

Senate Bill No. 1286

CHAPTER 522

An act to amend Sections 1788.1, 1788.2, 1788.10, 1788.11, 1788.12, 1788.13, 1788.14, 1788.14.5, 1788.15, 1788.16, 1788.17, 1788.18, 1788.20, 1788.21, and 1788.22 of the Civil Code, and to amend Section 100001 of the Financial Code, relating to debt collection.

[Approved by Governor September 24, 2024. Filed with Secretary of State
September 24, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1286, Min. Rosenthal Fair Debt Collection Practices Act: covered debt: commercial debts.

Existing law, the Rosenthal Fair Debt Collection Practices Act, prohibits debt collectors from engaging in unfair or deceptive acts or practices in the collection of consumer debts and requires debtors to act fairly in entering into and honoring those debts. Existing law defines “debt collection” as any act or practice in connection with the collection of consumer debts. Existing law defines “consumer debt” for these purposes to mean money, property, or their equivalent, due or owing, or alleged to be due or owing, from a natural person by reason of a consumer credit transaction. Existing law also defines “consumer debt” to include a mortgage debt.

This bill would recast those provisions to expand the scope of those provisions to additionally prohibit debt collectors from engaging in unfair or deceptive acts or practices in the collection of covered commercial debts, as defined, entered into, renewed, sold, or assigned on or after July 1, 2025, and to make conforming changes.

For all delinquent debt sold or assigned on or after July 1, 2022, existing law requires a debt collector to which delinquent debt has been assigned to provide the debtor, upon the debtor’s written request, a statement that includes specified information. For purposes of these provisions, existing law defines “delinquent debt” as a consumer debt, other than a mortgage debt, as specified.

This bill would revise the definition of “delinquent debt” to mean a covered debt, other than a mortgage debt, as specified, and would specify that these provisions apply to all delinquent covered commercial debt sold or assigned on or after July 1, 2025.

Existing law prohibits a debt collector from collecting or attempting to collect a consumer debt, other than one reduced to judgment, by means of judicial proceedings in a county other than the county in which the debtor has incurred the consumer debt or the county in which the debtor resides at the time those proceedings are instituted, or resided at the time the debt was incurred.

This bill would authorize a debt collector to collect or attempt to collect covered commercial debt by means of a judicial proceeding in the county in which the nonnatural person for whose purpose the commercial debt was incurred is located, as specified. The bill would also specify that the provisions related to judicial

proceedings apply to all delinquent covered commercial debt sold or assigned on or after July 1, 2025.

Existing law makes it a crime, with respect to attempted collection of a consumer debt, for a debt collector, creditor, or an attorney to send a communication that simulates legal or judicial process or that gives the appearance of being authorized, issued, or approved by a governmental agency or attorney if it is not.

This bill would expand that provision to make it a crime to engage in those acts with respect to the collection of a covered debt. By expanding the scope of this crime, the bill would impose a state-mandated local program.

Existing law requires a debt collector to stop collecting a consumer debt when an alleged debtor provides the debt collector with certain information, including information relating to the debtor's status as an alleged victim of identity theft. This information may also include a specified written statement that certifies that the representations are true, correct, and contain no material omissions of fact. A person submitting the certification who declares as true a material matter that the person knows to be false is guilty of a misdemeanor.

This bill would expand those provisions to also apply in the case of collection of a covered debt. By expanding the scope of this crime, this bill would impose a state-mandated local program.

Existing law, the Debt Collection Licensing Act, prohibits a person from engaging in the business of debt collection, as defined, in California without first obtaining a license, as specified. Existing law provides various exceptions to this licensing requirement.

This bill would specify, with respect to the collection of covered commercial debt or covered commercial credit, that the Rosenthal Fair Debt Collection Practices Act does not intend to create or impose any additional licensing requirement on a debt collector.

This bill would incorporate additional changes to Section 1788.14 of the Civil Code proposed by SB 1061 to be operative only if this bill and SB 1061 are enacted and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1788.1 of the Civil Code is amended to read:

1788.1. (a) The Legislature makes the following findings:

(1) The banking and credit system and grantors of credit to consumers are dependent upon the collection of just and owing debts. Unfair or deceptive collection practices undermine the public confidence, which is essential to the continued functioning of the banking and credit system and sound extensions of credit to consumers and small businesses.

(2) There is need to ensure that debt collectors and debtors exercise their responsibilities to one another with fairness, honesty and due regard for the rights of the other.

(b) It is the purpose of this title to prohibit debt collectors from engaging in unfair or deceptive acts or practices in the collection of consumer debts and small business debts and to require debtors to act fairly in entering into and honoring those debts, as specified in this title.

(c) Nothing in this title is intended to create or impose an additional licensing requirement under Division 25 (commencing with Section 100000) of the Financial Code on a debt collector with respect to the collection of covered commercial debt or covered commercial credit.

(d) The provisions of this title related to covered commercial credit or covered commercial debt apply to covered commercial credit or covered commercial debt entered into, renewed, sold, or assigned on or after July 1, 2025.

SEC. 2. Section 1788.2 of the Civil Code is amended to read:

1788.2. (a) Definitions and rules of construction set forth in this section are applicable for the purpose of this title.

(b) The term “debt collection” means any act or practice in connection with the collection of covered debts.

(c) The term “debt collector” means any person who, in the ordinary course of business, regularly, on behalf of that person or others, engages in debt collection. The term includes any person who composes and sells, or offers to compose and sell, forms, letters, and other collection media used or intended to be used for debt collection.

(d) The term “debt” means money, property, or their equivalent that is due or owing or alleged to be due or owing from a natural person to another person.

(e) The term “consumer credit transaction” means a transaction between a natural person and another person in which property, services, or money is acquired on credit by that natural person from the other person primarily for personal, family, or household purposes.

(f) The terms “consumer debt” and “consumer credit” mean money, property, or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction. The term “consumer debt” includes a mortgage debt.

(g) The term “person” means a natural person, partnership, corporation, limited liability company, trust, estate, cooperative, association, or other similar entity.

(h) (1) Except as provided in Section 1788.18, the term “debtor” means a natural person from whom a debt collector seeks to collect a covered debt that is due and owing or alleged to be due and owing from that person.

(2) In relation to a covered commercial debt or covered commercial credit, a “debtor” shall mean a natural person who guarantees an obligation related to a covered commercial credit transaction.

(i) The term “creditor” means a person who extends covered credit to a debtor.

(j) The term “consumer credit report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under any applicable federal or state law or regulation. The term does not include (a) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (b) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (c) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys that person’s decision with respect to that request, if the third party advises the consumer of the name and address of the person to whom the request was made, and the person makes the disclosures to the consumer required under any applicable federal or state law or regulation.

(k) The term “consumer reporting agency” means any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties and uses any means or facility for the purpose of preparing or furnishing consumer credit reports.

(l) The term “covered debt” means a consumer debt or a covered commercial debt.

(m) The term “covered credit” means consumer credit or covered commercial credit.

(n) The terms “covered commercial debt” and “covered commercial credit” mean money due or owing or alleged to be due or owing from a natural person to a lender, a commercial financing provider, as defined in Section 22800 of the Financial Code, or a debt buyer, as defined in Section 1788.50, by reason of one or more covered commercial credit transactions, provided the total amount of all covered commercial credit transactions and all other noncovered commercial credit transactions due and owing by the debtor or other person obligated under the transactions to the same lender, commercial financing provider, or debt buyer is no more than five hundred thousand dollars (\$500,000).

(1) For credit owed to a lender or commercial financing provider, the total value of credit per transaction is determined as of when the transaction is first entered into and is the maximum amount that the creditor is contractually required to provide or make available to the debtor over the life of the transaction or is the maximum amount that is enumerated in an open-end credit agreement.

(2) The value of credit for each transaction for a debt buyer is the amount owing or alleged to be owing to the debt buyer when the debt buyer acquires the rights of the lender or commercial financing provider in the commercial credit.

(o) The term “covered commercial credit transaction” means a transaction between a person and another person in which a total value of no more than five hundred thousand dollars (\$500,000), is acquired on credit by that person from the other person for use primarily for other than personal, family, or household purposes.

SEC. 3. Section 1788.10 of the Civil Code is amended to read:

1788.10. No debt collector shall collect or attempt to collect a covered debt by means of the following conduct:

- (a) The use, or threat of use, of physical force or violence or any criminal means to cause harm to the person, or the reputation, or the property of any person.
- (b) The threat that the failure to pay a covered debt will result in an accusation that the debtor has committed a crime where the accusation, if made, would be false.
- (c) The communication of, or threat to communicate to any person the fact that a debtor has engaged in conduct, other than the failure to pay a covered debt, which the debt collector knows or has reason to believe will defame the debtor.
- (d) The threat to the debtor to sell or assign to another person the obligation of the debtor to pay a covered debt, with an accompanying false representation that the result of the sale or assignment would be that the debtor would lose any defense to the covered debt.
- (e) The threat to any person that nonpayment of the covered debt may result in the arrest of the debtor or the seizure, garnishment, attachment, or sale of any property or the garnishment or attachment of wages of the debtor, unless the action is in fact contemplated by the debt collector and permitted by the law.
- (f) The threat to take any action against the debtor, which is prohibited by this title.

SEC. 4. Section 1788.11 of the Civil Code is amended to read:

1788.11. No debt collector shall collect or attempt to collect a covered debt by means of the following practices:

- (a) Using obscene or profane language.
- (b) Placing a telephone call without disclosing the caller's identity, provided that an employee of a licensed collection agency may identify oneself by using their registered alias name if they correctly identify the agency that they represent. A debt collector shall provide its California debt collector license number, if applicable, upon the consumer's request.
- (c) Causing expense to any person for long distance telephone calls, telegram fees, or charges for other similar communications, by misrepresenting to the person the purpose of the telephone call, telegram or similar communication.
- (d) Causing a telephone to ring repeatedly or continuously to annoy the person called.
- (e) Communicating, by telephone or in person, with the debtor with such frequency as to be unreasonable, and to constitute harassment of the debtor under the circumstances.
- (f) Sending written or digital communication to the person that does not display the California license number of the collector, if applicable, in at least 12-point type.

SEC. 5. Section 1788.12 of the Civil Code is amended to read:

1788.12. No debt collector shall collect or attempt to collect a covered debt or consumer debt, as specified, by means of the following practices:

(a) Communicating with the debtor's employer regarding the debtor's consumer debt unless such a communication is necessary to the collection of the consumer debt, or unless the debtor or their attorney has consented in writing to that communication. A communication is necessary to the collection of the consumer debt only if it is made for the purposes of verifying the debtor's employment, locating the debtor, or effecting garnishment, after judgment, of the debtor's wages, or in the case of a medical debt for the purpose of discovering the existence of medical insurance. Any such communication, other than a communication in the case of a medical debt by a health care provider or its agent for the purpose of discovering the existence of medical insurance, shall be in writing unless that written communication receives no response within 15 days and shall be made only as many times as is necessary to the collection of the consumer debt. Communications to a debtor's employer regarding a consumer debt shall not contain language that would be improper if the communication were made to the debtor. One communication solely for the purpose of verifying the debtor's employment may be oral without prior written contact.

(b) Communicating information regarding a consumer debt to any member of the debtor's family, other than the debtor's spouse or the parents or guardians of the debtor who is either a minor or who resides in the same household with that parent or guardian, prior to obtaining a judgment against the debtor, except where the purpose of the communication is to locate the debtor, or where the debtor or their attorney has consented in writing to that communication.

(c) Communicating to any person any list of debtors that discloses the nature or existence of a covered debt, commonly known as "deadbeat lists," or advertising any covered debt for sale, by naming the debtor.

(d) Communicating with the debtor by means of a written communication that displays or conveys any information about the covered debt or the debtor other than the name, address, and telephone number of the debtor and the debt collector and that is intended both to be seen by any other person and also to embarrass the debtor.

(e) Notwithstanding the foregoing provisions of this section, the disclosure, publication, or communication by a debt collector of information relating to a covered debt or the debtor to a consumer reporting agency or to any other person reasonably believed to have a legitimate business need for that information shall not be deemed to violate this title.

SEC. 6. Section 1788.13 of the Civil Code is amended to read:

1788.13. No debt collector shall collect or attempt to collect a covered debt by means of the following practices:

(a) Any communication with the debtor other than in the name either of the debt collector or the person on whose behalf the debt collector is acting.

(b) Any false representation that any person is an attorney or counselor at law.

(c) Any communication with a debtor in the name of an attorney or counselor at law or upon stationery or like written instruments bearing the name of the attorney or counselor at law, unless that communication is by an attorney or counselor at law or shall have been approved or authorized by that attorney or counselor at law.

(d) The representation that any debt collector is vouched for, bonded by, affiliated with, or is an instrumentality, agent or official of any federal, state or local government or any agency of federal, state or local government, unless the collector is actually employed by the particular governmental agency in question and is acting on behalf of that agency in the debt collection matter.

- (e) The false representation that the covered debt may be increased by the addition of attorney's fees, investigation fees, service fees, finance charges, or other charges if, in fact, those fees or charges may not legally be added to the existing obligation.
- (f) The false representation that information concerning a debtor's failure or alleged failure to pay a covered debt has been or is about to be referred to a consumer reporting agency.
- (g) The false representation that a debt collector is a consumer reporting agency.
- (h) The false representation that collection letters, notices or other printed forms are being sent by or on behalf of a claim, credit, audit, or legal department.
- (i) The false representation of the true nature of the business or services being rendered by the debt collector.
- (j) The false representation that a legal proceeding has been, is about to be, or will be instituted unless payment of a covered debt is made.
- (k) The false representation that a covered debt has been, is about to be, or will be sold, assigned, or referred to a debt collector for collection.
- (l) Any communication by a collection agency to a debtor demanding money unless the claim is actually assigned to the collection agency.

SEC. 7. Section 1788.14 of the Civil Code is amended to read:

1788.14. No debt collector shall collect or attempt to collect a covered debt by means of the following practices:

- (a) Obtaining an affirmation from a debtor of a covered debt that has been discharged in bankruptcy, without clearly and conspicuously disclosing to the debtor, in writing, at the time the affirmation is sought, the fact that the debtor is not legally obligated to make an affirmation.
- (b) Collecting or attempting to collect from the debtor the whole or any part of the debt collector's fee or charge for services rendered, or other expense incurred by the debt collector in the collection of the covered debt, except as permitted by law.
- (c) Initiating communications, other than statements of account, with the debtor with regard to the covered debt, when the debt collector has been previously notified in writing by the debtor's attorney that the debtor is represented by the attorney with respect to the covered debt and the notice includes the attorney's name and address and a request by the attorney that all communications regarding the covered debt be addressed to the attorney, unless the attorney fails to answer correspondence, return telephone calls, or discuss the obligation in question. This subdivision shall not apply if prior approval has been obtained from the debtor's attorney, or if the communication is a response in the ordinary course of business to a debtor's inquiry.
- (d) Sending a written communication to a debtor in an attempt to collect a time-barred debt without providing the debtor with one of the following written notices:
 - (1) If the debt is not past the date for obsolescence set forth in Section 605(a) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681c), the following notice shall be included in the first written communication provided to the debtor after the debt has become time-barred:

"The law limits how long you can be sued on a debt. Because of the age of your debt, we will not sue you for

it. If you do not pay the debt, [insert name of debt collector] may [continue to] report it to the credit reporting agencies as unpaid for as long as the law permits this reporting.”

(2) If the debt is past the date for obsolescence set forth in Section 605(a) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681c), the following notice shall be included in the first written communication provided to the debtor after the date for obsolescence:

“The law limits how long you can be sued on a debt. Because of the age of your debt, we will not sue you for it, and we will not report it to any credit reporting agency.”

(e) Collecting consumer debt that originated with a hospital licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code without including in the first written communication to the debtor a copy of the notice required pursuant to subdivision (e) of Section 127425 of the Health and Safety Code and a statement that the debt collector will wait at least 180 days from the date the debtor was initially billed for the hospital services that are the basis of the debt before reporting adverse information to a credit reporting agency or filing a lawsuit against the debtor.

(f) For purposes of this section, “first written communication” means the first communication sent to the debtor in writing or by facsimile, email, or other similar means.

SEC. 7.5. Section 1788.14 of the Civil Code is amended to read:

1788.14. No debt collector shall collect or attempt to collect a covered debt by means of the following practices:

(a) Obtaining an affirmation from a debtor of a covered debt that has been discharged in bankruptcy, without clearly and conspicuously disclosing to the debtor, in writing, at the time the affirmation is sought, the fact that the debtor is not legally obligated to make an affirmation.

(b) Collecting or attempting to collect from the debtor the whole or any part of the debt collector’s fee or charge for services rendered, or other expense incurred by the debt collector in the collection of the covered debt, except as permitted by law.

(c) Initiating communications, other than statements of account, with the debtor with regard to the covered debt, when the debt collector has been previously notified in writing by the debtor’s attorney that the debtor is represented by the attorney with respect to the covered debt and the notice includes the attorney’s name and address and a request by the attorney that all communications regarding the covered debt be addressed to the attorney, unless the attorney fails to answer correspondence, return telephone calls, or discuss the obligation in question. This subdivision shall not apply if prior approval has been obtained from the debtor’s attorney, or if the communication is a response in the ordinary course of business to a debtor’s inquiry.

(d) Sending a written communication to a debtor in an attempt to collect a time-barred debt without providing the debtor with one of the following written notices:

(1) If the debt is not past the date for obsolescence set forth in Section 605(a) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681c), the following notice shall be included in the first written communication provided to the debtor after the debt has become time-barred:

“The law limits how long you can be sued on a debt. Because of the age of your debt, we will not sue you for it. If you do not pay the debt, [insert name of debt collector] may [continue to] report it to the credit reporting agencies as unpaid for as long as the law permits this reporting.”

(2) If the debt is past the date for obsolescence set forth in Section 605(a) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681c), the following notice shall be included in the first written communication provided to the debtor after the date for obsolescence:

“The law limits how long you can be sued on a debt. Because of the age of your debt, we will not sue you for it, and we will not report it to any credit reporting agency.”

(e) Collecting consumer debt that originated with a hospital licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code without including in the first written communication to the debtor a copy of the notice required pursuant to subdivision (e) of Section 127425 of the Health and Safety Code and a statement that the debt collector will wait at least 180 days from the date the debtor was initially billed for the hospital services that are the basis of the debt before filing a lawsuit against the debtor.

(f) For purposes of this section, “first written communication” means the first communication sent to the debtor in writing or by facsimile, email, or other similar means.

SEC. 8. Section 1788.14.5 of the Civil Code is amended to read:

1788.14.5. (a) A debt collector to which delinquent debt has been assigned shall provide to the debtor, upon the debtor’s written request, a statement that includes all of the following information pursuant to subdivision (c):

(1) That the debt collector has authority to assert the rights of the creditor to collect the debt.

(2) (A) The debt balance and an explanation of the amount, nature, and reason for all interest and fees, if any, imposed by the creditor or any subsequent entities to which the debt was assigned.

(B) The explanation required by subparagraph (A) shall identify separately the balance, the total of any interest, and the total of any fees.

(3) The date the debt became delinquent or the date of the last payment.

(4) The name and an address of the creditor and the creditor’s account number associated with the debt. The creditor’s name and address shall be in sufficient form so as to reasonably identify the creditor.

(5) The name and last known address of the debtor as they appeared in the creditor’s records before the assignment of the debt to the debt collector.

(6) The names and addresses of all persons or entities other than the debt collector to which the debt was assigned. The names and addresses shall be in sufficient form so as to reasonably identify each assignee.

(7) The California license number of the debt collector, if applicable.

(b) A debt collector to which delinquent debt has been assigned shall not make a written statement to a debtor in an attempt to collect a delinquent debt unless the debt collector has access to a copy of a contract or other document evidencing the debtor’s agreement to the debt, except in the following circumstances:

(1) If the claim is based on debt for which no signed contract or agreement exists, the debt collector shall have access to a copy of a document provided to the debtor while the account was active, demonstrating that the debt was incurred by the debtor.

(2) For a revolving credit account, the most recent monthly statement recording a purchase transaction, last payment, or balance transfer shall be deemed sufficient to satisfy the requirements of this subparagraph.

(c) (1) A debt collector to which delinquent debt has been assigned shall provide the information or documents identified in subdivisions (a) and (b) to the debtor without charge within 30 calendar days of receipt of a debtor's written request for information regarding the debt or proof of the debt.

(2) If the debt collector cannot provide the information or documents within 30 calendar days, the debt collector shall cease all collection of the debt until the debt collector provides the debtor the information or documents described in subdivisions (a) and (b).

(d) (1) A debt collector shall provide a debtor with whom it has contact an active postal address to which a debtor may send a request for the information described in this section.

(2) A debt collector may also provide an active email address to which these requests can be sent and through which information and documents can be delivered if the parties agree.

(e) (1) A debt collector to which delinquent debt has been assigned shall include in its first written communication with the debtor in no smaller than 12-point type, a separate prominent notice that contains the following statement:

"You may request records showing the following: (1) that [insert name of debt collector] has the right to seek collection of the debt; (2) the debt balance, including an explanation of any interest charges and additional fees; (3) the date the debt became delinquent or the date of the last payment; (4) the name of the creditor and the account number associated with the debt; (5) the name and last known address of the debtor as it appeared in the creditor's records prior to assignment of the debt; and (6) the names of all persons or entities other than the debt collector to which the debt has been assigned, if applicable. You may also request from us a copy of the contract or other document evidencing your agreement to the debt.

A request for these records may be addressed to: [insert debt collector's active mailing address and email address, if applicable]."

(2) If a language other than English is principally used by the debt collector in the initial oral contact with the debtor, the notice required by this subdivision shall be provided to the debtor in that language within five business days.

(f) (1) A debt buyer that complies with the requirements of Section 1788.52 shall be deemed to be in compliance with this section.

(2) For purposes of this subdivision, "debt buyer" shall have the same meaning as in Section 1788.50.

(g) For the purposes of this section, the term "delinquent debt" means a covered debt, other than a mortgage debt, that is past due at least 90 days and has not been charged off.

(h) This section shall apply to all delinquent consumer debt sold or assigned on or after July 1, 2022.

(i) This section shall apply to all delinquent covered commercial debt sold or assigned on or after July 1, 2025.

SEC. 9. Section 1788.15 of the Civil Code is amended to read:

1788.15. (a) No debt collector shall collect or attempt to collect a covered debt by means of judicial proceedings when the debt collector knows that service of process, where essential to jurisdiction over the debtor or their property, has not been legally effected.

(b) No debt collector shall collect or attempt to collect a covered debt, other than one reduced to judgment, by means of judicial proceedings in a county other than the county in which the debtor has incurred the covered debt or the county in which the debtor resides at the time those proceedings are instituted, or resided at the time the debt was incurred.

(c) Notwithstanding subdivision (b), when the obligation of the debtor arises from a guaranty by the debtor of a covered commercial debt, a debt collector may collect or attempt to collect covered commercial debt by means of a judicial proceeding in the county in which the nonnatural person for whose purpose the commercial debt was incurred is located.

(d) This section shall apply to all delinquent covered commercial debt sold or assigned on or after July 1, 2025.

SEC. 10. Section 1788.16 of the Civil Code is amended to read:

1788.16. It is unlawful, with respect to attempted collection of a covered debt, for a debt collector, creditor, or an attorney to send a communication that simulates legal or judicial process or that gives the appearance of being authorized, issued, or approved by a governmental agency or attorney when it is not. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500) or by both.

SEC. 11. Section 1788.17 of the Civil Code is amended to read:

1788.17. Notwithstanding any other provision of this title, every debt collector collecting or attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the United States Code. However, subsection (11) of Section 1692e and Section 1692g shall not apply to any person specified in paragraphs (A) and (B) of subsection (6) of Section 1692a of Title 15 of the United States Code or that person's principal. The references to federal codes in this section refer to those codes as they read January 1, 2001.

SEC. 12. Section 1788.18 of the Civil Code is amended to read:

1788.18. (a) Upon receipt from a debtor of all of the following, a debt collector shall cease collection activities until completion of the review provided in subdivision (d):

(1) A copy of a Federal Trade Commission (FTC) identity theft report, completed and signed by the debtor. The debtor may choose, instead, to send a copy of a police report filed by the debtor alleging that the debtor is the victim of an identity theft crime, including, but not limited to, a violation of Section 530.5 of the Penal Code, for the specific debt being collected by the debt collector; however, the debt collector shall not also require a police report if the debtor submits an FTC identity theft report.

(2) The debtor's written statement that the debtor claims to be the victim of identity theft with respect to the specific debt being collected by the debt collector.

(b) The written statement described in paragraph (2) of subdivision (a) shall consist of either of the following:

(1) A written statement that contains the content of the Identity Theft Victim's Fraudulent Account Information Request offered to the public by the California Office of Privacy Protection.

(2) A written statement that certifies that the representations are true, correct, and contain no material omissions of fact to the best knowledge and belief of the person submitting the certification. A person

submitting the certification who declares as true any material matter pursuant to this subdivision that they know to be false is guilty of a misdemeanor. The statement shall contain or be accompanied by the following, to the extent that an item listed below is relevant to the debtor's allegation of identity theft with respect to the debt in question:

- (A) A statement that the debtor is a victim of identity theft.
- (B) A copy of the debtor's driver's license or identification card, as issued by the state.
- (C) Any other identification document that supports the statement of identity theft.
- (D) Specific facts supporting the claim of identity theft, if available.
- (E) Any explanation showing that the debtor did not incur the debt.
- (F) Any available correspondence disputing the debt after transaction information has been provided to the debtor.
- (G) Documentation of the residence of the debtor at the time of the alleged debt. This may include copies of bills and statements, such as utility bills, tax statements, or other statements from businesses sent to the debtor, showing that the debtor lived at another residence at the time the debt was incurred.
- (H) A telephone number for contacting the debtor concerning any additional information or questions, or direction that further communications to the debtor be in writing only, with the mailing address specified in the statement.
- (I) To the extent the debtor has information concerning who may have incurred the debt, the identification of any person whom the debtor believes is responsible.
- (J) An express statement that the debtor did not authorize the use of the debtor's name or personal information for incurring the debt.
- (K) The certification required pursuant to this paragraph shall be sufficient if it is in substantially the following form:

"I certify the representations made are true, correct, and contain no material omissions of fact.

_____ (Date and Place) _____ (Signature) _____"

(c) If a debtor notifies a debt collector orally that they are a victim of identity theft, the debt collector shall notify the debtor, orally or in writing, that the debtor's claim must be in writing. If a debtor notifies a debt collector in writing that they are a victim of identity theft, but omits information required pursuant to subdivision (a) or, if applicable, the certification required pursuant to paragraph (2) of subdivision (b), if the debt collector does not cease collection activities, the debt collector shall provide written notice to the debtor of the additional information that is required, or the certification required pursuant to paragraph (2) of subdivision (b), as applicable, or send the debtor a copy of the Federal Trade Commission's identity theft form.

(d) Within 10 business days of receiving the complete statement and information described in subdivision (a), the debt collector shall, if it furnished adverse information about the debtor to a consumer credit reporting agency, notify the consumer credit reporting agency that the account is disputed, and initiate a review considering all of the information provided by the debtor and other information available to the debt collector

in its file or from the creditor. The debt collector shall send notice of its determination to the debtor no later than 10 business days after concluding the review. The debt collector may recommence debt collection activities only upon making a good faith determination that the information does not establish that the debtor is not responsible for the specific debt in question. The debt collector's determination shall be made in a manner consistent with the provisions of subsection (1) of Section 1692f of Title 15 of the United States Code, as incorporated by Section 1788.17 of this code. The debt collector shall notify the debtor in writing of that determination and the basis for that determination before proceeding with any further collection activities. The debt collector's determination shall be based on all of the information provided by the debtor and other information available to the debt collector in its file or from the creditor.

(e) No inference or presumption that the debt is valid or invalid, or that the debtor is liable or not liable for the debt, shall arise if the debt collector decides after the review described in subdivision (d) to cease or recommence the debt collection activities. The exercise or nonexercise of rights under this section is not a waiver of any other right or defense of the debtor or debt collector.

(f) The statement and supporting documents that comply with subdivision (a) may also satisfy, to the extent those documents meet the requirements of, the notice requirement of paragraph (5) of subdivision (c) of Section 1798.93.

(g) A debt collector who ceases collection activities under this section and does not recommence those collection activities shall do both of the following:

(1) If the debt collector has furnished adverse information to a consumer credit reporting agency, notify the agency to delete that information no later than 10 business days after making its determination.

(2) Notify the creditor no later than 10 business days after making its determination that debt collection activities have been terminated based upon the debtor's claim of identity theft.

(h) A debt collector who has possession of documents that the debtor is entitled to request from a creditor pursuant to Section 530.8 of the Penal Code is authorized to provide those documents to the debtor.

(i) Notwithstanding subdivision (h) of Section 1788.2, for the purposes of this section, "debtor" means a natural person, firm, association, organization, partnership, business trust, company, corporation, or limited liability company from which a debt collector seeks to collect a debt that is due and owing or alleged to be due and owing from the person or entity. The remedies provided by this title shall apply equally to violations of this section.

SEC. 13. Section 1788.20 of the Civil Code is amended to read:

1788.20. In connection with any request or application for covered credit, no person shall:

(a) Request or apply for that credit at a time when that person knows there is no reasonable probability of that person's being able, or that person then lacks the intention, to pay the obligation created thereby in accordance with the terms and conditions of the credit extension.

(b) Knowingly submit false or inaccurate information or willfully conceal adverse information bearing upon that person's credit worthiness, credit standing, or credit capacity.

SEC. 14. Section 1788.21 of the Civil Code is amended to read:

1788.21. (a) In connection with any covered credit existing or requested to be extended to a person, that

person shall within a reasonable time notify the creditor or prospective creditor of any change in that person's name, address, or employment.

(b) Each responsibility set forth in subdivision (a) shall apply only if and after the creditor clearly and conspicuously in writing discloses that responsibility to that person.

SEC. 15. Section 1788.22 of the Civil Code is amended to read:

1788.22. (a) In connection with any covered credit extended to a person under an account:

(1) No such person shall attempt to consummate any covered credit transaction thereunder knowing that credit privileges under the account have been terminated or suspended.

(2) Each such person shall notify the creditor by telephone, telegraph, letter, or any other reasonable means that an unauthorized use of the account has occurred or may occur as the result of loss or theft of a credit card, or other instrument identifying the account, within a reasonable time after that person's discovery thereof, and shall reasonably assist the creditor in determining the facts and circumstances relating to any unauthorized use of the account.

(b) Each responsibility set forth in subdivision (a) shall apply only if and after the creditor clearly and conspicuously in writing discloses that responsibility to that person.

SEC. 16. Section 100001 of the Financial Code is amended to read:

100001. (a) No person shall engage in the business of debt collection in this state without first obtaining a license pursuant to this division. To the extent permitted by federal law, a person is acting in this state if the person is located in this state and is seeking to collect from a debtor that resides inside or outside the state, or is located outside of the state and is seeking to collect from a debtor that resides in this state. A license shall be obtained for the licensee's principal place of business and shall not be transferred or assigned. A separate license is not required for each individual branch office.

(b) (1) Except as provided in paragraph (2), this division shall not apply to a depository institution, as defined in Section 1420, a person licensed pursuant to Division 9 (commencing with Section 22000) or Division 20 (commencing with Section 50000), a person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, a person who is subject to the Karmette Rental-Purchase Act (Title 2.96 (commencing with Section 1812.620) of Part 4 of Division 3 of the Civil Code), or a trustee performing acts in connection with a nonjudicial foreclosure pursuant to Article 1 (commencing with Section 2920) of Chapter 2 of Title 14 of Part 4 of Division 3 of the Civil Code.

(2) The commissioner may use the authority described in Section 100005 in connection with a violation of Title 1.6C (commencing with Section 1788) or Title 1.6C.5 (commencing with Section 1788.50) of Part 4 of Division 3 of the Civil Code by a person described in paragraph (1).

(c) This division shall not apply to debt collection regulated pursuant to Division 12.5 (commencing with Section 28100) or to the collection of covered commercial debt or covered commercial credit, as those terms are defined in Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code.

SEC. 17. Section 7.5 of this bill incorporates amendments to Section 1788.14 of the Civil Code proposed by both this bill and Senate Bill 1061. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 1788.14 of the Civil Code, and (3) this bill is enacted after Senate Bill 1061, in which case Section 7 of this bill shall not become

operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.