

**House Bill 996**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

(c) A debt buyer may not, directly or indirectly, commence an action against or initiate arbitration with a consumer to collect a consumer debt after the expiration of the applicable limitations period provided by Section 16.004, Civil Practice

SENATE VERSION (CS)

SECTION 1. Same as House version.

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

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(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) "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 to pursue collection litigation in connection with the consumer debt. The term does not include:

(A) a person who acquires in-default or charged-off debt that is 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 right to collect on a paper or electronic negotiable instrument, including an Automated Clearing House (ACH) authorization to debit an account that has not been processed.

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

(c) A debt buyer may not, directly or indirectly, commence an action against or initiate arbitration with a consumer to collect a consumer debt after the expiration of the applicable limitations period provided by Section 16.004, Civil Practice

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and Remedies Code, or Section 3.118, Business & Commerce Code.

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

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

(1) if the reporting period for including the consumer debt in a consumer report prepared by a consumer reporting agency has not expired under Section 605, Fair Credit Reporting Act (15 U.S.C. Section 1681c), and the debt buyer furnishes to a consumer reporting agency information regarding the consumer debt, "THE LAW LIMITS HOW LONG YOU CAN BE SUED ON A DEBT. BECAUSE OF THE AGE OF YOUR DEBT, WE WILL NOT SUE YOU FOR IT. IF YOU DO NOT PAY THE DEBT, [INSERT NAME OF DEBT BUYER] MAY CONTINUE TO REPORT IT TO CREDIT REPORTING AGENCIES AS UNPAID FOR AS LONG AS THE LAW PERMITS THIS REPORTING. THIS NOTICE IS REQUIRED BY LAW.";

(2) if the reporting period for including the consumer debt in a consumer report prepared by a consumer reporting agency has not expired under Section 605, Fair Credit Reporting Act (15 U.S.C. Section 1681c), but the debt buyer does not furnish to a consumer reporting agency information regarding the consumer debt, "THE LAW LIMITS HOW

SENATE VERSION (CS)

and Remedies Code, or Section 3.118, Business & Commerce Code.

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

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(2) if the reporting period for including the consumer debt in a consumer report prepared by a consumer reporting agency has not expired under Section 605, Fair Credit Reporting Act (15 U.S.C. Section 1681c), but the debt buyer does not furnish to a consumer reporting agency information regarding the consumer debt, "THE LAW LIMITS HOW

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

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

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

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

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

SECTION 4. The changes in law made by this Act apply only to an action of a debt buyer to collect a consumer debt if the action occurs on or after the effective date of this Act. An action of a debt buyer to collect a consumer debt that occurs before the effective date of this Act is governed by

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

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SECTION 3. Same as House version.

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the law in effect immediately before that date, and the former law is continued in effect for that purpose.

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

SENATE VERSION (CS)

SECTION 5. Same as House version.

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