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INSIGHT

House Passes the Comprehensive Debt Collection Improvement Act (H.R. 2547)

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On May 13, 2021, the House passed the Comprehensive Debt Collection Improvement Act (H.R. 2547; H.Rept. 117-23), which would amend laws relating to the debt collection market, including the Fair Debt Collection Practices Act (FDCPA; 15 U.S.C. §§1692-1692f). Among other things, the bill would limit debt collectors' email and text messages to consumers; prohibit consumer reporting agencies from including certain medical debts related to medically necessary procedures in consumer credit reports; and make all federal and state government debts subject to the FDCPA. It also would provide military servicemembers additional debt collection protections.

This Insight provides an overview of the debt collection market and its regulation, and analyzes selected provisions of H.R. 2547. For more information about debt collection, see CRS Report R46477, *The Debt Collection Market and Selected Policy Issues*, by Cheryl R. Cooper. For more information about the FDCPA, see CRS In Focus IF11247, *The Fair Debt Collection Practices Act: Legal Framework*, by Kevin M. Lewis.

Debt Collection Market and Regulation

When a consumer defaults on a debt, a third-party debt collector often collects the debt obligation rather than the original lender. Lenders contract with debt collectors to collect their debts. The U.S. debt collection market is large and impacts many consumers. According to a Consumer Financial Protection Bureau (CFPB) survey, approximately one-third of consumers with a credit bureau file reported being contacted by at least one lender or assigned debt collector trying to collect on a debt in the previous year.

Debt collectors generally expect to collect a fraction of the total value of any particular debt, knowing that some consumers will not pay back their debts in full. Therefore, the parties can negotiate the amount and payment schedule of the debt. If a consumer does not settle a debt, the debt owner often has several options, such as repossessing the collateral for secured loans (e.g., car, house) or garnishing a consumer's wages after obtaining a court order. Debt collectors have the option, but are not required, to furnish information about the debt to credit bureaus.

Consumers do not choose the debt collectors with whom they engage. Therefore, consumer protection laws and regulations may be particularly consequential in this market. According to the CFPB, debt

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collection is the consumer finance market with the second-most complaints, accounting for 15% of the total complaints received in 2020.

The FDCPA is the primary federal statute regulating the consumer debt collection market. It generally applies only to debt collectors, not the original creditors. The FDCPA prohibits debt collectors from engaging in certain types of conduct (such as misrepresentation or harassment) when seeking to collect certain personal, family, or household debts from consumers, and grants consumers the right to dispute or stop some communications about an alleged debt. In addition, the FDCPA requires debt collectors to send consumers notification that discloses certain information about their debts.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) granted the CFPB authority over the FDCPA, and it became the first federal agency empowered to write regulations to implement the FDCPA. In November 2020 and January 2021, the CFPB finalized two new regulations intended to clarify provisions in the FDCPA.

Selected Provisions of the Comprehensive Debt Collection Improvement Act (H.R. 2547)

On May 13, 2021, H.R. 2547 passed the House. Among other things, this bill, if enacted, would:

- Prohibit a debt collector from contacting a consumer by email or text message without a consumer's opt-in consent for those communication methods. This provision is in contrast with the CFPB's recent regulation, which clarifies that debt collectors can use newer technologies, such as email and text messages, to communicate with consumers without limit; however, the rule requires a reasonable and simple method for consumers to opt out of these types of messages.
- Prohibit consumer reporting agencies from including medical debts related to medically necessary procedures in consumer credit reports and also including other medical debts that are less than a year old or paid.
- Make federal and state government debts—including court debts—that are sold to third-party debt collectors subject to the FDCPA and other rules. It would also limit when the federal government can sell or transfer consumer debts to debt collectors and limit fees charged by debt collectors on federal government debts.
- Provide military servicemembers additional debt collection protections, such as barring debt collectors from threatening servicemembers that their debt could affect their rank or security clearances.
- Require private student lenders to discharge a debt when a student becomes totally and permanently disabled.
- Prohibit debt collectors from collecting or attempting to collect *time-barred debt*—that is, a debt on which the statute of limitations for filing a debt collection lawsuit has expired under state law.
- Expand the FDCPA's definition of "debt collector" to cover certain entities that conduct *non-judicial foreclosures*—that is, foreclose on homes without a court order. This provision is in contrast with the U.S. Supreme Court's 2019 ruling in *Obduskey v. McCarthy & Holthus LLP*, where the Court interpreted the term "debt collector" to exclude businesses engaged in nonjudicial foreclosure proceedings.
- Ban the use of *confessions of judgment* in small business lending, which is when a small business waives significant procedural rights in a contract.

- Ban consumer reporting agencies from including adverse information about private student loans during the COVID-19 pandemic in credit reports.

Proponents of the bill argue that it would provide consumers new protections related to troubling debt collection practices, while opponents of the bill have concerns that the bill could increase the cost of credit for consumers by making debt collection more expensive or less efficient.

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