

§ 1679f. Noncompliance with this subchapter**(a) Consumer waivers invalid**

Any waiver by any consumer of any protection provided by or any right of the consumer under this subchapter—

- (1) shall be treated as void; and
- (2) may not be enforced by any Federal or State court or any other person.

(b) Attempt to obtain waiver

Any attempt by any person to obtain a waiver from any consumer of any protection provided by or any right of the consumer under this subchapter shall be treated as a violation of this subchapter.

(c) Contracts not in compliance

Any contract for services which does not comply with the applicable provisions of this subchapter—

- (1) shall be treated as void; and
- (2) may not be enforced by any Federal or State court or any other person.

(Pub. L. 90-321, title IV, § 408, as added Pub. L. 104-208, div. A, title II, § 2451, Sept. 30, 1996, 110 Stat. 3009-459.)

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90-321, as added by Pub. L. 104-208, set out as a note under section 1679 of this title.

§ 1679g. Civil liability**(a) Liability established**

Any person who fails to comply with any provision of this subchapter with respect to any other person shall be liable to such person in an amount equal to the sum of the amounts determined under each of the following paragraphs:

(1) Actual damages

The greater of—

- (A) the amount of any actual damage sustained by such person as a result of such failure; or
- (B) any amount paid by the person to the credit repair organization.

(2) Punitive damages**(A) Individual actions**

In the case of any action by an individual, such additional amount as the court may allow.

(B) Class actions

In the case of a class action, the sum of—

- (i) the aggregate of the amount which the court may allow for each named plaintiff; and
- (ii) the aggregate of the amount which the court may allow for each other class member, without regard to any minimum individual recovery.

(3) Attorneys' fees

In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

(b) Factors to be considered in awarding punitive damages

In determining the amount of any liability of any credit repair organization under subsection (a)(2), the court shall consider, among other relevant factors—

- (1) the frequency and persistence of noncompliance by the credit repair organization;
- (2) the nature of the noncompliance;
- (3) the extent to which such noncompliance was intentional; and
- (4) in the case of any class action, the number of consumers adversely affected.

(Pub. L. 90-321, title IV, § 409, as added Pub. L. 104-208, div. A, title II, § 2451, Sept. 30, 1996, 110 Stat. 3009-459.)

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90-321, as added by Pub. L. 104-208, set out as a note under section 1679 of this title.

§ 1679h. Administrative enforcement**(a) In general**

Compliance with the requirements imposed under this subchapter with respect to credit repair organizations shall be enforced under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] by the Federal Trade Commission.

(b) Violations of this subchapter treated as violations of Federal Trade Commission Act**(1) In general**

For the purpose of the exercise by the Federal Trade Commission of the Commission's functions and powers under the Federal Trade Commission Act [15 U.S.C. 41 et seq.], any violation of any requirement or prohibition imposed under this subchapter with respect to credit repair organizations shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act [15 U.S.C. 45(a)].

(2) Enforcement authority under other law

All functions and powers of the Federal Trade Commission under the Federal Trade Commission Act shall be available to the Commission to enforce compliance with this subchapter by any person subject to enforcement by the Federal Trade Commission pursuant to this subsection, including the power to enforce the provisions of this subchapter in the same manner as if the violation had been a violation of any Federal Trade Commission trade regulation rule, without regard to whether the credit repair organization—

- (A) is engaged in commerce; or
- (B) meets any other jurisdictional tests in the Federal Trade Commission Act.

(c) State action for violations**(1) Authority of States**

In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this subchapter, the State—