payment.
• When suppliers or collection companies make more than 2 extrajudicial collection actions per week, carried out**through other means** (such as e-mail, postal correspondence, text messages or instant messaging applications). These actions must be made with a separation of at least 2 days.

New obligations regarding extrajudicial collection proceedings and precautionary measures for the suspension of collection actions

• Obligation to keep and store information regarding collection proceedings for at least 2 years, per each debtor: suppliers and collection companies should record, store and keep available information regarding the type and frequency of the performed collection actions, for each debtor, for a minimum period of 2 years, counted from their realization.
• Extrajudicial collection actions should be finished immediately, after a judicial proceeding has been initiated and notified to the consumer or when a bankruptcy proceeding has been initiated on his/her regard.
• New precautionary measure to request the immediate suspension of the extrajudicial collection actions: in all denounces, claims or lawsuits filed due to the potential infringement of the obligations set forth in the Law, the competent court, ex officio or upon prior request, may order the immediate suspension of the extrajudicial collection actions, whenever facts and backgrounds merit it.

Law specifies that a special regulation will determine the form, conditions, and requirements necessary to comply with the obligations set forth in Article 37 of the CPA.

New limit of two extrajudicial collection calls or visit per month, during the constitutional state of exception.

Finally, the Law incorporates a new transitory article to the CPA, providing that during the of constitutional state of exception derived from the pandemic, and the 60 days after its termination, extrajudicial collection calls or visits may only be made twice a month, regarding each debtor.

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