

CFPB's Debt Collection Rule Misses Critical Opportunities to Protect Consumers

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Nearly One-Third of U.S. Adults with a Credit Report Have Debt in Collection

WASHINGTON, D.C. – The National Consumer Law Center, on behalf of its low income clients, along with Americans for Financial Reform Education Fund, Consumer Federation of America, and the National Association of Consumer Advocates, expressed disappointment that the Consumer Financial Protection Bureau's second part of its final debt collection rule does not go far enough to provide needed consumer protections on key issues. Advocates urge the Biden Administration to revisit the rule and strengthen protections for consumers and give emergency relief on COVID-related debt collection issues to help struggling families.

The portion of the rule finalized today is focused on consumer disclosures. The rules made some improvements for consumers but fell short on many protections consumers desperately need. For example:

- **Time-barred (“zombie”) debt collection:** The final rule prohibits suing and threatening to sue on time-barred debt. In an improvement from the draft proposal, the rule holds collectors to the Fair Debt Collection Practice Act's strict liability standard and abandons the weaker “know or should know” standard that the CFPB previously proposed. The Bureau also opted not to finalize time-barred debt disclosures that showed high rates of non-comprehension by consumer testers. However, the rules fall short of the needed prohibition on the collection of time-barred debt, leaving debt collectors free to pursue collection of debts beyond the statute of limitations. The rule also permits such collection activities without including the prohibition against filing lawsuits on debts after consumers inadvertently revive a time-barred debt with a small payment or acknowledgment, which was in the 2016 outline of proposals.
- **Language access:** The final rule allows debt collectors to provide translated validation notices to consumers, but it does not require collectors to provide translations, or even to require a short statement in Spanish explaining what the document is. The Bureau has also failed to provide translation of the model validation notice into the languages most commonly spoken by consumers with limited English proficiency, although a Spanish translation is promised before the rule's effective date.
- **Validation notices:** The CFPB has expanded the amount of information that must be provided to consumers in the initial validation notice and created a model validation notice for consumers. Unfortunately, the notice adopted is still likely to be confusing to many consumers and needs further testing and improvements.
- **Parking debts:** The final rule includes a prohibition on parking debts on a consumer's credit report without first providing notice of the alleged debt to the consumer. However, new communication rules from the first part of the final debt collection rules raise concerns about consumers missing such notices, especially if sent electronically without the consumer's consent.

“While there are some wins for consumers, the final rules do not go far enough to provide the protections that struggling families need in the current economic crisis, including Black and Latinx consumers who are disproportionately impacted by debt collection;” **said National Consumer Law Center attorney April Kuehnhoff.**

“This two-part rule doesn’t do enough to protect consumers, **said Rachel Gittleman, financial services outreach manager with the Consumer Federation of America.** “We are in the midst of a global pandemic with vast financial implications for American families. Consumers are in desperate need of more protections, and this rule simply falls short. More protections are needed to adequately protect consumers during this crisis.”

“The Bureau could have done much more in its two-part debt collection rulemaking to protect American families, such as simply stopping excessive collector calls and emails, and banning collection of old, expired debt, which often can no longer be verified or proven,” **said Christine Hines, legislative director at National Association of Consumer Advocates.** “Let’s hope the Bureau will revisit the rule in the near future and implement stronger safeguards against entrenched collection abuses.”

“As we face a dire and worsening economic crisis, allowing collectors to collect ‘zombie debt’ could leave consumers more vulnerable to deception and harassment,” **said Linda Jun, senior policy counsel at Americans for Financial Reform Education Fund.** “Collectors should not be allowed to bring expired debt back to life by luring people into making a small payment that revives a debt that would otherwise be past the timeline for a lawsuit.”

The debt collection rule will impact at least 68 million people in the United States. The Urban Institute has documented that, even before the COVID-19 pandemic, 31% of adults in the United States with credit reports have debt in collection. That number goes up to 42% for those residing in communities of color.

Related Links

- **NCLC:** How Congress and the CFPB Can Protect Americans from Abusive Debt Collection
- **NCLC:** COVID-19 Medical Debt: First 100 Day Priorities for the Biden Administration