

CFPB Proposal Allows Abusive “Zombie” Debt Collection to Continue

FOR IMMEDIATE RELEASE: AUGUST 4, 2020

National Consumer Law Center contacts: Jan Kruse (jkruse@nclc.org) or April Kuehnhoff (akuhenhoff@nclc.org)

Washington, D.C. – The Consumer Financial Protection Bureau (CFPB) should withdraw its supplemental proposed rule on disclosures and instead completely ban all collection of time-barred “zombie” debt, both in and out of court, wrote the National Consumer Law Center (NCLC) in comments submitted today on behalf of its low income clients.

“The CFPB’s own testing shows that many people will not understand these disclosures. The proposed rules will only give cover for abusive collectors who use high-pressure collection tactics that harm consumers.” said **National Consumer Law Center attorney April Kuehnhoff**. “Disclosures will not protect vulnerable consumers, who will not understand why they are being contacted about a debt that is too old to sue on, or how making a small payment or acknowledgement could end up reviving the statute of limitations on a debt.”

If the CFPB does not prohibit all collection of “zombie” debt, NCLC explained that the Bureau should completely revamp the proposed disclosures and conduct additional testing and analysis to ensure that real consumers—particularly those who are least sophisticated—will understand the consequences of making or not making a payment on a time-barred debt. The CFPB should also prohibit suits and threats of suits on revived debts, limit collections of time-barred debts to only written communications, and require a time-barred debt disclosure in every communication. These and other needed reforms must be adopted if the CFPB does not prohibit all collection of time-barred debt.

The CFPB should also analyze comprehension of any proposed disclosures by members of communities of color. Debt collection disproportionately affects communities of color. According to the Urban Institute, residents of predominantly nonwhite communities (42%) are far more likely to have debts in collection compared to residents in predominantly white areas (26%). Additionally, the CFPB should require debt collectors to provide the time-barred debt disclosure in Spanish whenever the collector has communicated with the consumer in Spanish or has notice that the consumer prefers to communicate in Spanish. The same requirement should apply to other languages as soon as the Bureau has created model translations of the time-barred debt disclosure in those languages.

NCLC also noted that problems with the CFPB’s original proposed debt collection rule from May 2019 will mean that many consumers will never even receive the proposed time-barred debt disclosures. As NCLC summarized, the CFPB’s May 2019 proposal would allow debt collectors to circumvent federal law regarding consent for electronic communications to send critical information via a hyperlink in an email or text. Such a notice may go to an old email address or phone number, or the consumer might not open it or click on a link in a message from an unknown party due to concerns about computer viruses. As a result, the consumer may never receive that notice or the time-barred debt disclosure that it may contain.

Related NCLC Resources

Brief: Time Barred Debt Disclosures in CFPB's Supplemental Rulemaking Fall Short, May 2020

Fact Sheet: Racial Disparities in Consumer Debt Collection