

112TH CONGRESS
2D SESSION

S. 3350

To make improvements to the Fair Debt Collection Practices Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2012

Mr. FRANKEN (for himself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To make improvements to the Fair Debt Collection Practices Act, 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 “End Debt Collector
5 Abuse Act of 2012”.

6 **SEC. 2. ENHANCED VALIDATION NOTICES.**

7 (a) IN GENERAL.—Section 809(a) of the Fair Debt
8 Collection Practices Act (15 U.S.C. 1692g(a)) is amend-
9 ed—

1 (1) in paragraph (4), by striking “and” at the
2 end; and

3 (2) by striking paragraph (5) and inserting the
4 following:

5 “(5) the date of the last payment made by or
6 on behalf of the consumer on the subject debt and
7 the amount of the debt at that time;

8 “(6) the name and address of the last person
9 to extend credit with respect to the debt;

10 “(7) an itemization of the principal, fees, inter-
11 est, and any other charges that make up the debt,
12 including any other charges added after the date of
13 the last payment made by or on behalf of the con-
14 sumer on the subject debt;

15 “(8) a description of the rights of the con-
16 sumer—

17 “(A) to request that the debt collector
18 cease communication with the consumer under
19 section 805(c); and

20 “(B) to have collection efforts stopped
21 under subsection (b); and

22 “(9) the name and contact information of the
23 person responsible for handling complaints on behalf
24 of the debt collector.”.

1 (b) EFFECTIVE DATE.—This section and the amend-
 2 ments made by this section shall become effective 1 year
 3 after the date of enactment of this Act.

4 **SEC. 3. MEDICAL DEBT PROVISIONS.**

5 (a) FINDINGS.—Section 802 of the Fair Debt Collec-
 6 tion Practices Act (15 U.S.C. 1692) is amended—

7 (1) by redesignating subsection (e) as sub-
 8 section (f); and

9 (2) by inserting after subsection (d) the fol-
 10 lowing:

11 “(e) Medical debt is unique among types of consumer
 12 debt in that—

13 “(1) with very few exceptions, consumers seek
 14 out health care services out of medical need, not
 15 choice;

16 “(2) consumers typically do not know the cost
 17 of health care services in advance and are not in a
 18 position to negotiate a lower price; and

19 “(3) overly aggressive medical debt collection
 20 can discourage consumers from seeking needed
 21 healthcare services, with dire financial, physical and
 22 public health consequences for themselves and their
 23 communities.”.

24 (b) PROHIBITING MEDICAL FACILITY CONTACTS.—
 25 Section 806 of the Fair Debt Collection Practices Act (15

1 U.S.C. 1692d) is amended by adding at the end the fol-
2 lowing:

3 “(7) Communicating or attempting to commu-
4 nicate with a consumer in connection with the collec-
5 tion of any debt in a hospital emergency department,
6 labor and delivery department, or any department
7 where critical care medical services are provided,
8 such as the intensive care unit. Nothing in this para-
9 graph prohibits a health care provider from pro-
10 viding information to a consumer about a debt in re-
11 sponse to a direct request from the consumer or dis-
12 cussing a debt at the time the consumer is dis-
13 charged.”.

14 (c) ACTIONS CONSTITUTING UNFAIR MEDICAL DEBT
15 COLLECTION PRACTICES.—Section 808 of the Fair Debt
16 Collection Practices Act (15 U.S.C. 1692f) is amended by
17 adding at the end the following:

18 “(9) Withholding emergency medical services,
19 taking action to delay such services, threatening to
20 withhold such services, or giving the impression that
21 such services will be withheld until a debt is paid.

22 “(10) Using protected health information, as
23 defined in regulations promulgated pursuant to sec-
24 tion 264(c) of the Health Insurance Portability and
25 Accountability Act of 1996 (42 U.S.C. 1320d–2

1 note), except to the extent as is absolutely necessary
 2 to provide adequate information to consumers.”.

3 (d) TREATMENT OF MEDICAL DEBT.—The Fair
 4 Debt Collection Practices Act (15 U.S.C. 1692a et seq.)
 5 is amended by adding at the end the following new section:

6 **“SEC. 820. TREATMENT OF MEDICAL DEBT.**

7 “(a) IN GENERAL.—Sections 806, 807 (other than
 8 paragraph (11)), 808, 811, and 813, shall apply to the
 9 collection of a medical debt, whether or not the debt is
 10 being collected directly by the creditor or on behalf of the
 11 creditor by a third party, and regardless of whether such
 12 debt is current or past due.

13 “(b) AVAILABILITY OF INFORMATION.—Any person
 14 attempting to collect a medical debt shall—

15 “(1) in the initial written communication to the
 16 consumer—

17 “(A) prominently disclose the availability
 18 of any charity care coverage (or the equivalent
 19 thereof), financial assistance, discounts based
 20 on income eligibility, or public or private insur-
 21 ance coverage that may assist in the payment
 22 of all or part of the debt; and

23 “(B) provide the consumer with informa-
 24 tion regarding how to apply for such programs;
 25 and

1 “(2) in the initial oral communication to the
2 consumer—

3 “(A) orally disclose the availability of any
4 charity care coverage (or the equivalent there-
5 of), financial assistance, discounts based on in-
6 come eligibility, or public or private insurance
7 coverage that may assist in the payment of all
8 or part of the debt; and

9 “(B) provide the consumer with informa-
10 tion regarding how to apply for such programs.

11 “(c) DEFINITION.—For purposes of this section, the
12 term ‘medical debt’ means debt arising from the receipt
13 of medical services, products, or devices.”.

14 **SEC. 4. DISPUTE INVESTIGATIONS AND VERIFICATION.**

15 Section 809(b) of the Fair Debt Collection Practices
16 Act (15 U.S.C. 1692g(b)) is amended—

17 (1) by inserting after “(b)” the following: “DIS-
18 PUTED DEBTS.—

19 “(1) IN GENERAL.—”; and

20 (2) by striking “Collection activities” and in-
21 serting the following:

22 “(2) REASONABLE INVESTIGATION AND
23 VERIFICATION REQUIRED.—Upon receipt of a notifi-
24 cation under paragraph (1) that a debt is disputed
25 by the consumer, the debt collector shall undertake

1 a thorough investigation of the substance of the dis-
 2 pute, and shall timely provide to the consumer spe-
 3 cific responsive information and verification of the
 4 disputed debt.

5 “(3) COLLECTION ACTIVITIES.—Collection ac-
 6 tivities”.

7 **SEC. 5. AWARD OF DAMAGES.**

8 (a) ADDITIONAL DAMAGES INDEXED FOR INFLA-
 9 TION.—

10 (1) IN GENERAL.—Section 813 of the Fair
 11 Debt Collection Practices Act (15 U.S.C. 1692k) is
 12 amended by adding at the end the following:

13 “(f) ADJUSTMENT FOR INFLATION.—

14 “(1) INITIAL ADJUSTMENT.—Not later than 90
 15 days after the date of the enactment of this sub-
 16 section, the Bureau shall provide a percentage in-
 17 crease (rounded to the nearest multiple of \$100 or
 18 \$1,000, as applicable) in the amounts set forth in
 19 such section equal to the percentage by which—

20 “(A) the Consumer Price Index for All
 21 Urban Consumers (all items, United States city
 22 average) for the 12-month period ending on the
 23 June 30 preceding the date on which the per-
 24 centage increase is provided, exceeds

1 “(B) the Consumer Price Index for the 12-
2 month period preceding January 1, 1978.

3 “(2) ANNUAL ADJUSTMENTS.—With respect to
4 any fiscal year beginning after the date of the in-
5 crease provided under paragraph (1), the Bureau
6 shall provide a percentage increase (rounded to the
7 nearest multiple of \$100 or \$1,000, as applicable) in
8 the amounts set forth in this section equal to the
9 percentage by which—

10 “(A) the Consumer Price Index for All
11 Urban Consumers (all items, United States city
12 average) for the 12-month period ending on the
13 June 30 preceding the beginning of the fiscal
14 year for which the increase is made, exceeds

15 “(B) the Consumer Price Index for the 12-
16 month period preceding the 12-month period
17 described in subparagraph (A).”.

18 (2) APPLICABILITY.—The increases made under
19 section 813(f) of the Fair Debt Collection Practices
20 Act, as added by paragraph (1) of this subsection,
21 shall apply with respect to failures to comply with a
22 provision of such Act (15 U.S.C. 1601 et seq.) oc-
23 ccurring on or after the date of enactment of this
24 Act.

1 (b) INJUNCTIVE RELIEF.—Section 813(d) of the Fair
 2 Debt Collection Practices Act (15 U.S.C. 1692k(d)) is
 3 amended by adding at the end the following: “In a civil
 4 action alleging a violation of this title, the court may
 5 award appropriate relief, including injunctive relief.”.

6 **SEC. 6. WARRANT FOR ARREST AS UNFAIR DEBT COLLEC-**
 7 **TION PRACTICE.**

8 (a) IN GENERAL.—Section 808 of the Fair Debt Col-
 9 lection Practices Act (15 U.S.C. 1692f) is amended by
 10 adding at the end the following:

11 “(11) A request by a debt collector to a court
 12 or any law enforcement agency for the issuance of
 13 a warrant for the arrest of a debtor or any other
 14 similar request that a debt collector knows or should
 15 know would lead to the issuance of an arrest war-
 16 rant, in relation to collection of a debt.”.

17 (b) CONSTRUCTION.—Paragraph (11) of section 808
 18 of the Fair Debt Collection Practices Act, as added by
 19 subsection (a), shall not be construed to limit the inherent
 20 authority of a court to hold a debtor in civil contempt,
 21 nor to limit the ability of a debt collector to seek a writ
 22 of execution or similar remedy to take possession of prop-
 23 erty in order to satisfy a valid judgment of debt.

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