

Securing Consumers Against Misrepresented (SCAM) Debt Act

Section-by-Section

Rep. Suzanne Bonamici, Congressman Bill Foster, Congressman Steve Cohen

Section One: Short Title

The Act may be cited as the Securing Consumers Against Misrepresented Debt Act of 2021 or SCAM Debt Act.

Section Two: Definitions

This section defines the term legal action within the Fair Debt Collection Practices Act (FDCPA) as “any lawsuit or legal proceeding (including litigation, arbitration, enforcement of security interests, post-judgment actions, and mediation) pursued, taken, threatened, offered, or requested by debt collectors.”

Section Three: False or Misleading Representations

Clarifies that disclosure requirements exclusions in this section only apply to lawsuits and do not incentivize arbitration.

Section Four: Validation of Debts

The FDCPA requires debt collectors to send a debt validation notice to consumers within five days of first communicating with a consumer about a debt they are seeking to collect that includes the amount of the debt, the name of the creditor, and statements regarding the debt dispute process.

This bill would require debt collectors to include the following information:

- The name of the original creditor and, if different, the creditor who currently owns the debt and the creditor on the most recent date of default.
- The most recent date of default, the amount of the debt on the most recent date of default, the interest accrued on the most recent date of default, the total fees charged as of the most recent date of default, the amount of any payments on the debt since the most recent date of default, and the total amount of the debt currently owed.
- The account number of the debt on the most recent date of default
- All methods that the consumer may use to contact the debt collector.

The bill would also allow consumer to exercise their right to dispute the debt by any method of contact available to them.

Section Five: Legal Actions by Debt Collectors

This bill would expand the requirements that debt collectors must meet to take legal actions against consumers. Debt collectors would be required to provide certain information to consumers and the courts during the legal process:

1. Prior to Commencing Legal Action: Debt collectors would have to notify consumers at least 30 days prior to commencing such action. In this notification of intent to take legal action debt collectors would have to provide all the information required in the validation notice required by the FDCPA, updated for correctness and excluding dispute procedures. This section also requires consumers be provided with all methods of contact.

2. Initial Pleading: In the initial pleading filed by a debt collector to commence a legal action as defined by this bill, debt collectors must provide:

- (A) All of the information required in validation notices, excluding information that would be personally identifiable and dispute procedures;
- (B) The last four digits of the account number on the most recent date of default;
- (C) Attached as admissible documentary evidence showing:
 - The written agreement, contract, or instrument creating the debt, if any, or other documents showing that the consumer agreed to the agreement, contract, or instrument creating the debt
 - Any terms and conditions relevant to the debt
 - That the consumer incurred the debt and the amount owed
 - That there is a chain of title of the ownership of debt and the right to collect the debt, including documents showing the date of each transfer of ownership of the debt and the identity of each owner of the debt
- (D) A sworn affidavit stating:
 - That the applicable statute of limitations for collecting the debt has not expired and the date on which such statute of limitations expires
 - That the debt collector personally reviewed all applicable records and documents relating to the debt to be collected.