

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 in-default or  
21 charged-off debt that is incidental to the purchase of a portfolio  
22 that predominantly consists of consumer debt that has not been  
23 charged off; or

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

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

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

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

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

1 YOUR DEBT, WE WILL NOT SUE YOU FOR IT. IF YOU DO NOT PAY THE DEBT,  
2 [INSERT NAME OF DEBT BUYER] MAY CONTINUE TO REPORT IT TO CREDIT  
3 REPORTING AGENCIES AS UNPAID FOR AS LONG AS THE LAW PERMITS THIS  
4 REPORTING. THIS NOTICE IS REQUIRED BY LAW.";

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

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

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

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

27 (a) Except as provided by Subsection (d), a [A] person

1 commits an offense if the person violates this chapter.

2 (d) This section does not apply to a violation of Section  
3 392.307.

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

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

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 996 was passed by the House on April 11, 2019, by the following vote: Yeas 120, Nays 20, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 996 on May 24, 2019, by the following vote: Yeas 133, Nays 7, 2 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 996 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor