

By: Collier

H.B. No. 1767

A BILL TO BE ENTITLED

AN ACT

relating to the collection of consumer debt by debt buyers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Fair Consumer Debt Collection Act.

SECTION 2. Title 5, Finance Code, is amended by adding Chapter 397 to read as follows:

CHAPTER 397. COLLECTION OF CONSUMER DEBT BY DEBT BUYERS

Sec. 397.001. DEFINITIONS. In this chapter:

(1) "Charged-off debt" means a consumer debt that a creditor has determined to be a loss or expense to the creditor instead of an asset.

(2) "Consumer," "consumer debt," and "creditor" have the meanings assigned by Section 392.001.

(3) "Debt buyer" means a person who purchases or otherwise acquires a consumer debt from a creditor or other subsequent owner of the consumer debt, regardless of whether the person collects the consumer debt, hires a third party to collect the consumer debt, or hires an attorney for collection litigation in connection with the consumer debt. The term does not include:

(A) a person who acquires a charged-off debt incidental to the purchase of a portfolio that predominantly consists of consumer debt that has not been charged off; or

(B) a check services company that acquires the

1 right to collect on a paper or electronic negotiable instrument,
2 including an Automated Clearing House (ACH) authorization to debit
3 an account that has not been processed.

4 (4) "Statute of limitations" means a law in this state
5 that prescribes the period during which a person may bring a cause
6 of action.

7 Sec. 397.002. CONFLICT OF LAW. Unless otherwise expressly
8 provided, this chapter prevails to the extent of any conflict
9 between this chapter and any other law of this state.

10 Sec. 397.003. LIMITATION ON INITIATION OF CONTACT WITH
11 CONSUMER. A debt buyer may not contact or attempt to contact a
12 consumer for purposes of debt collection if the debt buyer knows or
13 has reason to know that a cause of action for collection of the
14 consumer debt is barred by a statute of limitations.

15 Sec. 397.004. INITIATION OF ACTION AGAINST OR ARBITRATION
16 WITH CONSUMER. (a) A debt buyer may not bring an action against,
17 initiate arbitration with, or commence any other legal proceeding
18 against a consumer to collect a consumer debt if the debt buyer
19 knows or has reason to know that a cause of action for collection of
20 the consumer debt is barred by a statute of limitations.

21 (b) A cause of action by a debt buyer against a consumer for
22 collection of a consumer debt that is barred by a statute of
23 limitations may not be revived by the collection of payment on the
24 account of the consumer associated with the debt, an oral or written
25 reaffirmation of the consumer debt, or any other method.

26 Sec. 397.005. CIVIL ACTION. (a) A debt buyer who violates
27 this chapter is liable to a person harmed by the violation for:

1 (1) actual damages; and

2 (2) reasonable attorney's fees and costs.

3 (b) An action must be brought under this section not later
4 than the second anniversary of the date of the last event
5 constituting the alleged violation for which the action is brought.

6 SECTION 3. The changes in law made by this Act apply only to
7 an action of a debt buyer to collect a consumer debt if the action
8 occurs on or after the effective date of this Act. An action of a
9 debt buyer to collect a consumer debt that occurs before the
10 effective date of this Act is governed by the law in effect
11 immediately before that date, and the former law is continued in
12 effect for that purpose.

13 SECTION 4. This Act takes effect September 1, 2017.