

TITLE 4: ECONOMIC RESOURCES
DIVISION 5: BUSINESS REGULATION

§ 51301. Definitions.

As used in this chapter:

(a) “Creditor” means any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.

(b) “Debt” means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

(c) “Debt collector” means any person who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by clause (6) of the last sentence of this paragraph, the term includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. The term does not include:

(1) Any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

(2) Any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

(3) Any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties;

(4) Any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

(5) Any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors; and

(6) Any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; (ii) concerns a debt which was originated by such person; (iii) concerns a debt which was not in default at the time it was obtained by such person; or (iv) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor.

Source: PL 14-38, § 2(1).

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Commission Comment: PL 14-38 took effect on October 26, 2004 and contained the following short title, in addition to severability and savings provisions. PL 14-38 did not contain any findings or purpose provisions.

Section 1. Short Title. This Act may be cited as the “Fair Debt Collection Practices Act.”