

(d) Combining credit accounts of husband and wife with same creditor to determine permissible finance charges or loan ceilings under Federal or State laws

When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

(e) Election of remedies under subchapter or State law; nature of relief determining applicability

Where the same act or omission constitutes a violation of this subchapter and of applicable State law, a person aggrieved by such conduct may bring a legal action to recover monetary damages either under this subchapter or under such State law, but not both. This election of remedies shall not apply to court actions in which the relief sought does not include monetary damages or to administrative actions.

(f) Compliance with inconsistent State laws; determination of inconsistency

This subchapter does not annul, alter, or affect, or exempt any person subject to the provisions of this subchapter from complying with, the laws of any State with respect to credit discrimination, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency. The Bureau is authorized to determine whether such inconsistencies exist. The Bureau may not determine that any State law is inconsistent with any provision of this subchapter if the Bureau determines that such law gives greater protection to the applicant.

(g) Exemption by regulation of credit transactions covered by State law; failure to comply with State law

The Bureau shall by regulation exempt from the requirements of sections 1691 and 1691a of this title any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this subchapter or that such law gives greater protection to the applicant, and that there is adequate provision for enforcement. Failure to comply with any requirement of such State law in any transaction so exempted shall constitute a violation of this subchapter for the purposes of section 1691e of this title.

(Pub. L. 90-321, title VII, §705, as added Pub. L. 93-495, title V, §503, Oct. 28, 1974, 88 Stat. 1523; amended Pub. L. 94-239, §5, Mar. 23, 1976, 90 Stat. 253; Pub. L. 111-203, title X, §1085(1), July 21, 2010, 124 Stat. 2083.)

AMENDMENTS

2010—Subsecs. (f), (g). Pub. L. 111-203 substituted “Bureau” for “Board” wherever appearing.

1976—Subsec. (e). Pub. L. 94-239, §5(1), substituted provisions requiring an election of remedies in legal actions involving the recovery of monetary damages, for provisions specifying a general election of remedies.

Subsecs. (f), (g). Pub. L. 94-239, §5(2), added subsecs. (f) and (g).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-239 effective Mar. 23, 1976, see section 708 of Pub. L. 90-321, set out as an Effective Date note under section 1691 of this title.

§ 1691e. Civil liability

(a) Individual or class action for actual damages

Any creditor who fails to comply with any requirement imposed under this subchapter shall be liable to the aggrieved applicant for any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class.

(b) Recovery of punitive damages in individual and class action for actual damages; exemptions; maximum amount of punitive damages in individual actions; limitation on total recovery in class actions; factors determining amount of award

Any creditor, other than a government or governmental subdivision or agency, who fails to comply with any requirement imposed under this subchapter shall be liable to the aggrieved applicant for punitive damages in an amount not greater than \$10,000, in addition to any actual damages provided in subsection (a), except that in the case of a class action the total recovery under this subsection shall not exceed the lesser of \$500,000 or 1 per centum of the net worth of the creditor. In determining the amount of such damages in any action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

(c) Action for equitable and declaratory relief

Upon application by an aggrieved applicant, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this subchapter.

(d) Recovery of costs and attorney fees

In the case of any successful action under subsection (a), (b), or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such subsection.

(e) Good faith compliance with rule, regulation, or interpretation of Bureau or interpretation or approval by an official or employee of Bureau of Consumer Financial Protection duly authorized by Bureau

No provision of this subchapter imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Bureau or in conformity with any interpretation or

approval by an official or employee of the Bureau of Consumer Financial Protection duly authorized by the Bureau to issue such interpretations or approvals under such procedures as the Bureau may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Jurisdiction of courts; time for maintenance of action; exceptions

Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than 5 years after the date of the occurrence of the violation, except that—

(1) whenever any agency having responsibility for administrative enforcement under section 1691c of this title commences an enforcement proceeding within 5 years after the date of the occurrence of the violation,

(2) whenever the Attorney General commences a civil action under this section within 5 years after the date of the occurrence of the violation,

then any applicant who has been a victim of the discrimination which is the subject of such proceeding or civil action may bring an action under this section not later than one year after the commencement of that proceeding or action.

(g) Request by responsible enforcement agency to Attorney General for civil action

The agencies having responsibility for administrative enforcement under section 1691c of this title, if unable to obtain compliance with section 1691 of this title, are authorized to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted. Each agency referred to in paragraphs (1), (2), and (9) of section 1691c(a) of this title shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 1691(a) of this title. Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 1691(a) of this title.

(h) Authority for Attorney General to bring civil action; jurisdiction

When a matter is referred to the Attorney General pursuant to subsection (g), or whenever he has reason to believe that one or more creditors are engaged in a pattern or practice in violation of this subchapter, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including actual and punitive damages and injunctive relief.

(i) Recovery under both subchapter and fair housing enforcement provisions prohibited for violation based on same transaction

No person aggrieved by a violation of this subchapter and by a violation of section 3605 of title

42 shall recover under this subchapter and section 3612¹ of title 42, if such violation is based on the same transaction.

(j) Discovery of creditor's granting standards

Nothing in this subchapter shall be construed to prohibit the discovery of a creditor's credit granting standards under appropriate discovery procedures in the court or agency in which an action or proceeding is brought.

(k) Notice to HUD of violations

Whenever an agency referred to in paragraph (1), (2), or (3)¹ of section 1691c(a) of this title—

(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this subchapter has occurred;

(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act [42 U.S.C. 3601 et seq.]; and

(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.

(Pub. L. 90-321, title VII, § 706, as added Pub. L. 93-495, title V, § 503, Oct. 28, 1974, 88 Stat. 1524; amended Pub. L. 94-239, § 6, Mar. 23, 1976, 90 Stat. 253; Pub. L. 102-242, title II, § 223(a)-(c), Dec. 19, 1991, 105 Stat. 2306; Pub. L. 111-203, title X, § 1085(1), (5)-(7), July 21, 2010, 124 Stat. 2083, 2085.)

REFERENCES IN TEXT

Section 3612 of title 42, referred to in subsec. (i), which related to enforcement of the Fair Housing Act (42 U.S.C. 3601 et seq.) by private persons, was repealed by Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1625. See section 3613 of Title 42, The Public Health and Welfare.

Paragraph (1), (2), or (3) of section 1691c(a) of this title, referred to in subsec. (k), probably means par. (1), (2), or (3) of section 1691c(a) of this title prior to repeal of pars. (1) and (2), enactment of new pars. (1) and (9), and redesignation of par. (3) as (2) by Pub. L. 111-203, title X, § 1085(4)(A)(ii)-(vi), July 21, 2010, 124 Stat. 2084.

The Fair Housing Act, referred to in subsec. (k), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

AMENDMENTS

2010—Subsec. (e). Pub. L. 111-203, § 1085(5)(B), substituted “Bureau of Consumer Financial Protection” for “Federal Reserve System” in text.

Pub. L. 111-203, § 1085(5)(A), which directed amendment of “subsection heading” by substituting “Bureau” for “Board” wherever appearing and “Bureau of Consumer Financial Protection” for “Federal Reserve System”, was executed by making the substitutions in heading that had been supplied editorially, to reflect the probable intent of Congress.

Pub. L. 111-203, § 1085(1), substituted “Bureau” for “Board” wherever appearing.

Subsec. (f). Pub. L. 111-203, § 1085(7), substituted “5 years after” for “two years from” wherever appearing.

¹ See References in Text note below.

Subsec. (g). Pub. L. 111-203, § 1085(6), substituted “(9)” for “(3)”.

1991—Subsec. (g). Pub. L. 102-242, § 223(a), inserted at end “Each agency referred to in paragraphs (1), (2), and (3) of section 1691c(a) of this title shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 1691(a) of this title. Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 1691(a) of this title.”

Subsec. (h). Pub. L. 102-242, § 223(b), inserted “actual and punitive damages and” after “be appropriate, including”.

Subsec. (k). Pub. L. 102-242, § 223(c), added subsec. (k). 1976—Subsec. (a). Pub. L. 94-239 substituted reference to member for reference to representative.

Subsec. (b). Pub. L. 94-239 inserted provisions exempting government or governmental subdivision or agency from requirements of this subchapter, incorporated provisions contained in former subsec. (c) relating to recovery in class actions and, as incorporated, raised the total amount of recovery under a class action from \$100,000 to \$500,000.

Subsec. (c). Pub. L. 94-239 redesignated subsec. (d) as (c) and specified United States district court or other court of competent jurisdiction as court in which to bring action, and substituted provisions authorizing such court to grant equitable and declaratory relief, for provisions authorizing civil actions for preventive relief. Provisions of former subsec. (c) were incorporated into present subsec. (b) and amended.

Subsec. (d). Pub. L. 94-239 redesignated subsec. (e) as (d) and made minor changes in phraseology. Former subsec. (d) redesignated (c) and amended.

Subsec. (e). Pub. L. 94-239 redesignated subsec. (f) as (e) and inserted reference to officially promulgated rule, regulation, or interpretation and provisions relating to approval and interpretations by an official or employee of the Federal Reserve System duly authorized by the Board. Former subsec. (e) redesignated (d) and amended.

Subsec. (f). Pub. L. 94-239 redesignated subsec. (g) as (f) and inserted provisions which substituted a two year limitation for one year limitation and provisions extending time in which to bring action under enumerated conditions. Former subsec. (f) redesignated (e) and amended.

Subsecs. (g) to (j). Pub. L. 94-239 added subsecs. (g) to (j). Former subsec. (g) redesignated (f) and amended.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-239 effective Mar. 23, 1976, see section 708 of Pub. L. 90-321, set out as an Effective Date note under section 1691 of this title.

§ 1691f. Annual reports to Congress; contents

Each year, the Bureau and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this subchapter, including such recommendations as the Bureau and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Bureau shall include its assessment of the extent to which compliance with the requirements of this subchapter is being achieved, and a summary of the enforcement actions taken by each of the agencies assigned administrative enforcement responsibilities under section 1691c of this title.

(Pub. L. 90-321, title VII, § 707, as added Pub. L. 94-239, § 7, Mar. 23, 1976, 90 Stat. 255; amended Pub. L. 96-221, title VI, § 610(c), Mar. 31, 1980, 94 Stat. 174; Pub. L. 111-203, title X, § 1085(1), July 21, 2010, 124 Stat. 2083.)

AMENDMENTS

2010—Pub. L. 111-203 substituted “Bureau” for “Board” wherever appearing.

1980—Pub. L. 96-221 substituted “Each year” for “Not later than February 1 of each year after 1976”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on expiration of two years and six months after Mar. 31, 1980, with all regulations, forms, and clauses required to be prescribed to be promulgated at least one year prior to such effective date, and allowing any creditor to comply with any amendments, in accordance with the regulations, forms, and clauses prescribed by the Board prior to such effective date, see section 625 of Pub. L. 96-221, set out as a note under section 1602 of this title.

EFFECTIVE DATE

Section effective Mar. 23, 1976, see section 708 of Pub. L. 90-321, set out as a note under section 1691 of this title.

SUBCHAPTER V—DEBT COLLECTION PRACTICES

§ 1692. Congressional findings and declaration of purpose

(a) Abusive practices

There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.

(b) Inadequacy of laws

Existing laws and procedures for redressing these injuries are inadequate to protect consumers.

(c) Available non-abusive collection methods

Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

(d) Interstate commerce

Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.

(e) Purposes

It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.