

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 706 (Hurtado)
Version: March 24, 2025
Hearing Date: April 22, 2025
Fiscal: Yes
Urgency: No
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SUBJECT

Consumer debt: charged-off debts

DIGEST

This bill requires consumers to be notified when a creditor sells or assigns a charged-off consumer debt and limits such assignments or sales to one year after the charge off. This bill adjusts the relevant statute of limitations for actions to recover a charged-off consumer debt.

EXECUTIVE SUMMARY

Federal and state laws place various documentation and notification requirements and protections for borrowers related to the practices of debt collection and debt purchasing. The Fair Debt Buying Practices Act (FDBPA) provides protections to consumers whose charged-off debts were sold to a debt buyer. Among them, it prohibits a debt buyer from bringing suit or initiating an arbitration or other legal proceeding to collect a consumer debt if the applicable statute of limitations has expired, and requires a debt buyer to notify a debtor if a debt is time-barred. Currently the statute of limitations for liability on various debts is four years.

This bill amends the FDBPA by requiring consumers to be notified when a creditor sells or assigns a charged-off consumer debt and limiting such assignments or sales to one year after the debt is charged off. This bill sets the statute of limitations for actions to recover a charged-off consumer debt to the earlier of two years after the creditor provides notice of default or delinquency to the consumer or 90 days after charging it off. A debt buyer must bring an action to recover a charged-off debt within one year of charge off.

This bill is author-sponsored. No timely support has been received. It is opposed by the California Credit Union League. Should the bill pass out of this Committee, it will next be heard in the Senate Banking and Financial Institutions Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the FDBPA, which defines “debt buyer” as a person or entity that is regularly engaged in the business of purchasing charged-off consumer debt for collection purposes, whether it collects the debt itself, hires a third party for collection, or hires an attorney-at-law for collection litigation. “Charged-off consumer debt” means a consumer debt that has been removed from a creditor’s books as an asset and treated as a loss or expense. (Civ. Code § 1788.50 et seq.)
- 2) Prohibits, under the FDBPA, a debt buyer from making any written statement to a debtor in an attempt to collect a consumer debt unless the debt buyer possesses the following information:
 - a. that the debt buyer is the sole owner of the debt at issue or has authority to assert the rights of all owners of the debt;
 - b. the debt balance at charge off and an explanation of the amount, nature, and reason for all post-charge-off interest and fees, if any, imposed by the charge-off creditor or any subsequent purchasers of the debt. This paragraph shall not be deemed to require a specific itemization, but the explanation shall identify separately the charge-off balance, the total of any post-charge-off interest, and the total of any post-charge-off fees;
 - c. the date of default or the date of the last payment;
 - d. the name and an address of the charge-off creditor at the time of charge off, and the charge-off creditor’s account number associated with the debt. The charge-off creditor’s name and address shall be in sufficient form so as to reasonably identify the charge-off creditor;
 - e. the name and last known address of the debtor as they appeared in the charge-off creditor’s records prior to the sale of the debt. If the debt was sold prior to January 1, 2014, the name and last known address of the debtor as they appeared in the debt owner’s records on December 31, 2013, shall be sufficient;
 - f. the names and addresses of all persons or entities that purchased the debt after charge off, including the debt buyer making the written statement. The names and addresses shall be in sufficient form so as to reasonably identify each such purchaser; and
 - g. the California license number of the debt buyer. (Civ. Code § 1788.52(a).)
- 3) Provides that civil actions, without exception, can only be commenced within the periods prescribed in Title 2 of Part 2 of the Code of Civil Procedure, after the cause of action shall have accrued, unless where, in special cases, a different limitation is prescribed by statute. (Code Civ. Proc. § 312.)
- 4) Provides that the following actions must be brought within four years:

- a. An action upon any contract, obligation, or liability founded upon an instrument in writing, except as provided; provided, that the time within which any action for a money judgment for the balance due upon an obligation for the payment of which a deed of trust or mortgage with power of sale upon real property or any interest therein was given as security, following the exercise of the power of sale in such deed of trust or mortgage, may be brought shall not extend beyond three months after the time of sale under such deed of trust or mortgage.
 - b. An action to recover (1) upon a book account whether consisting of one or more entries; (2) upon an account stated based upon an account in writing, but the acknowledgment of the account stated need not be in writing; (3) a balance due upon a mutual, open and current account, the items of which are in writing; provided, however, that if an account stated is based upon an account of one item, the time shall begin to run from the date of the item, and if an account stated is based upon an account of more than one item, the time shall begin to run from the date of the last item. (Code Civ. Proc. § 337.)
- 5) Provides that when the period in which an action must be commenced pursuant to the preceding paragraph has run, a person shall not bring suit or initiate an arbitration or other legal proceeding to collect the debt. (Code Civ. Proc. § 337.)
 - 6) Provides that a debt buyer shall not bring suit or initiate an arbitration or other legal proceeding to collect a consumer debt if the applicable statute of limitations on the debt buyer's claim has expired. (Civ. Code Sec. 1788.56.)

This bill:

- 1) Prohibits a charged-off consumer debt from being sold or assigned more than one year after the debt was charged off.
- 2) Requires a charge-off creditor to notify the consumer when the creditor sells or assigns a charged-off consumer debt to a debt buyer.
- 3) Provides that an action shall not be brought to recover a charged-off consumer debt on or after the date that is the earliest of the following:
 - a) Two years after the date the creditor provided a notice of default or delinquency to the consumer.
 - b) 90 days after the debt was charged off.
- 4) Provides, notwithstanding the above, a debt buyer shall not bring an action to recover a charged-off consumer debt after one year from the date the debt was charged off.

COMMENTS

1. Consumer protection laws in connection with consumer debt

The Fair Debt Buying Practices Act (FDBPA) places obligations and restrictions on debt *buyers*. Debt buyers are companies that purchase delinquent or charged-off debts from a creditor for a fraction of the face value of the debt. “Charged-off consumer debt” is defined as a consumer debt that has been removed from a creditor’s books as an asset and treated as a loss or expense. Generally, consumer credit accounts that remain delinquent for 120 to 180 days must be “charged off,” meaning that the issuer can no longer consider the outstanding balance as an asset on its balance sheet.¹

After these companies became subject to increased scrutiny due to numerous complaints on behalf of consumers, SB 233 (Leno and Correa, Ch. 64, Stats. 2013), sponsored by Attorney General Kamala Harris, established the FDBPA. It requires a person who buys delinquent or charged-off consumer debt to maintain certain documentation and requires a debt buyer to provide disclosures to consumers when the buyer attempts to collect debts that are beyond the applicable statute of limitations. The FDBPA prohibits a debt buyer from bringing suit or initiating an arbitration or other legal proceeding to collect a consumer debt if the applicable statute of limitations has expired.

2. Consumer concerns in the debt collection industry

The last few decades have seen a significant increase in the amount of consumer debt-related actions in state courts. With that rise has come increased concerns about whether there are adequate protections for consumer debtors, who are often unrepresented and usually subject to default judgments. A report by Pew stated the stark numbers:

- **Debt claims grew to dominate state civil court dockets in recent decades.** From 1993 to 2013, the number of debt collection suits more than doubled nationwide, from less than 1.7 million to about 4 million, and consumed a growing share of civil dockets, rising from an estimated 1 in 9 civil cases to 1 in 4. In a handful of states, the available data extend to 2018, and those figures suggest that the growth of debt collections as a share of civil dockets has continued to outpace most other categories of cases.

¹ See *Uniform Retail Credit Classification and Account Management Policy: Policy Implementation* (June 20, 2000) Office of the Comptroller of the Currency, <https://occ.gov/news-issuances/bulletins/2000/bulletin-2000-20.html>; *The Consumer Credit Card Market* (October 2023) CFPB, https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2023.pdf. All internet citations are current as of April 14, 2025.

- **People sued for debts rarely have legal representation, but those who do tend to have better outcomes.** Research on debt collection lawsuits from 2010 to 2019 has shown that less than 10 percent of defendants have counsel, compared with nearly all plaintiffs. According to studies in multiple jurisdictions, consumers with legal representation in a debt claim are more likely to win their case outright or reach a mutually agreed settlement with the plaintiff.
- **Debt lawsuits frequently end in default judgment, indicating that many people do not respond when sued for a debt.** Over the past decade in the jurisdictions for which data are available, courts have resolved more than 70 percent of debt collection lawsuits with default judgments for the plaintiff. Unlike most court rulings, these judgments are issued, as the name indicates, by default and without consideration of the facts of the complaint – and instead are issued in cases where the defendant does not show up to court or respond to the suit. The prevalence of these judgments indicates that millions of consumers do not participate in debt claims against them.
- **Default judgments exact heavy tolls on consumers.** Courts routinely order consumers to pay accrued interest as well as court fees, which together can exceed the original amount owed. Other harmful consequences can include garnishment of wages or bank accounts, seizure of personal property, and even incarceration.²

A report by the Center for Responsible Lending (CRL) points to modest success in certain areas of concern. However, the report also found that the above issues affecting the nation are just as omnipresent in California:

[D]efault judgment rates, rates of representation, and the lack of documentation provided in collections cases still show that the decks remain stacked in favor of debt buyers and against consumers. Debt buyers in California continue to abuse the court system to pursue likely document-unsupported debts, and California borrowers are still at risk of default judgments and garnishments that will force them to pay debts they may not owe. On the one hand, the CFDBPA may have been one factor contributing to the decline in the total number of case filings and the decline in filings by top debt collectors, and the legislation likely led to a modest increase in cases that were supported by minimum required documentation. On the other hand, case filings were likely down for macroeconomic reasons, filings have been inching upwards in more recent

² *How Debt Collectors Are Transforming the Business of State Courts* (May 6, 2020) Pew Charitable Trusts, <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/how-debt-collectors-are-transforming-the-business-of-state-courts> [as of Apr. 12, 2025]. Emphasis in original.

years, and case documentation remains insufficient in the majority of all cases.

Among the key findings of the report:

- **Consumer complaints continue to highlight debt collection in California as a major problem.** Complaints about debt collection still represent one in five complaints submitted to the Consumer Financial Protection Bureau (CFPB), and thousands of complaints are submitted each year on the topic. Analysis of the complaints reveals that one in every four complainants allege that the debt is not theirs, indicating serious and persistent documentation problems.
- **Almost two out of every three cases that were resolved resulted in default judgments in favor of the plaintiff.** For resolved cases not subject to the CFDBPA, the default judgment rate was 63.7%, and for those cases subject to the CFDBPA, the default judgment rate was 66.3%. Collections after a default judgment occur both voluntarily and involuntarily, and 27% of all cases ended in wage garnishment, an involuntary payment that is taken directly from a person's wages. Almost one-third of cases were dismissed, and failure to provide notice was the most common reason for dismissal. Cases were dismissed for lack of proper documentation only 4% of the time, and consumers mounted successful defenses in only 2% of cases.
- **Defendants are almost never represented in court.** Over 98% of defendants did not have representation by an attorney. In the small number of cases where defendants had attorneys, the case was dismissed 100% of the time. When consumers represented themselves, their cases were dismissed 70% of the time, a worse outcome than for those who were represented by attorneys, but a better outcome than for those who never appeared in court.
- **Debt buyers continue to win cases without sufficient documentation.** A majority of cases (61%) were filed without the minimum documentary evidence required by statute. Furthermore, the evidence provided in some cases was insufficient to establish proof of debt. Almost one in four default judgments were granted in cases where the minimum required documentation was not provided, suggesting that evidentiary requirements were not reliably enforced even for cases subject to the CFDBPA. Required documentation was less likely to be filed when cases were processed by clerks of court.
- **Documentary evidence is insufficient to establish the validity and ownership of debt.** Although many cases were filed without evidence tying the current person to the correct debt in the correct amount, dismissals due to insufficient documentation are uncommon, representing only 4% of dismissals. Many cases end in default judgment despite their lack of documentation: for cases that were

subject to the CFDBPA, almost 25% of all default judgments were for cases lacking legally required documentation.

3. Changing the law on charged-off debt

According to the author:

Every day, Californians are working to build a better future, yet too many remain trapped by old debts that should have been left behind. Long after an account is charged off, debt buyers purchase these debts for pennies on the dollar — often less than four cents according to the Federal Trade Commission — and pursue consumers for repayment, even when records are incomplete or outdated.

The Congressional Research Service has found that consumers often have no way to verify these claims, leaving them vulnerable to harassment and lawsuits. The Center for Responsible Lending further highlights that collectors can win default judgments simply because consumers are unaware or unable to defend themselves in court, leading to wage garnishments and lasting damage to their credit.

SB 706 brings overdue reform. By limiting the sale or assignment of charged-off debts to one year after charge-off, and requiring creditors to notify consumers when their debt is sold, we close harmful loopholes and bring greater transparency to the process. These changes will reduce the risk of consumers paying debts they do not owe and restore fairness to debt collection practices.

This bill is about protecting hardworking Californians from outdated debts and unfair collection tactics. I respectfully ask for your support.

This bill attempts to limit the sale and assignment of old charged-off consumer debt and actions to collect it. First, it amends the FDBPA to prohibit such debt from being sold or assigned more than one year after the debt was charged off. Next, actions to recover such debt must be brought within two years of the consumer being provided a notice of default or delinquency or 90 days after the debt was charged off, whichever is earlier. Notwithstanding this limitations period, a debt buyer may not bring an action after one year from the date of the charge off.

This means that a creditor has less than three months after removing a consumer debt from its books as an asset to bring an action to recover the debt. The current statute of limitations for recovering such a debt is four years. Although there are very real concerns with poorly documented and delayed actions to recover these debts and the existing four-year limitations period is arguably too long, the changes made by this bill

could potentially trigger a deluge of collection actions, inundating consumers. Furthermore, there is no mechanism that requires creditors to notify consumers of when a debt is charged off.

Writing in opposition, the California Credit Union League argues this bill will undermine the very consumers it is attempting to protect:

We appreciate the well-intentioned goal of SB 706 to help consumers. However, we are concerned that the bill as currently drafted will have unintended consequences and in turn, hurt consumers rather than help them by fast tracking legal action. Most notably, SB 706 would prohibit an action to recover a charged-off consumer debt from being brought on or after the date of the earlier of the following: two years after the date the creditor provided a notice of default or delinquency to the consumer, or ninety days after the debt was charged off. Under current law, the statute of limitations for bringing a civil action to recover a consumer debt is four years. The decrease in the statute of limitations from four years to as little as 90 days after charge off in SB 706 would completely disincentivize credit unions from working with their borrowers and instead ties their hands with the short timeline to recover a charged-off consumer debt. Credit unions, as not-for-profit member-owned financial cooperatives, are committed to helping people and working with their members. Unfortunately, SB 706 will cause collection timelines to move up drastically, negatively impacting a credit union's ability to work with their borrowers.

The bill also provides consumers the right to notice when a creditor sells or assigns charged-off debt to a debt buyer. This measure will provide some transparency to consumers who are not otherwise on notice of such transfers.

SUPPORT

None received

OPPOSITION

California Credit Union League

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 1414 (Kalra, Ch. 688, Stats. 2023) prohibited the use of common counts in actions for collection of consumer debt. It excluded consumer debt from the definition of “book account.”

AB 1526 (Kalra, Ch. 247, Stats. 2018) required debt collectors to provide certain notices to consumers when attempting to collect on time-barred debts. It also provided that the limitations period on commencing actions to collect on certain debts is an outright bar on initiating such proceedings, rather than allowing the expiration of the statute of limitations to serve simply as an affirmative defense.

SB 233 (Leno and Correa, Ch. 64, Stats. 2013) *See* Comment 1.
