

105TH CONGRESS
1ST SESSION

H. R. 1059

To amend the Fair Debt Collection Practices Act to reduce the cost of credit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 1997

Mr. BACHUS introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To amend the Fair Debt Collection Practices Act to reduce the cost of credit, and for other purposes.

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 “Credit Cost Reduction
5 Act of 1997”.

6 **SEC. 2. EXEMPTION FOR COMMUNICATIONS INVOLVING**
7 **LEGAL PROCEEDINGS.**

8 Section 803(2) of the Fair Debt Collection Practices
9 Act (15 U.S.C. 1692a(2)) is amended by adding at the

1 end the following new sentence: “Such term does not in-
2 clude actions taken pursuant to the Federal Rules of Civil
3 Procedure; in the case of a proceeding in a State court,
4 the rules of civil procedure available under the laws of
5 such State; or a nonjudicial foreclosure.”.

6 **SEC. 3. COLLECTION ACTIVITY FOLLOWING INITIAL NO-**
7 **TICE.**

8 Section 809 of the Fair Debt Collection Practices Act
9 (15 U.S.C. 1692(g)) is amended by adding at the end the
10 following new subsection:

11 “(d) CONTINUATION DURING PERIOD.—Collection
12 activities and communications may continue during the
13 30-day period described in subsection (a) unless the
14 consumer requests the cessation of such activities.”.

15 **SEC. 4. LIABILITY FOR NONCOMPLIANCE.**

16 (a) CLARIFICATION OF LIMITATION ON CLASS AC-
17 TION AWARDS.—Section 813(a)(2)(B) (15 U.S.C.
18 1692k(a)(2)(B)) is amended—

19 (1) by inserting “or any series of class actions
20 arising out of the same violations by the same debt
21 collector” after “case of a class action”; and

22 (2) by inserting “of such class action or series
23 of class actions” after “all other class members”.

24 (b) ATTORNEYS FEES TO ENFORCE CIVIL LIABIL-
25 ITY.—Paragraph (3) of section 813(a) of the Fair Debt

1 Collection Practices Act (15 U.S.C. 1692k(a)) is amended
2 to read as follows:

3 “(3) subject to subsection (f), in the case of a
4 successful action to enforce a liability under para-
5 graph (1) or (2), the costs of the action, including
6 reasonable attorney’s fees, as determined by the
7 court, in an amount not to exceed the amount
8 awarded in such action under the applicable para-
9 graph.”.

10 (c) RULES APPLICABLE TO CERTAIN ACTIONS.—Sec-
11 tion 813 of the Fair Debt Collection Practices Act (15
12 U.S.C. 1692k) is amended by adding at the end the follow-
13 ing new subsection:

14 “(f) RULES APPLICABLE TO ACTIONS UNDER THIS
15 TITLE.—Notwithstanding any other provision of law, in
16 any action arising under this title, for purposes of Rule
17 68 of the Federal Rules of Civil Procedure, the following
18 provisions shall apply:

19 “(1) PLAINTIFF’S ATTORNEY’S FEES.—Costs
20 shall include reasonable fees for the plaintiff’s attor-
21 ney.

22 “(2) DISALLOWANCE OF CERTAIN FEES ACCRU-
23 ING AFTER REFUSAL OF SETTLEMENT OFFER.—In
24 accordance with Rule 68 of the Federal Rules of
25 Civil Procedure, if—

1 “(A) an offer is made by the debt collector
2 to a consumer bringing an action (including any
3 class action or series of class actions referred to
4 in subsection (a)(2)(B)) under this title, and
5 the offer is not accepted; and

6 “(B) the amount of the final judgment
7 awarded to the consumer (or, in the case of a
8 class action or series of class actions, the total
9 amount awarded to all class members in such
10 class action or series of class actions) is less
11 than or equal to the amount of the offer re-
12 ferred to in subparagraph (A),

13 the consumer (or the class with regard to a class ac-
14 tion or series of class actions) may not be awarded
15 or otherwise recover costs for attorney’s fees in-
16 curred after the date such offer is rejected.”.

17 (d) FACTORS FOR CONSIDERATION.—Section 813(b)
18 of the Fair Debt Collection Practices Act (15 U.S.C.
19 1692k(b)) is amended—

20 (1) in the portion of such subsection which pre-
21 cedes paragraph (1), by striking “liability in any ac-
22 tion” and inserting “any award”; and

23 (2) by striking paragraph (1) and inserting the
24 following new paragraph:

1 “(1) In any action under subsection (a)(2)(A), the
2 frequency and persistence of noncompliance by the debt
3 collector, the nature of such noncompliance, the extent to
4 which the such noncompliance was intentional, and the
5 amount of actual damages awarded; or”.

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