

106TH CONGRESS  
1ST SESSION

# H. R. 3435

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

NOVEMBER 17, 1999

Mr. METCALF (for himself and Mr. GOODE) 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) FACTORS FOR CONSIDERATION.—Section 813(b)  
11 of the Fair Debt Collection Practices Act (15 U.S.C.  
12 1692k(b)) is amended—

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

16 (2) by striking paragraph (1) and inserting the  
17 following new paragraph:

18 “(1) in any action under subsection (a)(2)(A),  
19 the frequency and persistence of noncompliance by  
20 the debt collector, the nature of such noncompliance,  
21 the extent to which the such noncompliance was in-  
22 tentional, and the amount of actual damages award-  
23 ed; or”.

1 (d) BONA FIDE ERRORS.—Section 813(c) of the Fair  
 2 Debt Collection Practices Act (15 U.S.C. 1692k(c)) is  
 3 amended—

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

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

8 (2) by adding at the end the following new  
 9 paragraph:

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

19 **SEC. 5. MORTGAGE SERVICERS’ REGULATORY BURDEN RE-**  
 20 **LIEF.**

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

23 (1) by redesignating section 818 as section 819;  
 24 and

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

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

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

6           “(1) who is a debt collector; and

7           “(2) for whom the collection of delinquent debts  
8       is secondary to the servicer’s primary function of  
9       servicing federally related mortgage loans,  
10 shall be exempt from the requirements of sections 807(11)  
11 and 809 in connection with the collection of any debt  
12 which is a federally related mortgage loan secured by a  
13 first lien.

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

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

23           “(B) a validation statement.

24       “(2) QUALIFIED VALIDATION REQUESTS.—

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

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

17          “(C) RECEIPT AND HANDLING OF RE-  
18          QUESTS.—A servicer described in paragraph (1)  
19          may establish a separate and exclusive office for  
20          the receipt and handling of any qualified valida-  
21          tion request from any consumer under this sub-  
22          section if the servicer provides notice of that  
23          fact and the address of the office to the  
24          consumer—

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

3 “(ii) separately by 1st class mail with  
4 prepaid postage.

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

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

14 “(B) constitutes a reasonable estimate of  
15 such costs.

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

18 “(1) FEDERALLY RELATED MORTGAGE LOAN.—  
19 The term ‘federally related mortgage loan’ has the  
20 meaning given to such term in section 3(1) of the  
21 Real Estate Settlement Procedures Act of 1974.

22 “(2) QUALIFIED VALIDATION REQUEST.—The  
23 term ‘qualified validation request’ means a written  
24 request for a validation statement from a consumer  
25 to a servicer which—

1           “(A) includes the name and account num-  
 2           ber of the consumer or such other information  
 3           as may be necessary to allow the servicer to  
 4           identify such name and account number; and

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

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

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

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

17               “(B) the total amount a consumer must  
 18               pay, as of a particular date, to satisfy the loan  
 19               in full.”.

20          (b) CLERICAL AMENDMENT.—The table of sections  
 21          for the Fair Debt Collection Practices Act (15 U.S.C.  
 22          1692 et seq.) is amended—

23               (1) by redesignating the item relating to section  
 24               818 as section 819; and



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

“818. Mortgage servicer exemption.”.

