

By: Collier, Thompson of Harris, Longoria,
Capriglione, Leach

H.B. No. 996

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the collection of consumer debt by debt buyers.

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

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

6 SECTION 2. Subchapter D, Chapter 392, Finance Code, is
7 amended by adding Section 392.307 to read as follows:

8 Sec. 392.307. COLLECTION OF CERTAIN CONSUMER DEBT BY DEBT
9 BUYERS. (a) In this section:

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

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

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

23 (B) a check services company that acquires the
24 right to collect on a paper or electronic negotiable instrument,

1 including an Automated Clearing House (ACH) authorization to debit
2 an account that has not been processed.

3 (b) Unless otherwise expressly provided, this section
4 prevails to the extent of any conflict between this section and any
5 other law of this state.

6 (c) A debt buyer may not, directly or indirectly, commence
7 an action against or initiate arbitration with a consumer to
8 collect a consumer debt after the expiration of the applicable
9 limitations period provided by Section 16.004, Civil Practice and
10 Remedies Code, or Section 3.118, Business & Commerce Code.

11 (d) If an action to collect a consumer debt is barred under
12 Subsection (c), the cause of action is not revived by a payment of
13 the consumer debt, an oral or written reaffirmation of the consumer
14 debt, or any other activity on the consumer debt.

15 (e) If a debt buyer is engaged in debt collection for a
16 consumer debt for which an action to collect the debt is barred
17 under Subsection (c), the debt buyer, or a debt collector acting on
18 behalf of the debt buyer, shall provide the following notice in the
19 initial written communication with the consumer relating to the
20 debt collection:

21 (1) if the reporting period for including the consumer
22 debt in a consumer report prepared by a consumer reporting agency
23 has not expired under Section 605, Fair Credit Reporting Act (15
24 U.S.C. Section 1681c), and the debt buyer furnishes to a consumer
25 reporting agency information regarding the consumer debt, "THE LAW
26 LIMITS HOW LONG YOU CAN BE SUED ON A DEBT. BECAUSE OF THE AGE OF
27 YOUR DEBT, WE WILL NOT SUE YOU FOR IT. IF YOU DO NOT PAY THE DEBT,

1 [INSERT NAME OF DEBT BUYER] MAY CONTINUE TO REPORT IT TO CREDIT
2 REPORTING AGENCIES AS UNPAID FOR AS LONG AS THE LAW PERMITS THIS
3 REPORTING. THIS NOTICE IS REQUIRED BY LAW.";

4 (2) if the reporting period for including the consumer
5 debt in a consumer report prepared by a consumer reporting agency
6 has not expired under Section 605, Fair Credit Reporting Act (15
7 U.S.C. Section 1681c), but the debt buyer does not furnish to a
8 consumer reporting agency information regarding the consumer debt,
9 "THE LAW LIMITS HOW LONG YOU CAN BE SUED ON A DEBT. BECAUSE OF THE
10 AGE OF YOUR DEBT, WE WILL NOT SUE YOU FOR IT. THIS NOTICE IS
11 REQUIRED BY LAW."; or

12 (3) if the reporting period for including the consumer
13 debt in a consumer report prepared by a consumer reporting agency
14 has expired under Section 605, Fair Credit Reporting Act (15 U.S.C.
15 Section 1681c), "THE LAW LIMITS HOW LONG YOU CAN BE SUED ON A DEBT.
16 BECAUSE OF THE AGE OF YOUR DEBT, WE WILL NOT SUE YOU FOR IT, AND WE
17 WILL NOT REPORT IT TO ANY CREDIT REPORTING AGENCY. THIS NOTICE IS
18 REQUIRED BY LAW."

19 (f) A notice required under Subsection (e) must be in at
20 least 12-point type that is boldfaced, capitalized, or underlined
21 or otherwise conspicuously set out from the surrounding written
22 material.

23 SECTION 3. Section 392.402, Finance Code, is amended by
24 amending Subsection (a) and adding Subsection (d) to read as
25 follows:

26 (a) Except as provided by Subsection (d), a [A] person
27 commits an offense if the person violates this chapter.

1 (d) This section does not apply to a violation of Section
2 392.307.

3 SECTION 4. The changes in law made by this Act apply only to
4 an action of a debt buyer to collect a consumer debt if the action
5 occurs on or after the effective date of this Act. An action of a
6 debt buyer to collect a consumer debt that occurs before the
7 effective date of this Act is governed by the law in effect
8 immediately before that date, and the former law is continued in
9 effect for that purpose.

10 SECTION 5. This Act takes effect September 1, 2019.