

STOP DEBT COLLECTION ABUSE ACT OF 2019

DECEMBER 15, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,  
 submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 4403]

The Committee on Financial Services, to whom was referred the bill (H.R. 4403) to amend the Fair Debt Collection Practices Act to restrict the debt collection practices of certain debt collectors, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Stop Debt Collection Abuse Act of 2019”.

**SEC. 2. DEFINITIONS.**

Section 803 of the Fair Debt Collection Practices Act (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 amending paragraph (5) to read as follows:

“(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 which 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, a penalty, a fee, or other money currently or originally owed to a Federal agency; and

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

(3) in paragraph (6)—

(A) by striking the first sentence and inserting the following: “The term ‘debt collector’ means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts; who regularly collects or attempts to collect, directly or indirectly, by the person’s 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 who regularly collects debts currently or originally owed or allegedly owed to a Federal agency.”; and

(B) in subparagraph (F), by inserting “or that has been obtained by assignment or transfer from another” after “owed or due another”.

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

(a) IN GENERAL.—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:

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

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

“(b) REQUIRED NOTICE.—

“(1) IN GENERAL.—Before transferring or selling a debt described in section 803(5)(B) to a debt collector or contracting with a debt collector to collect such a debt, a Federal agency shall notify the consumer not fewer than 3 times that the Federal agency will take such action.

“(2) FREQUENCY OF NOTIFICATIONS.—The second and third notifications described in paragraph (1) shall be made not less than 30 days after the date on which the previous notification is made.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Fair Debt Collection Practices Act is amended by inserting after the item relating to section 812 the following:

“812A. Debt collection practices for debt collectors hired by Federal agencies.”.

**SEC. 4. UNFAIR PRACTICES.**

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

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

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

“(B) in the case of any amount charged by a debt collector collecting a debt described in section 803(5)(B), such amount is—

“(i) reasonable in relation to the actual costs of the collection;

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

“(iii) not greater than 10 percent of the amount collected by the debt collector.”.

**SEC. 5. GOVERNMENT ACCOUNTABILITY OFFICE STUDY AND REPORT.**

(a) **STUDY.**—The Comptroller General of the United States shall commence a study on the use of debt collectors by State and local government agencies, including—

- (1) the powers given to the debt collectors by Federal, State, and local government agencies;
- (2) the contracting process that allows a Federal, State, or local government agency to award debt collection to a certain company, including the selection process;
- (3) any fees charged to debtors in addition to principal and interest on the outstanding debt;
- (4) how the fees described in paragraph (3) vary from State to State;
- (5) consumer protection at the State level that offer recourse to those whom debts have been wrongfully attributed;
- (6) the revenues received by debt collectors from Federal, State, and local government agencies;
- (7) the amount of any revenue sharing agreements between debt collectors and Federal, State, and local government agencies;
- (8) the difference in debt collection procedures across geographic regions, including the extent to which debt collectors pursue court judgments to collect debts; and
- (9) any legal immunity or other protections given to the debt collectors hired by State and local government agencies, including whether the debt collectors are subject to the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.).

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the completed study required under subsection (a).

**PURPOSE AND SUMMARY**

On September 19, 2019, Representative Emanuel Cleaver, II (D–MO) introduced H.R. 4403, the “Stop Debt Collection Abuse Act of 2019,” which extends the protections in the Fair Debt Collection Practices Act (FDCPA) as it relates to debt owed to a federal agency, and limits the fees debt collectors can charge. The legislation clarifies that debt buyers are subject to FDCPA and requires a GAO study on the use of debt collectors by state and local government agencies. Representative French Hill (R–AK) was the Republican sponsor of the bill.

**BACKGROUND AND NEED FOR LEGISLATION**

Currently, the FDCPA makes it illegal for debt collectors to use abusive, unfair, or deceptive practices when collecting debts from consumers. As discussed at a September 2019 House Financial Services Committee hearing on debt collection practices,<sup>1</sup> the FDCPA currently does not apply to debt collectors hired by federal government entities. At the hearing, April Kuehnhoff from the National Consumer Law Center testified that extending FDCPA to debt collectors hired by federal government entities is especially important because, “collection by, or on behalf of, the government is already unusually coercive as a result of the government’s police power and other means of seizing citizens’ assets.”<sup>2</sup> Therefore, this legislation would close that loophole by amending the FDCPA to make clear that protections from certain debt collection practices

<sup>1</sup> Subcommittee on Consumer Protection and Financial Institutions hearing, “Examining Legislation to Protect Consumers and Small Business Owners from Abusive Debt Collection Practices,” Sep. 26, 2019.

<sup>2</sup> See Testimony of April Kuehnhoff, National Consumer Law Center before Subcommittee on Consumer Protection and Financial Institutions hearing, “Examining Legislation to Protect Consumers and Small Business Owners from Abusive Debt Collection Practices,” at 38, Sep. 26, 2019.

also apply to debt collection agents hired by the federal government.

Debt collection is one of the top complaints the CFPB hears about on an annual basis. In 2019 alone, the CFPB handled approximately 75,200 debt collection complaints related to first-party and third-party collections, one of the most complaints by volume received by the Bureau.<sup>3</sup> Within debt collection complaints, the most common complaint from consumers was that a company was attempting to collect a debt that the consumer didn't even owe. The next two most common complaint issues were, respectively, a lack of written notifications about the debt, and taking or threatening a negative or legal action when it was not warranted.

Debt collection lawsuits are another pressing problem that was discussed during the committee hearing. The National Consumer Law Center found that debt collectors obtain default judgments against consumers in an overwhelming majority of debt collection cases.<sup>4</sup> Incredibly, very often these judgments occur without debt collectors having to present any substantive evidence. Debt collectors prey on vulnerable consumers, including African-American and Hispanic households. A recent investigation showed that in the three cities of Chicago, Newark, and St. Louis, the rate of judgments in debt collection lawsuits was two times as high in African-American neighborhoods as compared to White neighborhoods.<sup>5</sup> Furthermore, the Urban Institute recently found that 71 million consumers had a debt in collection showing up on their credit report, which is nearly a third of all adults with credit reports.<sup>6</sup> The Committee witnesses testified about how being subject to debt collection can cause immense stress and uncertainty, especially when a consumer is subject to harassment through threats of a lawsuit or some other type of negative action against the consumer.

This legislation makes clear that overpayment, fines, penalties, and fees owed by private individuals to federal government entities would be considered "consumer debts" that fall under the FDCPA's protections. This legislation also prevents private debt collectors from charging exorbitant and unfair fees, and it would ensure that fees from debt collectors working on behalf of the federal government cannot be greater than a certain percentage of the amount collected, and that the amount is reasonable. This legislation also confirms that debt buyers are debt collectors for the purposes of the FDCPA, and it sets forth requirements that would prevent debt collectors from taking aggressive action unnecessarily quickly after a debt has allegedly gone unpaid.

This legislation will create a level playing field by extending the FDCPA's consumer protections to include those companies collecting on debt owed to a federal agency. The bill curbs excessive fees debt collectors can charge, and it requires a GAO study on the use of debt collectors by state and local government agencies, so we

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<sup>3</sup>CFPB, Consumer Financial Protection Bureau Releases Report on 2019 Administration of the Fair Debt Collection Practices Act; Announces Extension of Comment Period (Mar. 20, 2020), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-releases-2019-administration-fair-debt-collection-practices-act-report>.

<sup>4</sup>National Consumer Law Center, Consumer Debt Collection Facts (Feb. 2018), <https://www.nclc.org/issues/consumer-debt-collection-facts.html>.

<sup>5</sup>ProPublica, The Color of Debt: How Collection Suits Squeeze Black Neighborhoods (Oct. 8, 2020) <https://www.propublica.org/article/debt-collection-lawsuits-squeeze-black-neighborhoods>.

<sup>6</sup>Urban Institute, 71 million US adults have debt in collections (Jul. 19, 2018) <https://www.urban.org/urban-wire/71-million-us-adults-have-debt-collections>.

can see how these types of debts are collected, informing future efforts to strengthen protections for consumers.

The legislation is similar to a bipartisan bill from the 115th Congress, H.R. 864, that was sponsored by former Reps. Mia Love and Keith Ellison as well as Reps. Cleaver and Hill. Furthermore, this legislation is supported by over 20 civil rights and consumer rights groups, including Americans for Financial Reform, Allied Progress, California Reinvestment Coalition, Consumer Action, Consumer Federation of America, Consumer Reports, Florida Alliance for Consumer Protection, Illinois Asset Building Group, Legal Services of New Jersey, Maryland Consumer Rights Coalition, NAACP, National Association of Consumer Advocates, National Center for Law and Economic Justice, National Consumer Law Center, Public Citizen, Public Justice Center, Public Law Center, Statewide Poverty Action Network, and Tennessee Citizen Action.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section provides that H.R. 4403 may be cited as the “Stop Debt Collection Abuse Act of 2019”.

##### *Section 2. Definitions*

Section 2 amends Section 803 of the Fair Debt Collection Practices Act to make certain technical edits, and to include, as part of the definition of debt, any obligation or alleged obligation by a consumer to pay a loan, an overpayment, a fine, a penalty, a fee, or other money currently or originally owed to a Federal agency that is past due for a certain length of time.

##### *Section 3. Debt collection practices for debt collectors hired by government agencies*

Section 3 amends the FDCPA to place a limitation on Federal agencies that are creditors to sell or transfer a debt covered by this legislation for a certain period of time. This section also requires the Federal agency to notify the consumer not fewer than 3 times when a debt is transferred or sold, and requires these notices to not be sent out less than 30 days apart.

##### *Section 4. Unfair practices*

Section 4 amends Section 808 of the FDCPA to require that collections of any covered account can only occur when expressly authorized by the agreement creating the debt or permitted by law. Furthermore, when the amount is charged by the debt collector, this section requires that the charge is reasonable in relation to the actual costs of the collection, authorized by a contract between the debt collector and the Federal agency, and not greater than a certain percent of the amount collected by the debt collector.

##### *Section 5. GAO study and report*

Section 5 requires the Government Accountability Office (GAO) to conduct a study on the use of debt collectors by State and local government agencies, and submit, within one year of enactment of this legislation, a report to Congress on the completed study.

## HEARINGS

For the purposes of section 103(i) of H. Res. 6 for the 116th Congress, on September 26, 2019, the Committee on Financial Services held a hearing entitled, “Examining Legislation to Protect Consumers and Small Business Owners from Abusive Debt Collection Practices” to discuss ten bills, including seven discussion drafts. H.R. 4403 was considered. This single-panel hearing included the following witnesses: the Honorable Rohit Chopra, Commissioner, Federal Trade Commission; Rev. Dr. Cassandra Gould, Pastor, Quinn Chapel A.M.E. Church and Executive Director, Missouri Faith Voices; Ms. Bhairavi Desai, Executive Director, New York Taxi Workers Alliance; Ms. April Kuehnhoff, Staff Attorney, National Consumer Law Center; Professor Dalié Jiménez, Professor of Law, University of California, Irvine School of Law; Ms. Sarah Auchterlonie, Shareholder, Brownstein Hyatt Farber Shreck; and Mr. John H. Bedard, Jr., Owner, Bedard Law Group, P.C.

## COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on November 13, 2019, and ordered H.R. 4403 to be reported favorably to the House without an amendment in the nature of a substitute by a unanimous recorded vote of 54 yeas and 0 nays, a quorum being present.

## COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee’s consideration of H.R. 4403:

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>	X	
	Mrs. Maloney	X	
	Ms. Velázquez	X	
	Mr. Sherman	X	
	Mr. Meeks	X	
	Mr. Clay	X	
	Mr. Scott	X	
	Mr. Green	X	
	Mr. Cleaver	X	
	Mr. Perlmutter	X	
	Mr. Himes	X	
	Mr. Foster	X	
	Mrs. Beatty	X	
	Mr. Heck	X	
	Mr. Vargas	X	
	Mr. Gottheimer	X	
	Mr. Gonzalez (TX)	X	
	Mr. Lawson	X	
	Mr. San Nicolas		
	Ms. Tlaib	X	
	Ms. Porter	X	
	Ms. Axne	X	
	Mr. Casten	X	
	Ms. Pressley	X	
	Mr. McAdams	X	
	Ms. Ocasio-Cortez		
	Ms. Wexton	X	
	Mr. Lynch	X	
	Ms. Gabbard		
	Ms. Adams	X	
	Ms. Dean	X	
	Mr. Garcia (IL)	X	
	Ms. Garcia (TX)	X	
	Mr. Phillips	X	
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	Mr. McHenry, <i>Ranking Member</i>	X	
	Mrs. Wagner	X	
	Mr. King		
	Mr. Lucas		
	Mr. Posey	X	
	Mr. Luetkemeyer	X	
	Mr. Huizenga	X	
	Mr. Stivers	X	
	Mr. Barr	X	
	Mr. Tipton	X	
	Mr. Williams	X	
	Mr. Hill	X	
	Mr. Emmer	X	
	Mr. Zeldin	X	
	Mr. Loudermilk	X	
	Mr. Mooney	X	
	Mr. Davidson	X	
	Mr. Budd	X	
	Mr. Kustoff	X	
	Mr. Hollingsworth	X	
	Mr. Gonzalez (OH)	X	
	Mr. Rose	X	
	Mr. Steil	X	
	Mr. Gooden	X	
	Mr. Riggleman	X	
	Mr. Timmons		
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**Committee on Financial Services**

Full Committee  
116th Congress (1st Session)

Date: 11/13/2019

Measure H.R. 4403

Amendment No.

Offered by: Mr. Cleaver, as amended

Agreed To	Yes	No	Prsnt	Wdrn
Voice Vote	Ayes		Nays	

Record Vote	FC
	54 Ayes- 0 Nays

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF  
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 4403 are to extend the protections in the Fair Debt Collection Practices Act (FDCPA) as it relates to debt owed to a federal agency, and to limit the fees debt collectors can charge. The legislation also clarifies that debt buyers are subject to FDCPA and requires a GAO study on the use of debt collectors by state and local government agencies.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has requested an estimate for H.R. 4403 from the Director of the Congressional Budget Office. CBO was unable to provide an estimate in a timely manner.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 4403. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*, which is attached. After careful review, including discussions with CBO, and after consulting with debt collection experts, the Committee estimates that this legislation will have an insignificant effect on spending, due to the fact that the percent cap on fees applies to only debts that are charged by a debt collector, and not by the Federal agency.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee does not believe H.R. 4403, as amended, contains any unfunded mandates and adopts any future estimate in this regard prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104–1, H.R. 4403, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 4403 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 4403 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 4403, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**FAIR DEBT COLLECTION PRACTICES ACT**

\* \* \* \* \*

**TITLE VIII—DEBT COLLECTION PRACTICES**

Sec.

801. Short title.

\* \* \* \* \*

812. Furnishing certain deceptive forms.

*812A. Debt collection practices for debt collectors hired by Federal agencies.*

\* \* \* \* \*

**§ 803. Definitions**

As used in this title—

- (1) The term “Bureau” means the Bureau of Consumer Financial Protection.

(2) The term “communication” means the conveying of information regarding a debt directly or indirectly to any person through any medium.

(3) The term “consumer” means any natural person obligated or allegedly obligated to pay any debt.

(4) The term “creditor” means any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of [facilitating collection of such debt for another] *collection of such debt.*

[(5) The term “debt” means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.]

(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 which 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, a penalty, a fee, or other money currently or originally owed to a Federal agency; and*

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

(6) [The term “debt collector” means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.] *The term “debt collector” means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts; who regularly collects or attempts to collect, directly or indirectly, by the person’s 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 who regularly collects debts currently or originally owed or allegedly owed to a Federal agency.* Notwithstanding the exclusion provided by clause (F) of the last sentence of this paragraph, the term includes 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. For the purpose of section 808(6), such term also 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. The term does not include—

(A) any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

(B) any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

(C) any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties;

(D) any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

(E) any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors;

(F) 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.

(7) The term “location information” means a consumer’s place of abode and his telephone number at such place, or his place of employment.

(8) The term “State” means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

\* \* \* \* \*

**§ 808. Unfair practices**

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

【(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.】

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

*(A) such amount is expressly authorized by the agreement creating the debt or permitted by law; and*

*(B) in the case of any amount charged by a debt collector collecting a debt described in section 803(5)(B), such amount is—*

*(i) reasonable in relation to the actual costs of the collection;*

(ii) authorized by a contract between the debt collector and the Federal agency; and

(iii) not greater than 10 percent of the amount collected by the debt collector.

(2) The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the debt collector's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.

(3) The solicitation by a debt collector of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.

(4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.

(5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if—

(A) there is no present right to possession of the property claimed as collateral through an enforceable security interest;

(B) there is no present intention to take possession of the property; or

(C) the property is exempt by law from such dispossession or disablement.

(7) Communicating with a consumer regarding a debt by post card.

(8) Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.

\* \* \* \* \*

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

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

(b) *REQUIRED NOTICE.*—

(1) *IN GENERAL.*—Before transferring or selling a debt described in section 803(5)(B) to a debt collector or contracting with a debt collector to collect such a debt, a Federal agency shall notify the consumer not fewer than 3 times that the Federal agency will take such action.

(2) *FREQUENCY OF NOTIFICATIONS.*—The second and third notifications described in paragraph (1) shall be made not less

*than 30 days after the date on which the previous notification  
is made.*

\* \* \* \* \*

## MINORITY VIEWS

Committee Republicans believe consumers who owe a debt should be protected from abusive practices or harassment by debt collectors. This includes consumers who owe a debt to the federal government.

In the November 2019 Financial Services Committee markup, Committee Republicans supported H.R. 4403, which extended the protections set out in the Fair Debt Collection Practices Act (FDCPA) to debt collected by the federal government. However, Committee Democrats did not act on the bill for more than a year after it was reported out of the Financial Services Committee by a vote of 54–0.

During the intervening twelve months, the Consumer Financial Protection Bureau (CFPB) issued its final Debt Collection Practices Rule (Rule). The Rule is the result of more than seven years of research and analysis conducted by the CFPB. It sets forth clear rules of the road for both consumers and debt collection agencies outlining acceptable communications. However, in promulgating its final Rule, the CFPB declined to extend the definition of debt and debt collectors to include creditors, debt buyers, or federal agency debt. This put H.R. 4403 in conflict with the Rule.

Committee Republicans support the CFPB's Rule, including the definition of debt and debt collector. The Rule reflects the technical precision needed to ensure that both consumers and debt collectors are protected.

Committee Republicans encourage Democrats to amend H.R. 4403 to ensure consistency with the CFPB's Rule. Moreover, without such an amendment, Committee Republicans are concerned H.R. 4403 may impact issues, like federal student loan debt, which is outside this Committee's jurisdiction and better addressed by the Committee on Education and Labor.

For these reasons, Committee Republicans must oppose H.R. 4403.

PATRICK T. MCHENRY.  
BILL POSEY.  
BILL HUIZENGA.  
ANN WAGNER.  
SCOTT R. TIPTON.  
J. FRENCH HILL.  
LEE M. ZELDIN.  
ALEXANDER X. MOONEY.  
TED BUDD.  
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