

106TH CONGRESS
2D SESSION

H. R. 3618

To amend the Fair Debt Collection Practices Act with regard to liability for noncompliance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2000

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

A BILL

To amend the Fair Debt Collection Practices Act with regard to liability for noncompliance, 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 “Fair Debt Collection
5 Practices Improvement Act of 1999”.

6 **SEC. 2. COLLECTION ACTIVITY FOLLOWING INITIAL NO-**
7 **TICE.**

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

1 “(d) CONTINUATION DURING PERIOD.—Collection
 2 activities and communications may continue during the
 3 30-day period described in subsection (a) unless the con-
 4 sumer requests the cessation of such activities.”.

5 **SEC. 3. LIABILITY FOR NONCOMPLIANCE.**

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

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

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

15 (b) ATTORNEYS FEES TO ENFORCE CIVIL LIABIL-
 16 ITY.—Paragraph (3) of section 813(a) of the Fair Debt
 17 Collection Practices Act (15 U.S.C. 1692k(a)) is amended
 18 to read as follows:

19 “(3) subject to subsection (f), in the case of a
 20 successful action to enforce a liability under para-
 21 graph (1) or (2), the costs of the action, including
 22 reasonable attorney’s fees, as determined by the
 23 court, in an amount not to exceed the amount
 24 awarded in such action under the applicable para-
 25 graph.”.

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

5 “(f) RULES APPLICABLE TO ACTIONS UNDER THIS
6 TITLE.—Notwithstanding any other provision of law, in
7 any action arising under this title, for purposes of Rule
8 68 of the Federal Rules of Civil Procedure, the following
9 provisions shall apply:

10 “(1) PLAINTIFF’S ATTORNEY’S FEES.—Costs
11 shall include reasonable fees for the plaintiff’s attor-
12 ney.

13 “(2) DISALLOWANCE OF CERTAIN FEES ACCRU-
14 ING AFTER REFUSAL OF SETTLEMENT OFFER.—In
15 accordance with Rule 68 of the Federal Rules of
16 Civil Procedure, if—

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

22 “(B) the amount of the final judgment
23 awarded to the consumer (or, in the case of a
24 class action or series of class actions, the total
25 amount awarded to all class members in such

1 class action or series of class actions) is less
2 than or equal to the amount of the offer re-
3 ferred to in subparagraph (A),
4 the consumer (or the class with regard to a class ac-
5 tion or series of class actions) may not be awarded
6 or otherwise recover costs for attorney's fees in-
7 curred after the date such offer is rejected.”.

8 (d) FACTORS FOR CONSIDERATION.—Section 813(b)
9 of the Fair Debt Collection Practices Act (15 U.S.C.
10 1692k(b)) is amended—

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

14 (2) by striking paragraph (1) and inserting the
15 following new paragraph:

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

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

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

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

3 (2) by adding at the end the following new
4 paragraph:

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

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