

ENDING DEBT COLLECTION HARASSMENT ACT OF 2019

MARCH 19, 2019.—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. 5021]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5021) to amend the Consumer Financial Protection Act of 2010 and the Fair Debt Collection Practices Act to improve consumer protections relating to debt collection practices, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary .....	2
Background and Need for Legislation .....	3
Section-by-Section Analysis .....	3
Hearings .....	4
Committee Consideration .....	5
Committee Votes .....	5
Statement of Oversight Findings and Recommendations of the Committee .....	7
Statement of Performance Goals and Objectives .....	7
New Budget Authority and CBO Cost Estimate .....	7
Committee Cost Estimate .....	9
Unfunded Mandate Statement .....	9
Advisory Committee .....	9
Application of Law to the Legislative Branch .....	9
Earmark Statement .....	9
Duplication of Federal Programs .....	10
Changes to Existing Law .....	10

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 “Ending Debt Collection Harassment Act of 2019”.

**SEC. 2. CONSUMER PROTECTIONS RELATING TO DEBT COLLECTION PRACTICES.**

(a) **REPORTS ON DEBT COLLECTION COMPLAINTS AND ENFORCEMENT ACTIONS.**—

(1) **SEMI-ANNUAL REPORT.**—Section 1016(c) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5496(c)) is amended—

(A) in paragraph (8), by striking “and” at the end;

(B) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(10) an analysis of the consumer complaints received by the Bureau with respect to debt collection, including a State-by-State breakdown of such complaints; and

“(11) a list of enforcement actions taken against debt collectors during the preceding year.”.

(2) **ANNUAL REPORT.**—Section 815(a) of the Fair Debt Collection Practices Act (15 U.S.C. 1692m(a)) is amended by adding at the end the following new sentence: “Each such report shall also include an analysis of the impact of electronic communications by debt collectors on consumer experiences with debt collection, including a consideration of consumer complaints about the use of electronic communications in debt collection.”.

(b) **LIMITATION ON DEBT COLLECTION RULES.**—Section 1022 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5512) is amended by adding at the end the following:

“(e) **LIMITATION ON DEBT COLLECTION RULES.**—The Director may not issue any rule with respect to debt collection that allows a debt collector to send unlimited email and text messages to a consumer.”.

(c) **PROTECTION OF CONSUMERS FROM UNLIMITED TEXTS AND EMAILS USED IN DEBT COLLECTION.**—Section 806 of the Fair Debt Collection Practices Act (15 U.S.C. 1692d) is amended by adding at the end the following new paragraph:

“(7) Contacting the consumer electronically, including by email or text message, without consent of the consumer, after such consent has been withdrawn, or more frequently than the consumer consents to be contacted.”.

(d) **ENSURING CONSUMERS RECEIVE NOTICE OF DEBT COLLECTION PROTECTIONS.**—Section 809(a) of the Fair Debt Collection Practices Act (15 U.S.C. 1692g(a)) is amended in the matter preceding paragraph (1) by striking “Within five days” and all that follows through “debt,” and inserting the following: “NOTICE OF DEBT; CONTENTS.—Within five days after the initial communication with a consumer in connection with the collection of any debt,”.

(e) **IMPROVED LIMITATIONS ON DEBT COLLECTION RULES.**—Section 814(d) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(d)) is amended by adding at the end the following: “Such rules—

“(1) may not allow a debt collector to send unlimited electronic communications to a consumer;

“(2) shall require debt collectors to obtain consent directly from consumers before contacting them using a method other than by postal mail or by phone;

“(3) may not waive the requirements of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.); and

“(4) shall allow consumers to opt out of any method of communication that the debt collector uses to communicate with consumers, including a method for which such consumer had given prior consent.”.

**PURPOSE AND SUMMARY**

On November 8, 2019, Representative Ayanna Pressley introduced H.R. 5021, the “Ending Debt Collection Harassment Act of 2019,” which amends the Fair Debt Collection Practices Act (FDCPA) to prohibit a debt collector from contacting a consumer by email or text message without a consumer’s consent to be contacted electronically. H.R. 5021 would also prohibit the Consumer Financial Protection Bureau (Consumer Bureau or CFPB) from issuing any rules implementing FDCPA that allows a debt collector to send unlimited email and text messages to a consumer. Furthermore,

the bill would require the CFPB to analyze and annually report on the impact of electronic communications utilized by debt collectors, as well include in CFPB's Semi-Annual Report to Congress an analysis of consumer complaints, including a state-by-state breakdown of such complaints, and a list of recent enforcement actions taken against debt collectors.

#### BACKGROUND AND NEED FOR LEGISLATION

As discussed at a September 2019 Committee hearing on debt collection, nearly one in three Americans with a credit record indicated in a Consumer Bureau survey that they were contacted by at least one creditor or collector trying to collect one or more debts during the previous year. Many lenders or institutions contract with third-party debt collectors, who will work with or pursue consumers to settle the debt. The third-party debt collectors either purchase the debt, or contract with the lender to receive a portion of the paid debt. When a consumer is not able to settle a debt, the owner of the debt may seize collateral associated with the loan, such as a home for mortgage defaults or a vehicle for auto-loan defaults. For non-collateral loans, a debt owner may garnish a consumer's wages via a court order.

In May 2019, the Consumer Bureau released a notice of proposed rulemaking to establish guidelines on how communication may take place between debt collectors and consumers. This proposal would prohibit debt collectors from providing information to credit score furnishers without informing the debtor first. The proposal also permits up to seven collection calls a week, per debt. Under this proposal, debt collectors would have to wait at least one week after making phone contact with the debtor consumer. The CFPB's proposal would also allow debt collectors to use other methods of communication to contact consumers, including unlimited email or text messages. Consumer groups have argued that the rule does not go far enough to protect consumers against predatory debt collection practices. This legislation would prohibit the CFPB from issuing any rule that allows debt collectors to send unlimited emails and text messages to consumers.

#### SECTION-BY-SECTION ANALYSIS

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

This section provides that H.R. 5021 may be cited as the "Ending Debt Collection Harassment Act of 2019".

##### *Section 2. Consumer protections related to debt collection practices*

Subsection (a)(1) amends section 1016(c) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5496) by requiring the CFPB's semi-annual report to Congress to include an analysis of debt collection consumer complaints received by the Bureau, including a state-by-state breakdown of such complaints, and a list of enforcement actions taken against debt collectors during the preceding year.

Subsection (a)(2) amends section 815(a) of the Fair Debt Collection Practices Act (15 U.S.C. 1692m) by requiring the CFPB's annual report to Congress to include an analysis of the impact of electronic communications by debt collectors on consumer experiences

with debt collection, including a consideration of consumer complaints about the use of electronic communications in debt collection.

Subsection (b) amends section 1022 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5512) by prohibiting the CFPB Director from issuing any rule with respect to debt collection that allows a debt collector to send unlimited email and text messages to a consumer.

Subsection (c) amends section 806 of the Fair Debt Collection Practices Act (15 U.S.C. 1692d) by prohibiting debt collectors from contacting consumers electronically, including by email or text message, without consent of the consumer, after such consent has been withdrawn, or more frequently than the consumer consents to be contacted. Electronic communication without consumer consent is a violation of debt collector conduct.

Subsection (d) amends section 809(a) of the Fair Debt Collection Practices Act (15 U.S.C. 1692g(a)) by ensuring that consumers receive notice of debt collection protections, regardless of whether that information is contained in the initial communication or the consumer has paid the debt.

Subsection (e) amends section 814(d) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(d)) by prohibiting CFPB from prescribing rules that allow a debt collector to send unlimited electronic communications to a consumer. This amendment also requires CFPB to prescribe rules that require debt collectors to obtain consent directly from consumers before contacting them using a method other than by postal mail or by phone. Under the amendments made by this subsection, the CFPB is prohibited from waiving the requirements of the Electronic Signatures in Global and National Commerce Act. The amendments made by this section also require the CFPB to prescribe rules that allow consumers to opt out of any method of communication that the debt collector uses to communicate with consumers, including a method for which such consumer had given prior consent.

#### HEARINGS

For the purposes of section 103(i) of H. Res. 6 for the 116th Congress—

(1) 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 three bills and seven discussion drafts. A discussion draft of H.R. 5021, the “Examining Legislation to Protect Consumers and Small Business Owners from Abusive Debt Collection Practices”, was considered. This single-panel hearing consisted of witnesses from the Federal Trade Commission, consumer advocates, consumer law centers, and debt collection attorneys. The hearing allowed members to hear from witnesses about predatory debt collection practices and discuss the limitations of the Fair Debt Collection Practices Act.

(2) On November 13, 2019, the Committee on Financial Services held a full Committee markup to discuss several debt collection bills. H.R. 5021 was amended in the Nature of a Substitute.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on November 13, 2019, and ordered H.R. 5021 to be reported favorably to the House as amended in the nature of a substitute by a recorded vote of 31 yeas and 23 nays, a quorum being present.

COMMITTEE 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. 5021:

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. Beaty	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	
34			
	Mr. McHenry, <i>Ranking Member</i>		X
	Mrs. Wagner		X
	Mr. King		
	Mr. Lucas		
	Mr. Posey		X
	Mr. Luetkemeyer		X
	Mr. Huelskamp		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		X
26			

**Committee on Financial Services**  
Full Committee  
116th Congress (1st Session)

Date: \_\_\_ 11/13/2019

Measure \_ H R 5021 (Final Passage)

Amendment No \_\_\_\_\_

Offered by: \_\_\_\_\_ Ms. Pressley, as amended

Agreed To	Yes	No	Prsnt	Wdm
Voice Vote	Ayes		Nays	

Record Vote	FC
	31 Ayes- 23 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. 5021 are to ensure that government employees, contractors, and other consumers affected by a Federal government shutdown.

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 received the following estimate for H.R. 5021 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 18, 2020.*

Hon. MAXINE WATERS,  
*Chairwoman, Committee on Financial Services,  
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5021, the Ending Debt Collection Harassment Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Hughes.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>H.R. 5021, Ending Debt Collection Harassment Act of 2019</b>			
As ordered reported by the House Committee on Financial Services on November 14, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	*	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Cannot Determine Costs
* = between zero and \$500,000.			

H.R. 5021 would require the Consumer Financial Protection Bureau (CFPB), as part of its semi-annual report to the Congress, to analyze consumer complaints received by the bureau concerning debt collection and to compile a list of enforcement actions taken against debt collectors in the preceding year. As part of its annual report to the Congress on its activities to administer the Fair Debt Collection Practices Act (FDCPA), H.R. 5021 would require the CFPB to analyze the impact of electronic communications by debt collectors on consumers. The bill would prohibit debt collectors from contacting a consumer electronically without their consent, after their consent has been withdrawn, or more frequently than they consent to be contacted; any such contact would constitute harassment under the FDCPA.

Under the bill, any rules issued by the CFPB to regulate debt collection would not permit debt collectors to send unlimited electronic communications to consumers, would require debt collectors to obtain consent from consumers before contacting them electronically, and would have to allow consumers to opt out of any communication method the debt collector uses.

Federal Cost: CBO assumes that the legislation would be enacted in fiscal year 2020. The Federal Trade Commission (FTC) is primarily responsible for enforcing violations of the FDCPA. Using information from the FTC, CBO estimates that enforcing the new violations under the law would cost less than \$500,000 over the 2020–2025 period; any spending would be subject to the availability of appropriated funds.

The CFPB is authorized to implement the FDCPA through regulation and may enforce certain provisions of the FDCPA. Using information from the CFPB, CBO estimates that the bureau would spend less than \$500,000 over the 2020–2030 period to implement the bill's requirements. CBO expects that the CFPB would need one employee at a cost of \$220,000 over one year to amend debt collection regulations. The CFPB has permanent authority, not subject to annual appropriation, to spend amounts transferred from the Federal Reserve.



Mandates: H.R. 5021 would impose private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting debt collectors from contacting consumers electronically without the consumer's consent or after a consumer revokes consent previously given, or from contacting consumers more frequently than they have permitted. The cost of the mandates would be the commission revenue lost by collectors who would have succeeded, absent the prohibitions in the bill, in receiving payments on delinquent debts. According to published information, debt collection is an \$11 billion industry in the United States. However, because CBO cannot anticipate the number of consumers who would consent to electronic communication with a debt collector or the level of collections that could be directly attributed to electronic communications, CBO cannot determine whether the cost of the mandates would exceed the private-sector threshold established in UMRA (\$168 million in 2020, adjusted annually for inflation).

The bill contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are David Hughes (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

#### 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. 5021. 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.

#### UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended) The Committee adopts as its own the estimate of federal mandates regarding H.R. 5021, as amended, 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. 4328, 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. 5021 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. 5021 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 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, H.R. 5021, 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):

**CONSUMER FINANCIAL PROTECTION ACT OF 2010**

\* \* \* \* \*

**TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION**

\* \* \* \* \*

**Subtitle A—Bureau of Consumer Financial Protection**

\* \* \* \* \*

**SEC. 1016. APPEARANCES BEFORE AND REPORTS TO CONGRESS.**

(a) APPEARANCES BEFORE CONGRESS.—The Director of the Bureau shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services and the Committee on Energy and Commerce of the House of Representatives at semi-annual hearings regarding the reports required under subsection (b).

(b) REPORTS REQUIRED.—The Bureau shall, concurrent with each semi-annual hearing referred to in subsection (a), prepare and submit to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services and the Committee on Energy and Commerce of the House of Representatives, a report, beginning with the session following

the designated transfer date. The Bureau may also submit such report to the Committee on Commerce, Science, and Transportation of the Senate.

(c) CONTENTS.—The reports required by subsection (b) shall include—

(1) a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services;

(2) a justification of the budget request of the previous year;

(3) a list of the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period;

(4) an analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year;

(5) a list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year;

(6) the actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions;

(7) an assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law;

(8) an analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau; [and]

(9) an analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion[.];

(10) an analysis of the consumer complaints received by the Bureau with respect to debt collection, including a State-by-State breakdown of such complaints; and

(11) a list of enforcement actions taken against debt collectors during the preceding year.

\* \* \* \* \*

## Subtitle B—General Powers of the Bureau

\* \* \* \* \*

### SEC. 1022. RULEMAKING AUTHORITY.

(a) IN GENERAL.—The Bureau is authorized to exercise its authorities under Federal consumer financial law to administer, enforce, and otherwise implement the provisions of Federal consumer financial law.

(b) RULEMAKING, ORDERS, AND GUIDANCE.—

(1) GENERAL AUTHORITY.—The Director may prescribe rules and issue orders and guidance, as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.

(2) STANDARDS FOR RULEMAKING.—In prescribing a rule under the Federal consumer financial laws—

(A) the Bureau shall consider—

(i) the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule; and

(ii) the impact of proposed rules on covered persons, as described in section 1026, and the impact on consumers in rural areas;

(B) the Bureau shall consult with the appropriate prudential regulators or other Federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies; and

(C) if, during the consultation process described in subparagraph (B), a prudential regulator provides the Bureau with a written objection to the proposed rule of the Bureau or a portion thereof, the Bureau shall include in the adopting release a description of the objection and the basis for the Bureau decision, if any, regarding such objection, except that nothing in this clause shall be construed as altering or limiting the procedures under section 1023 that may apply to any rule prescribed by the Bureau.

(3) EXEMPTIONS.—

(A) IN GENERAL.—The Bureau, by rule, may conditionally or unconditionally exempt any class of covered persons, service providers, or consumer financial products or services, from any provision of this title, or from any rule issued under this title, as the Bureau determines necessary or appropriate to carry out the purposes and objectives of this title, taking into consideration the factors in subparagraph (B).

(B) FACTORS.—In issuing an exemption, as permitted under subparagraph (A), the Bureau shall, as appropriate, take into consideration—

(i) the total assets of the class of covered persons;

(ii) the volume of transactions involving consumer financial products or services in which the class of covered persons engages; and

(iii) existing provisions of law which are applicable to the consumer financial product or service and the extent to which such provisions provide consumers with adequate protections.

(4) EXCLUSIVE RULEMAKING AUTHORITY.—

(A) IN GENERAL.—Notwithstanding any other provisions of Federal law and except as provided in section 1061(b)(5), to the extent that a provision of Federal consumer financial law authorizes the Bureau and another Federal agency to issue regulations under that provision of law for purposes of assuring compliance with Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules subject to those provisions of law.

(B) DEFERENCE.—Notwithstanding any power granted to any Federal agency or to the Council under this title, and subject to section 1061(b)(5)(E), the deference that a court

affords to the Bureau with respect to a determination by the Bureau regarding the meaning or interpretation of any provision of a Federal consumer financial law shall be applied as if the Bureau were the only agency authorized to apply, enforce, interpret, or administer the provisions of such Federal consumer financial law.

(c) MONITORING.—

(1) IN GENERAL.—In order to support its rulemaking and other functions, the Bureau shall monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.

(2) CONSIDERATIONS.—In allocating its resources to perform the monitoring required by this section, the Bureau may consider, among other factors—

(A) likely risks and costs to consumers associated with buying or using a type of consumer financial product or service;

(B) understanding by consumers of the risks of a type of consumer financial product or service;

(C) the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers;

(D) rates of growth in the offering or provision of a consumer financial product or service;

(E) the extent, if any, to which the risks of a consumer financial product or service may disproportionately affect traditionally underserved consumers; or

(F) the types, number, and other pertinent characteristics of covered persons that offer or provide the consumer financial product or service.

(3) SIGNIFICANT FINDINGS.—

(A) IN GENERAL.—The Bureau shall publish not fewer than 1 report of significant findings of its monitoring required by this subsection in each calendar year, beginning with the first calendar year that begins at least 1 year after the designated transfer date.

(B) CONFIDENTIAL INFORMATION.—The Bureau may make public such information obtained by the Bureau under this section as is in the public interest, through aggregated reports or other appropriate formats designed to protect confidential information in accordance with paragraphs (4), (6), (8), and (9).

(4) COLLECTION OF INFORMATION.—

(A) IN GENERAL.—In conducting any monitoring or assessment required by this section, the Bureau shall have the authority to gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers.

(B) METHODOLOGY.—In order to gather information described in subparagraph (A), the Bureau may—

(i) gather and compile information from a variety of sources, including examination reports concerning covered persons or service providers, consumer com-

plaints, voluntary surveys and voluntary interviews of consumers, surveys and interviews with covered persons and service providers, and review of available databases; and

(ii) require covered persons and service providers participating in consumer financial services markets to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe by rule or order, annual or special reports, or answers in writing to specific questions, furnishing information described in paragraph (4), as necessary for the Bureau to fulfill the monitoring, assessment, and reporting responsibilities imposed by Congress.

(C) LIMITATION.—The Bureau may not use its authorities under this paragraph to obtain records from covered persons and service providers participating in consumer financial services markets for purposes of gathering or analyzing the personally identifiable financial information of consumers.

(5) LIMITED INFORMATION GATHERING.—In order to assess whether a nondepository is a covered person, as defined in section 1002, the Bureau may require such nondepository to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe by rule or order, annual or special reports, or answers in writing to specific questions.

(6) CONFIDENTIALITY RULES.—

(A) RULEMAKING.—The Bureau shall prescribe rules regarding the confidential treatment of information obtained from persons in connection with the exercise of its authorities under Federal consumer financial law.

(B) ACCESS BY THE BUREAU TO REPORTS OF OTHER REGULATORS.—

(i) EXAMINATION AND FINANCIAL CONDITION REPORTS.—Upon providing reasonable assurances of confidentiality, the Bureau shall have access to any report of examination or financial condition made by a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider, and to all revisions made to any such report.

(ii) PROVISION OF OTHER REPORTS TO THE BUREAU.—In addition to the reports described in clause (i), a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider may, in its discretion, furnish to the Bureau any other report or other confidential supervisory information concerning any insured depository institution, credit union, or other entity examined by such agency under authority of any provision of Federal law.

(C) ACCESS BY OTHER REGULATORS TO REPORTS OF THE BUREAU.—

(i) EXAMINATION REPORTS.—Upon providing reasonable assurances of confidentiality, a prudential regulator, a State regulator, or any other Federal agency

having jurisdiction over a covered person or service provider shall have access to any report of examination made by the Bureau with respect to such person, and to all revisions made to any such report.

(ii) PROVISION OF OTHER REPORTS TO OTHER REGULATORS.—In addition to the reports described in clause (i), the Bureau may, in its discretion, furnish to a prudential regulator or other agency having jurisdiction over a covered person or service provider any other report or other confidential supervisory information concerning such person examined by the Bureau under the authority of any other provision of Federal law.

(7) REGISTRATION.—

(A) IN GENERAL.—The Bureau may prescribe rules regarding registration requirements applicable to a covered person, other than an insured depository institution, insured credit union, or related person.

(B) REGISTRATION INFORMATION.—Subject to rules prescribed by the Bureau, the Bureau may publicly disclose registration information to facilitate the ability of consumers to identify covered persons that are registered with the Bureau.

(C) CONSULTATION WITH STATE AGENCIES.—In developing and implementing registration requirements under this paragraph, the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate.

(8) PRIVACY CONSIDERATIONS.—In collecting information from any person, publicly releasing information held by the Bureau, or requiring covered persons to publicly report information, the Bureau shall take steps to ensure that proprietary, personal, or confidential consumer information that is protected from public disclosure under section 552(b) or 552a of title 5, United States Code, or any other provision of law, is not made public under this title.

(9) CONSUMER PRIVACY.—

(A) IN GENERAL.—The Bureau may not obtain from a covered person or service provider any personally identifiable financial information about a consumer from the financial records of the covered person or service provider, except—

(i) if the financial records are reasonably described in a request by the Bureau and the consumer provides written permission for the disclosure of such information by the covered person or service provider to the Bureau; or

(ii) as may be specifically permitted or required under other applicable provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.).

(B) TREATMENT OF COVERED PERSON OR SERVICE PROVIDER.—With respect to the application of any provision of the Right to Financial Privacy Act of 1978, to a disclosure by a covered person or service provider subject to this subsection, the covered person or service provider shall be

treated as if it were a “financial institution”, as defined in section 1101 of that Act (12 U.S.C. 3401).

(d) ASSESSMENT OF SIGNIFICANT RULES.—

(1) IN GENERAL.—The Bureau shall conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law. The assessment shall address, among other relevant factors, the effectiveness of the rule or order in meeting the purposes and objectives of this title and the specific goals stated by the Bureau. The assessment shall reflect available evidence and any data that the Bureau reasonably may collect.

(2) REPORTS.—The Bureau shall publish a report of its assessment under this subsection not later than 5 years after the effective date of the subject rule or order.

(3) PUBLIC COMMENT REQUIRED.—Before publishing a report of its assessment, the Bureau shall invite public comment on recommendations for modifying, expanding, or eliminating the newly adopted significant rule or order.

(e) LIMITATION ON DEBT COLLECTION RULES.—*The Director may not issue any rule with respect to debt collection that allows a debt collector to send unlimited email and text messages to a consumer.*

\* \* \* \* \*

**FAIR DEBT COLLECTION PRACTICES ACT**

\* \* \* \* \*

**TITLE VIII—DEBT COLLECTION PRACTICES**

\* \* \* \* \*

**§ 806. Harassment or abuse**

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

(3) The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of section 603(f) or 604(3) of this Act.

(4) The advertisement for sale of any debt to coerce payment of the debt.

(5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

(6) Except as provided in section 804, the placement of telephone calls without meaningful disclosure of the caller’s identity.



(7) *Contacting the consumer electronically, including by email or text message, without consent of the consumer, after such consent has been withdrawn, or more frequently than the consumer consents to be contacted.*

\* \* \* \* \*

#### **§ 809. Validation of debts**

(a) **[Within five days after the initial communication with a consumer in connection with the collection of any debt,]** *NOTICE OF DEBT; CONTENTS.—Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—*

(1) the amount of the debt;

(2) the name of the creditor to whom the debt is owed;

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

(b) If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector. Collection activities and communications that do not otherwise violate this title may continue during the 30-day period referred to in subsection (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.

(c) The failure of a consumer to dispute the validity of a debt under this section may not be construed by any court as an admission of liability by the consumer.

(d) **LEGAL PLEADINGS.**—A communication in the form of a formal pleading in a civil action shall not be treated as an initial communication for purposes of subsection (a).

(e) NOTICE PROVISIONS.—The sending or delivery of any form or notice which does not relate to the collection of a debt and is expressly required by the Internal Revenue Code of 1986, title V of Gramm-Leach-Bliley Act, or any provision of Federal or State law relating to notice of data security breach or privacy, or any regulation prescribed under any such provision of law, shall not be treated as an initial communication in connection with debt collection for purposes of this section.

\* \* \* \* \*

#### § 814. Administrative enforcement

(a) FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall be authorized to enforce compliance with this title, except to the extent that enforcement of the requirements imposed under this title is specifically committed to another Government agency under any of paragraphs (1) through (5) of subsection (b), subject to subtitle B of the Consumer Financial Protection Act of 2010. For purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of this title shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce the provisions of this title, in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.

(b) Subject to subtitle B of the Consumer Financial Protection Act of 2010, compliance with any requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to—

(A) national banks, Federal savings associations, and Federal branches and Federal agencies of foreign banks;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act; and

(C) banks and State savings associations insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), and insured State branches of foreign banks;

(2) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

(3) the Acts to regulate commerce, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;

(4) the Federal Aviation Act of 1958, by the Secretary of Transportation with respect to any air carrier or any foreign air carrier subject to that Act;

(5) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau, with respect to any person subject to this title.

The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title any other authority conferred on it by law, except as provided in subsection (d).

(d) Except as provided in section 1029(a) of the Consumer Financial Protection Act of 2010, the Bureau may prescribe rules with respect to the collection of debts by debt collectors, as defined in this title. *Such rules—*

(1) *may not allow a debt collector to send unlimited electronic communications to a consumer;*

(2) *shall require debt collectors to obtain consent directly from consumers before contacting them using a method other than by postal mail or by phone;*

(3) *may not waive the requirements of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.); and*

(4) *shall allow consumers to opt out of any method of communication that the debt collector uses to communicate with consumers, including a method for which such consumer had given prior consent.*

#### **§ 815. Reports to Congress by the Bureau**

(a) Not later than one year after the effective date of this title and at one-year intervals thereafter, the Bureau shall make reports to the Congress concerning the administration of its functions under this title, including such recommendations as the Bureau deems necessary or appropriate. In addition, each report of the Bureau shall include its assessment of the extent to which compliance with this title is being achieved and a summary of the enforcement actions taken by the Bureau under section 814 of this title. *Each such report shall also include an analysis of the impact of electronic communications by debt collectors on consumer experiences with debt collection, including a consideration of consumer complaints about the use of electronic communications in debt collection.*

(b) In the exercise of its functions under this title, the Bureau may obtain upon request the views of any other Federal agency which exercises enforcement functions under section 814 of this title.

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## MINORITY VIEWS

Committee Republicans recognize the need to protect consumers from harmful debt collection practices. The Fair Debt Collection Practices Act (FDCPA) was enacted to strike the right balance between protecting consumers and making lenders whole.

H.R. 5021 would shift that balance and undermine the Consumer Financial Protection Bureau’s (CFPB) effort to bring the FDCPA into the 21st Century. H.R. 5021 guts the CFPB’s May 2019 proposed rule that would outline clear rules of the road for both consumers and debt collectors. Specifically, this rule proposes to “set clear bright-line limits on the number of calls debt collectors may place to reach consumers on a daily basis; clarify how collectors may communicate lawfully using new technologies, such as voicemails, emails, and text messages; and require collectors to provide additional information to consumers to help identify debts.”<sup>1</sup>

Small businesses, in particular, use third-party debt collectors to manage receivables and recover outstanding debts. Democrats through their support for H.R. 5021 would prevent small businesses from being able to use modern communication technology to collect on unresolved balances, thus preventing many businesses from meeting their bottom lines. Members of Congress are constantly updating their constituents using electronic communications methods—the times demand it. Communication between lenders and borrowers should be no different.

Committee Republicans look forward to working with Democrats on developing a more comprehensive and bipartisan package of reforms to the FDCPA, rather than rifle shot bills directed towards undermining a proposed rule that is unpopular among Committee Democrats. For these reasons, Committee Republicans oppose H.R. 5021.

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<sup>1</sup> <https://www.consumerfinance.gov/about-us/newsroom/bureau-proposes-regulations-implementation-fair-debt-collection-practices-act/>.

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