



Chairman Phil Mendelson

AN AMENDMENT

Bill 24-348, "Protecting Consumers from Unjust Debt Collection Practices
Temporary Amendment Act of 2021"
(Engrossed Version)
August 3, 2021

(a) Paragraph (4) of subsection (d) is amended to read as follows:

"(4) communicating with the consumer or any member of the consumer's family or household in such a manner that can reasonably be expected to abuse or harass the consumer, including, but not limited to communications at an unreasonable hour or with unreasonable frequency, or by making in excess of three phone calls, inclusive of all phone numbers and accounts the creditor or debt collector has for the consumer, in any 7-day period. The limit of three calls in any 7-day period shall not apply to calls made to a debt collector by a consumer or to a single completed call made by a debt collector to the consumer's request for a returned phone call."

Rationale: This amendment clarifies that calls initiated by the consumer, or made by a debt collector at the request of a consumer, do not count toward the call limit of three calls in any 7-day period.

(b) Subsection (m) is amended as follows:

(1) Subparagraph (F) is amended to read as follows:

"(F) An itemized accounting of the amount claimed to be owed, including the amount of the principal; the amount of any interest, fees or charges; and whether the charges were imposed by the original creditor, a debt collector, or a subsequent owner of the debt. recent monthly statement recording a purchase transaction, last payment, or balance transfer. If the debt arises from a credit card, the itemized accounting shall be measured from the charge-off balance and shall include copies of the charge-off statement and the most recent monthly statement recording a purchase transaction, last payment, or balance transfer. ~~If the debt arises from a credit card, the account shall include the last twenty-four (24) periodic statements required by the Truth in Lending Act, 15 U.S.C. § 1637(b), that evidence the transactions, purchases, fees and charges that comprise the debt.~~"

Rationale: Striking this language ensures that consumers receive relevant information regarding their debt obligation, including any fees, etc., without receiving a large volume of statements or

paperwork. The additional language is necessary for credit card debt due to limitations on what information banks can feasibly provide to debt collectors.

(2) Paragraph (2) of subsection (m) is amended to read as follows:

~~“(2) A debt collector shall provide the information or documents identified in paragraph (1) of this subsection to the consumer in writing within 5 days after the initial communication with the consumer and shall cease all collection of the consumer debt until such information is provided.”~~

“(2) In the first written communication with the consumer, a debt collector shall provide written notice to the consumer that the consumer may request that the debt collector provide the information or documents identified in paragraph (1) of this subsection to the consumer. The notice shall state, in boldface type which is a minimum of 12-point type, the following statement:

“You have the right to request all of the following concerning your debt:

(1) Documentation of the name of the original creditor as well as the name of the current creditor or owner of your debt;

(2) Your last account number with the original creditor;

(3) A copy of the signed contract, signed application, or other documents providing evidence of your liability and its terms;

(4) The date that your debt was incurred;

(5) The date of your last payment, if applicable; and

(6) An itemized accounting of the amount claimed to be owed including the amount of the principal, the amount of any interest, fees, or charges, and whether the charges were imposed by the original creditor, a debt collector, or a subsequent owner of the debt.

You may request the above information by contacting us by phone, mail, or email, at the following:”

The notice shall list the debt collector’s phone number, mailing address, and email address for receipt of such requests for information immediately following the above statement, in the same typeface as the statement. The debt collector shall cease all collection of the consumer debt until the above notice is provided to the consumer in writing. Upon receipt of a request by a consumer for any of the information identified in paragraph (1) of this subsection, the debt collector shall provide all of the information listed in paragraph (1) of this subsection to the consumer in writing within 15 days of receipt of the request. If the debt collector cannot provide the information listed in paragraph (1) within 15 days, the debt collector shall cease all collection of the consumer debt until such information is provided.”.

Rationale: The amended language requires debt collectors to send a notice to consumers a notice that the information in subsection (m)(1) can be requested, rather than having the debt collector send this information unsolicited after an initial communication.

(e) Subsection (s) is amended to read as follows:

“(s) In a cause of action initiated by a debt collector to collect a consumer debt, prior to entry of a default judgment or summary judgment against a consumer, the plaintiff shall file a copy of the assignment or other writing establishing that the plaintiff is the owner of the debt. If the debt has been assigned more than once, then each assignment or other writing evidencing transfer of ownership must be attached to establish an unbroken chain of ownership. The plaintiff shall state (i) the date on which the debt was sold or assigned to the plaintiff; (ii) the name of each previous owner of the account from the original creditor to the plaintiff and the date on which the debt was assigned to that owner by the original creditor or subsequent owner; and (iii) the amount due at the time of the sale or assignment of the debt by the original creditor. ~~Each assignment or other writing evidencing transfer of ownership must contain the last four digits of the original account number of the debt purchased and must clearly show the debtor's name associated with that account number.~~”

Rationale: Existing agreements governing the sale of debt may not contain assignment documents which provide the “original account number,” which would make it difficult for debt collectors to comply. The added language ensures debt collectors provide the court with enough information to establish chain of ownership.

(d) Subsection (u) is amended to read as follows:

“(u) A debt buyer or debt collector that violates any provision of this section with respect to a consumer ~~shall~~ **may** be liable to the consumer for the following:

“(1) Actual damages;

“(2) Costs and reasonable attorney's fees;

“(3) Punitive damages;

“(4)(A) If the consumer is an individual, the court may award an additional penalty in an amount not less than \$500 ~~per violation~~ and not to exceed \$4,000 ~~per violation~~; or

“(B) In the case of a class action, the amount for each named plaintiff as could be recovered under paragraph (4) of this subsection and an amount as the court may determine for each class member, not exceeding the amount per person that could be recovered under paragraph (4) of this subsection times the number of class members; and

“(5) Any other relief which the court determines proper.

Rationale: This amendment corrects a technical error by replacing “shall” with “may” and removes the “per violation” language, as it is inconsistent with current law.

(e) Existing section 3 is redesignated as section 4, and existing section 4 is redesignated as section 5. A new section 3 is added to the bill to read as follows:

“Sec. 3. Applicability.

“The provisions of this bill shall apply as of October 1, 2021.”.

Rationale: To help residents struggling during with the effects of the COVID-19, the Council halted all debt collection processes during the public health emergency and for 60 days after, including the initiation of any communication with a debtor. Creditors attempting to collect their own debt were exempted from some of these prohibitions, however. To give time to creditors to come into compliance, this amendment delays applicability of the bills provisions until October 1, 2021.