

106TH CONGRESS  
1ST SESSION

# H. R. 2544

To amend the Fair Debt Collection Practices Act to reduce the cost of credit, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 1999

Mr. METCALF introduced the following bill; which was referred to the Committee on Banking and Financial Services

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## A BILL

To amend the Fair Debt Collection Practices Act to reduce the cost of credit, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Credit Cost Reduction  
5       Act of 1999”.

6       **SEC. 2. EXEMPTION FOR COMMUNICATIONS INVOLVING**  
7       **LEGAL PROCEEDINGS.**

8       Section 803(2) of the Fair Debt Collection Practices  
9       Act (15 U.S.C. 1692a(2)) is amended by adding at the  
10      end the following new sentence: “Such term does not in-

1 clude actions taken pursuant to the Federal Rules of Civil  
 2 Procedure; in the case of a proceeding in a State court,  
 3 the rules of civil procedure available under the laws of  
 4 such State; or a nonjudicial foreclosure.”.

5 **SEC. 3. COLLECTION ACTIVITY FOLLOWING INITIAL NO-**  
 6 **TICE.**

7 Section 809 of the Fair Debt Collection Practices Act  
 8 (15 U.S.C. 1692(g)) is amended by adding at the end the  
 9 following new subsection:

10 “(d) CONTINUATION DURING PERIOD.—Collection  
 11 activities and communications may continue during the  
 12 30-day period described in subsection (a) unless the con-  
 13 sumer requests the cessation of such activities.”.

14 **SEC. 4. LIABILITY FOR NONCOMPLIANCE.**

15 (a) CLARIFICATION OF LIMITATION ON CLASS AC-  
 16 TION AWARDS.—Section 813(a)(2)(B) of the Fair Debt  
 17 Collection Practices Act (15 U.S.C. 1692k(a)(2)(B)) is  
 18 amended—

19 (1) by inserting “or any series of class actions  
 20 arising out of the same violations by the same debt  
 21 collector” after “case of a class action”; and

22 (2) by inserting “of such class action or series  
 23 of class actions” after “all other class members”.

24 (b) ATTORNEYS FEES TO ENFORCE CIVIL LIABIL-  
 25 ITY.—Paragraph (3) of section 813(a) of the Fair Debt

1 Collection Practices Act (15 U.S.C. 1692k(a)) is amended  
2 to read as follows:

3 “(3) subject to subsection (f), in the case of a  
4 successful action to enforce a liability under para-  
5 graph (1) or (2), the costs of the action, including  
6 reasonable attorney’s fees, as determined by the  
7 court, in an amount not to exceed the amount  
8 awarded in such action under the applicable para-  
9 graph.”.

10 (c) RULES APPLICABLE TO CERTAIN ACTIONS.—Sec-  
11 tion 813 of the Fair Debt Collection Practices Act (15  
12 U.S.C. 1692k) is amended by adding at the end the fol-  
13 lowing new subsection:

14 “(f) RULES APPLICABLE TO ACTIONS UNDER THIS  
15 TITLE.—Notwithstanding any other provision of law, in  
16 any action arising under this title, for purposes of Rule  
17 68 of the Federal Rules of Civil Procedure, the following  
18 provisions shall apply:

19 “(1) PLAINTIFF’S ATTORNEY’S FEES.—Costs  
20 shall include reasonable fees for the plaintiff’s attor-  
21 ney.

22 “(2) DISALLOWANCE OF CERTAIN FEES ACCRU-  
23 ING AFTER REFUSAL OF SETTLEMENT OFFER.—In  
24 accordance with Rule 68 of the Federal Rules of  
25 Civil Procedure, if—

1           “(A) an offer is made by the debt collector  
2           to a consumer bringing an action (including any  
3           class action or series of class actions referred to  
4           in subsection (a)(2)(B)) under this title, and  
5           the offer is not accepted; and

6           “(B) the amount of the final judgment  
7           awarded to the consumer (or, in the case of a  
8           class action or series of class actions, the total  
9           amount awarded to all class members in such  
10          class action or series of class actions) is less  
11          than or equal to the amount of the offer re-  
12          ferred to in subparagraph (A),  
13          the consumer (or the class with regard to a class ac-  
14          tion or series of class actions) may not be awarded  
15          or otherwise recover costs for attorney’s fees in-  
16          curred after the date such offer is rejected.”.

17          (d) FACTORS FOR CONSIDERATION.—Section 813(b)  
18          of the Fair Debt Collection Practices Act (15 U.S.C.  
19          1692k(b)) is amended—

20                 (1) in the portion of such subsection which pre-  
21                 cedes paragraph (1), by striking “liability in any ac-  
22                 tion” and inserting “any award”; and

23                 (2) by striking paragraph (1) and inserting the  
24                 following new paragraph:

1 “(1) in any action under subsection (a)(2)(A), the  
2 frequency and persistence of noncompliance by the debt  
3 collector, the nature of such noncompliance, the extent to  
4 which the such noncompliance was intentional, and the  
5 amount of actual damages awarded; or”.

6 (e) BONA FIDE ERRORS.—Section 813(c) of the Fair  
7 Debt Collection Practices Act (15 U.S.C. 1692k(c)) is  
8 amended—

9 (1) by striking “(c) A debt collector may not”  
10 and inserting “(c) BONA FIDE ERRORS.—

11 “(1) IN GENERAL.—A debt collector may not”;  
12 and

13 (2) by adding at the end the following new  
14 paragraph:

15 “(2) RELIANCE ON RULES OF CIVIL PROCE-  
16 DURE.—A debt collector may not be held liable in  
17 any action brought under this title if the debt col-  
18 lector shows by a preponderance of the evidence that  
19 the violation resulted from good faith compliance  
20 with the Federal Rules of Civil Procedure; in the  
21 case of a proceeding in a State court, the rules of  
22 civil procedure available under the laws of such  
23 State; or a nonjudicial foreclosure proceeding.”.

1 **SEC. 5. MORTGAGE SERVICERS' REGULATORY BURDEN RE-**  
2 **LIEF.**

3 (a) IN GENERAL.—The Fair Debt Collection Prac-  
4 tices Act (15 U.S.C. 1692 et seq.) is amended—

5 (1) by redesignating section 818 as section 819;  
6 and

7 (2) by inserting after section 817 the following  
8 new section:

9 **“§ 818. Mortgage servicer exemption**

10 “(a) EXEMPTION.—Any servicer of federally related  
11 mortgage loans secured by first liens—

12 “(1) who is a debt collector; and

13 “(2) for whom the collection of delinquent debts  
14 is secondary to the servicer's primary function of  
15 servicing federally related mortgage loans,

16 shall be exempt from the requirements of sections 807(11)  
17 and 809 in connection with the collection of any debt  
18 which is a federally related mortgage loan secured by a  
19 first lien.

20 “(b) VALIDATION STATEMENT.—If a debt collector is  
21 exempt, pursuant to subsection (a), from the requirements  
22 of section 809 with respect to any federally related mort-  
23 gage loan to a consumer which is secured by a first lien,  
24 the servicer shall provide to the consumer, at least 30 days  
25 before any acceleration of the debt and without charge to  
26 such consumer—

1           “(A) a notice of the consumer’s right to re-  
2           ceive a validation statement; or

3           “(B) a validation statement.

4           “(2) QUALIFIED VALIDATION REQUESTS.—

5           “(A) RESPONSE TO REQUEST.—If a  
6           servicer described in paragraph (1) provides a  
7           consumer with a notice under subparagraph (A)  
8           of such paragraph, the servicer shall provide  
9           such consumer with a validation statement not  
10          more than 10 days after receiving a qualified  
11          validation request from such consumer.

12          “(B) NO DELAY REQUIRED.—No provision  
13          of this title shall be construed as requiring a  
14          servicer described in paragraph (1) to delay ac-  
15          celeration, foreclosure, or any other action with  
16          respect to a federally related mortgage loan for  
17          which the servicer provided a notice to the con-  
18          sumer under paragraph (1)(A) due to the re-  
19          ceipt by such servicer of a qualified validation  
20          request from such consumer.

21          “(C) RECEIPT AND HANDLING OF RE-  
22          QUESTS.—A servicer described in paragraph (1)  
23          may establish a separate and exclusive office for  
24          the receipt and handling of any qualified valida-  
25          tion request from any consumer under this sub-

1 section if the servicer provides notice of that  
 2 fact and the address of the office to the  
 3 consumer—

4 “(i) in the notice provided to such  
 5 consumer pursuant to paragraph (1)(A); or

6 “(ii) separately by 1st class mail with  
 7 prepaid postage.

8 “(3) REASONABLE ESTIMATES OF 3D PARTY  
 9 CHARGES.—A servicer described in paragraph (1)  
 10 shall not be liable under this title for any inaccurate  
 11 amount contained in a validation statement provided  
 12 to a consumer with respect to a federally related  
 13 mortgage loan secured by a first lien to the extent  
 14 the inaccurate amount—

15 “(A) relates to costs for services to be pro-  
 16 vided by third parties; and

17 “(B) constitutes a reasonable estimate of  
 18 such costs.

19 “(c) DEFINITIONS.—For purposes of this section, the  
 20 following definitions shall apply:

21 “(1) FEDERALLY RELATED MORTGAGE LOAN.—

22 The term ‘federally related mortgage loan’ has the  
 23 meaning given to such term in section 3(1) of the  
 24 Real Estate Settlement Procedures Act of 1974.



1           “(2) QUALIFIED VALIDATION REQUEST.—The  
2           term ‘qualified validation request’ means a written  
3           request for a validation statement from a consumer  
4           to a servicer which—

5                   “(A) includes the name and account num-  
6                   ber of the consumer or such other information  
7                   as may be necessary to allow the servicer to  
8                   identify such name and account number; and

9                   “(B) is not written on or otherwise in-  
10                  cluded with a payment coupon or other pay-  
11                  ment medium provided by the servicer.

12           “(3) SERVICER; SERVICING.—The terms  
13           ‘servicer’ and ‘servicing’ have the meanings given to  
14           such terms in section 6(i) of the Real Estate Settle-  
15           ment Procedures Act of 1974.

16           “(4) VALIDATION STATEMENT.—The term ‘vali-  
17           dation statement’ means a statement of—

18                   “(A) the total amount a consumer must  
19                   pay, as of a particular date, to bring the con-  
20                   sumer’s loan current; and

21                   “(B) the total amount a consumer must  
22                   pay, as of a particular date, to satisfy the loan  
23                   in full.”.

1       (b) CLERICAL AMENDMENT.—The table of sections  
2 for the Fair Debt Collection Practices Act (15 U.S.C.  
3 1692 et seq.) is amended—

4           (1) by redesignating the item relating to section  
5 818 as section 819; and

6           (2) by inserting after the item relating to sec-  
7 tion 817 the following new item:

“818. Mortgage servicer exemption.”.

