

115TH CONGRESS
1ST SESSION

S. 575

To amend the Fair Debt Collection Practices Act to restrict the debt collection practices of certain debt collectors.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2017

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

A BILL

To amend the Fair Debt Collection Practices Act to restrict the debt collection practices of certain debt collectors.

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 “Stop Debt Collection
5 Abuse Act of 2017”.

6 **SEC. 2. DEFINITIONS.**

7 Section 803 of the Fair Debt Collection Practices Act
8 (15 U.S.C. 1692a) is amended—

(1) in paragraph (4), by striking “facilitating collection of such debt for another” and inserting “collection of such debt”;

(2) by striking paragraphs (5) and (6) and inserting the following:

“(5) The term ‘debt’ means—

“(A) any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services that are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment; or

“(B) any obligation or alleged obligation of a consumer—

“(i) to pay a loan, an overpayment, a fine, penalty, a fee, or other money to a Federal agency; and

“(ii) that is not less than 180 days past due.

“(6) The term ‘debt collector’—

“(A) means any person who—

“(i) uses any instrumentality of interstate commerce or the mails in any busi-

ness the principal purpose of which is the collection of any debts;

“(ii) regularly collects or attempts to collect, directly or indirectly, by its own means or by hiring another debt collector, debts owed or due or asserted to be owed or due another or that have been obtained by assignment or transfer from another; or

“(iii) regularly collects debts owed or allegedly owed to a Federal agency;

“(B) includes—

“(i) any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts; and

“(ii) for purposes of section 808(6), includes any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the enforcement of security interests; and

“(C) does not include—

1 “(i) any officer or employee of a cred-
2 itor while, in the name of the creditor, col-
3 lecting debts for such creditor;

4 “(ii) any person while acting as a debt
5 collector for another person, both of whom
6 are related by common ownership or affili-
7 ated by corporate control, if the person
8 acting as a debt collector does so only for
9 persons to whom it is so related or affili-
10 ated and if the principal business of such
11 person is not the collection of debts;

12 “(iii) any officer or employee of the
13 United States or any State to the extent
14 that collecting or attempting to collect any
15 debt is in the performance of his official
16 duties;

17 “(iv) any person while serving or at-
18 tempting to serve legal process on any
19 other person in connection with the judicial
20 enforcement of any debt;

21 “(v) any nonprofit organization which,
22 at the request of consumers, performs
23 bona fide consumer credit counseling and
24 assists consumers in the liquidation of
25 their debts by receiving payments from

such consumers and distributing such amounts to creditors; and

“(vi) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another or that has been obtained by assignment or transfer from another to the extent such activity—

“(I) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement;

“(II) concerns a debt which was originated by such person;

“(III) concerns a debt which was not in default at the time it was obtained by such person; or

“(IV) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor.”.

SEC. 3. DEBT COLLECTION PRACTICES FOR DEBT COLLECTORS HIRED BY GOVERNMENT AGENCIES.

The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended by inserting after section 812 (15 U.S.C. 1692j) the following:

1 **“§ 812A. Debt collection practices for debt collectors**
 2 **hired by Federal agencies**

3 “(a) LIMITATION ON TIME TO TURN DEBT OVER TO
 4 DEBT COLLECTOR.—A Federal agency that is a creditor
 5 may sell or transfer a debt described in section 803(5)(B)
 6 to a debt collector not earlier than 90 days after the date
 7 on which the obligation or alleged obligation arises.

8 “(b) REQUIRED NOTICE.—

9 “(1) IN GENERAL.—Before transferring or sell-
 10 ing a debt described in section 803(5)(B) to a debt
 11 collector or contracting with a debt collector to col-
 12 lect such a debt, a Federal agency shall notify the
 13 consumer not fewer than 3 times that the Federal
 14 agency will take such action.

15 “(2) FREQUENCY OF NOTIFICATIONS.—The
 16 second and third notifications described in para-
 17 graph (1) shall be made not less than 30 days after
 18 the date on which the previous notification is
 19 made.”.

20 **SEC. 4. UNFAIR PRACTICES.**

21 Section 808 of the Fair Debt Collection Practices Act
 22 (15 U.S.C. 1692f) is amended by striking paragraph (1)
 23 and inserting the following:

24 “(1) The collection of any amount (including
 25 any interest, fee, charge, or expense incidental to the
 26 principal obligation) unless—

1 “(A) such amount is expressly authorized
 2 by the agreement creating the debt or permitted
 3 by law; or

4 “(B) in the case of any amount charged by
 5 a debt collector collecting a debt for a Federal
 6 agency, such amount is—

7 “(i) reasonable in relation to the ac-
 8 tual costs of the collection;

9 “(ii) authorized by a contract between
 10 the debt collector and the Federal agency;
 11 and

12 “(iii) not greater than 10 percent of
 13 the amount collected by the debt col-
 14 lector.”.

15 **SEC. 5. GAO STUDY AND REPORT.**

16 (a) STUDY.—The Comptroller General of the United
 17 States shall commence a study on the use of debt collec-
 18 tors by Federal, State, and local government agencies, in-
 19 cluding—

20 (1) the powers given to the debt collectors by
 21 Federal, State, and local government agencies;

22 (2) the contracting process that allows a Fed-
 23 eral, State, or local government agency to award
 24 debt collection to a certain company, including the
 25 selection process;

1 (3) any fees charged to debtors in addition to
2 principal and interest on the outstanding debt;

3 (4) how the fees described in paragraph (3)
4 vary from State to State;

5 (5) consumer protection at the State level that
6 offer recourse to those whom debts have been wrong-
7 fully attributed;

8 (6) the revenues received by debt collectors
9 from Federal, State, and local government agencies;

10 (7) the amount of any revenue sharing agree-
11 ments between debt collectors and Federal, State,
12 and local government agencies;

13 (8) the difference in debt collection procedures
14 across geographic regions, including the extent to
15 which debt collectors pursue court judgments to col-
16 lect debts; and

17 (9) any legal immunity or other protections
18 given to the debt collectors hired by State and local
19 government agencies, including whether the debt col-
20 lectors are subject to the Fair Debt Collection Prac-
21 tices Act (15 U.S.C. 1692 et seq.).

22 (b) REPORT.—Not later than 1 year after the date
23 of enactment of this Act, the Comptroller General of the

- 1 United States shall submit to Congress a report on the
- 2 completed study required under subsection (a).

