

112TH CONGRESS
2D SESSION

H. R. 5794

To amend the Fair Debt Collection Practices Act to exempt a debt collector from liability when leaving certain voice mail messages for a consumer with respect to a debt as long as the debt collector follows regulations prescribed by the Bureau of Consumer Financial Protection on the appropriate manner in which to leave such a message, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2012

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Fair Debt Collection Practices Act to exempt a debt collector from liability when leaving certain voice mail messages for a consumer with respect to a debt as long as the debt collector follows regulations prescribed by the Bureau of Consumer Financial Protection on the appropriate manner in which to leave such a message, 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 Clarification Act of 2012”.

1 **SEC. 2. EXEMPTION FROM LIABILITY.**

2 Subsection (e) of section 813 of the Fair Debt Collec-
3 tion Practices Act (15 U.S.C. 1692k) is amended to read
4 as follows:

5 “(e) No provision of this section imposing liability
6 shall apply to any act done or omitted in good faith in
7 conformity with any rule, regulation, interpretation, or ad-
8 visory opinion of the Bureau or in conformity with any
9 interpretation or approval by an official or employee of
10 the Bureau duly authorized by the Bureau to issue such
11 interpretations or approvals under procedures prescribed
12 by the Bureau, notwithstanding that after such act or
13 omission has occurred, such rule, regulation, interpreta-
14 tion, or advisory opinion, is amended, rescinded, or deter-
15 mined by judicial or other authority to be invalid for any
16 reason. Nothing in the previous sentence shall be con-
17 strued as providing an exemption from liability based on
18 any rule, regulation, interpretation, advisory opinion, or
19 approval made by any entity other than the Bureau or
20 an official or employee of the Bureau.”.

21 **SEC. 3. AUTHORITY TO LEAVE MESSAGES FOR A CON-**
22 **SUMER WHILE PROTECTING CONSUMER PRI-**
23 **VACY.**

24 Section 805 of the Fair Debt Collection Practices Act
25 (15 U.S.C. 1692c) is amended—

1 (1) by redesignating subsection (d) as sub-
2 section (e); and

3 (2) by inserting after subsection (c) the fol-
4 lowing:

5 “(d) AUTHORITY TO LEAVE MESSAGES FOR A CON-
6 SUMER.—

7 “(1) IN GENERAL.—A debt collector may leave
8 messages for a consumer in connection with the col-
9 lection of a debt on the consumer’s answering ma-
10 chine, voice messaging system, or other similar de-
11 vice, including in an initial communication with the
12 consumer, so long as the message complies with reg-
13 ulations prescribed by the Bureau to ensure the
14 preservation of the privacy and other rights granted
15 to the consumer, including the restrictions on com-
16 munications with third parties under subsection (b).

17 “(2) RULEMAKING.—Not later than the end of
18 the 6-month period beginning on the date of the en-
19 actment of this subsection, the Bureau shall pre-
20 scribe regulations to carry out paragraph (1). Such
21 regulations shall—

22 “(A) specify the content or text of a per-
23 missible message allowed under paragraph (1);

1 “(B) provide that a consumer has a right
 2 to cease further communication with a debt col-
 3 lector; and

4 “(C) include any other such matters as the
 5 Bureau determines appropriate to carry out this
 6 subsection.”.

7 (3) EFFECTIVE DATE.—Paragraph (1) of sec-
 8 tion 805(d) of the Fair Debt Collection Practices
 9 Act shall take effect on the date that regulations are
 10 issued pursuant to paragraph (2) of such section
 11 805(d).

12 **SEC. 4. LIMITATION ON ARBITRATION.**

13 Section 811 of the Fair Debt Collection Practices Act
 14 (15 U.S.C. 1692i) is amended by adding at the end the
 15 following:

16 “(c) LIMITATION ON ARBITRATION.—No person serv-
 17 ing as a debt collector with respect to a particular debt
 18 may initiate a legal action on that debt in an arbitration
 19 setting, or require the consumer to resolve any collection-
 20 related dispute on such a debt by means of arbitration,
 21 unless the consumer has agreed, in writing, with that debt
 22 collection, after collections activities are initiated and a
 23 legal action or dispute arises, to resolve such legal action
 24 or dispute by arbitration.”.

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