

# Legal Strategies to Address Coerced Debt in Texas

## *Part 3: Challenging the Collection of Coerced Debts*

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# Overview

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Credit Card Debt

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Debt Collection Statutes

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EFTA and Bank Accounts

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TCPA

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Other debts / defenses

# TILA / FCBA

Truth in Lending Act (“TILA”), 15 USC §§ 1601 et seq. and Reg Z

- Subpart B of the Truth in Lending Act, 15 USC §§ 1631 *et seq*, governs credit card billing practices, and is also known as the Fair Credit Billing Act (FCBA). It covers:
  - Billing error procedures; 15 USC §1666 and 12 CFR § 1026.13
  - Unauthorized use; 15 USC §1643 and 12 CFR §1026.12
  - Claims and defenses asserted against the merchant; 15 USC §1666i and 12 CFR §1026.12
- Entitled to actual damages, twice the amount of the finance charge, costs and attorney's fees

# FCBA- Billing Errors

## DISPUTE AND INVESTIGATION: 15 USC §1666(a)

- Dispute must be *in writing* and sent within 60 days of receiving the first bill or statement that contains the error.
  - Once received, CC company must acknowledge receipt of dispute within 30 days.
  - CC company must complete its investigation before the end of 90 days of receipt of your dispute.
  - After investigation, removal of the unauthorized charges or conclude that amount still owed.
- If reasserting same dispute (which has already been investigated, responded to, resolved, etc.) creditor need not respond again (unless not “substantially the same” billing errors)

# FCBA- Billing Errors

## DEFINITION OF BILLING ERROR 15 USC §1666(b)

- Six definitions including any other error described in regulations by the Bureau (CFPB, formerly FRB)- look to Reg Z § 1026.13(a)
  - An unauthorized extension of credit not made to the consumer or to a person who has actual, implied, or apparent authority to use the consumer's credit card or open-end credit plan (a)(1)
    - *Stafford v. Cross Country Bank*, 262 F. Supp. 2d 776, 790 (W.D. Ky. 2003) (holding that a “wrong person” error, which consisted in that case of charging a person who claimed to have never opened the account, qualified as a billing error under the FCBA).
    - *Lau v. Credit Concepts*, 2007 WL 583623 (N.D. Okla. Feb. 21, 2007) (billing error dispute to BOA for a charge by a collection agency when she was not the underlying debtor for the collection account)

# FCBA- Billing Errors

## CONTENTS OF BILLING ERROR NOTICE:

- Must contain three elements: 1666(a)(1)-(3)
  - (1) information that allows the creditor to ascertain the consumer's name and account number, i.e., name and SSN
  - (2) an indication that the consumer believes the statement contains a billing error and the amount of that error, and
  - (3) the reasons for the consumer's belief.
- No particular format- sufficient as long as contains the necessary elements
  - Though a consumer may not be required to provide an affidavit or police report, should include if not providing any other facts or information to allow creditor to confirm billing error. Official Interpretations § 1026.13(f)-3
- Can (should) request copies of documentary evidence. 1666(a)(3)(ii)

# FCBA- Billing Errors

## BILLING ERRORS AND CREDIT REPORTS: 15 USC §1666a

- Can't be reported as delinquent while investigation pending, but can be reported as “in dispute”
- After investigation is concluded AND consumer is given 10 days to pay and fails to pay, can then report as delinquent HOWEVER,
  - If within 10 day period, dispute the amount again, then must be reported as “in dispute” (though delinquent) AND
  - creditor must notify the consumer of the name and address of each party to whom the creditor is reporting information concerning the delinquency
- Can report any undisputed unpaid amount as delinquent [Reg Z §1026.139\(d\)\(4\)](#)

# FCBA- Billing errors

## PRACTICALS:

- Once dispute sent, can withhold payments of the amount in dispute and related charges OR consumer can pay amount and notify the creditor they will seek a refund without waiving billing error rights, though it does waive right to assert claims and defenses as against the merchant  
[Reg Z §1026.13\(d\)\(1\)](#)
- Creditor may not subsequently impose a finance charge on the disputed amount if it turns out no billing error. [Official interpretations §1026.13\(d\)\(1\) -3](#)
- Creditor can't attempt to collect amount in dispute until investigation is resolved, but can reduce credit limit and can take collection actions on undisputed amounts
- Taking any adverse action for asserting FCBA rights can also be [ECOA](#) violation.  
[15 USC §1691\(e\)](#)
- Possible [EFTA](#) implications if automatic payments are made [15 USC §§1693-1693r](#)



# FCBA- Billing errors

## RESOLUTION:

- If creditor fails to complete investigation and fails to provide a written explanation as to why there was no error... creditor must credit the disputed amount and related finance or other charges. Official Interpretations § 1026.13(c)(2)-2
- Can't reverse a credit given if it obtains evidence after the error resolution time period that indicated billing error did not occur as asserted by the consumer unless the credit reversal is because the merchant also refunded the amount. § 1026.13(c)(2)-2
- If resolved in consumer's favor, credit disputed amount and related charges AND send correction notice to consumer and report to each CRA notified of a delinquency § 1026.13(e) and 1666a(c)
- If NOT resolved in consumer's favor, must mail or deliver explanation of its reasons;\* give copies of any documentary evidence (if consumer requested); and promptly notify the consumer in writing of the amount owed and time for payment. 1666(a)(3)(b)(ii) and §1026.13(f)

# TILA- Unauthorized use

Unauthorized use means “the use of credit card by a person other than the cardholder who does not have actual, implied, or apparent authority for such use and from which the cardholder received no benefit.” 15 USC § 1602(p)

- Whether a person has actual, implied, or apparent authority is a matter of state law but see Reg Z § 1026.12(b)(1)(ii)(4):
  - “ An unauthorized use includes, but is not limited to, a transaction initiated by a person who has obtained the credit card from the consumer, or otherwise initiated the transaction, through fraud or robbery.”

# TILA- Unauthorized Use

## 15 USC §1643

- Unauthorized use dispute can be oral. [Reg Z §1026.12\(b\)\(3\)](#)
  - Best practice: follow up in writing, CMRR
- No requirements as to timing or form, or to address or number (i.e. to an employee of the card issuer and is effective even if not forwarded to proper department). [15 USC § 1643\(a\)\(2\)](#), [Official Interpretations §1026.12\(b\)\(3\)-3](#), [Reg Z §1026.12\(b\)\(3\)](#)
- Once notice is given, the liability for unauthorized use is frozen at the amount of unauthorized use or \$50, whichever is less. [Official Interpretations §1026.12\(b\)\(1\)-2](#)

# TILA- Unauthorized Use

In order to impose the \$50, the card issuer must prove:

- The card was accepted by the cardholder\* [Reg Z § 1026.12\(b\)\(2\)\(i\)](#)
  - Accepted credit card is requested, received, signed, and used by the consumer or authorized for another to use by the consumer. [15 USC § 1602\(m\)](#)
- That CC company provided a means to identify the cardholder or authorized user (i.e. Signature, picture, etc.)
  - Card issuer doesn't have to prove that the merchant used this means but if transaction was done by mail, internet, or phone with only card number and info like CVV or expiration date, consumer can't be liable. Official Interpretations [§ 1026.12\(b\)\(2\)\(iii\)-3](#)
- Must also provide other notices i.e. max potential liability and how to notify the issuer of the loss or theft. [Reg Z § 1026.12\(b\)\(2\)\(ii\)](#)

# TILA- Unauthorized Use

- Unauthorized use is also a billing error, so the creditor must attempt to resolve the dispute by conducting a “reasonable” investigation, even if the consumer has not met the requirements of the billing error notice [Reg Z §§ 1026.13\(a\)\(1\) and 1026.13\(c\)](#), [Official Interpretations § 1026.12\(b\)\(3\)-3](#)
- Resolution of investigation is same as billing error and billing error restrictions on adverse credit reporting also apply.

# TILA- Claims and Defenses

## 15 USC §1666i

A credit card issuer can be subject to all claims (except tort claims) and defenses of a consumer against a merchant when:

1. the consumer has made a good faith attempt to obtain satisfactory resolution with the merchant; (fact question)
2. the amount of the initial transaction exceeds \$50; and
3. the place where the initial transaction occurred was in the same state as the mailing address previously provided by the cardholder or was within 100 miles from such address
  - Exception to (2) and (3) above\*

# TILA- Claims and Defenses

- Unauthorized use can be asserted as a claim or defense and also as a billing error.  
Reg Z § 1026.12(c)(1)
- Consumer invokes the right to assert claims and defenses under TILA by withholding payment\* or as a defense in a collection action by the creditor.
- No independent right of action, so must wait for credit company to sue in order to assert these defenses or claims in court.
- However, if creditor violates Reg Z provisions regarding claims and defenses such as adverse credit reporting regarding withheld payments, a consumer should be able to bring an action for actual and statutory violations under 1640(a), Reg Z § 1026.12(c)(1) and (2)

# TILA- Claims and Defenses

- Must still conduct a reasonable investigation which requires an independent assessment based on both the merchant and cardholder's info. [Official Interpretations §1026.12\(c\)\(2\)-2](#)
- Also, as with billing errors, cannot make an adverse credit report based on consumer's withholding payment until the dispute is settled or judgment rendered, though it may report the amount as disputed. [Reg Z §1026.12\(c\)\(2\) and \(c\)\(2\)-1](#)
  - Adverse credit reporting includes reporting the account is delinquent or that it has been charged off or is in collections. [Reg Z §1026.12\(c\)\(2\)](#)
  - However, card issuer not prohibited from collection activities for delinquent, undisputed amounts. [Official Interpretations §1026.12\(c\)\(2\)-1](#)



# Being married or in a relationship does not mean there is consent

- Civil cases

- Dillard Dept. Stores, Inc. v. Owens, 951 S.W.2d 915, 918 (Tex. App.—Corpus Christi 1997, no writ)
- Blaisdell Lumber Co. v. Horton, 575 A.2d 1386 (N.J. Super. Ct. App. Div. 1990)
- Elder-Beerman v. Nagucki, 561 N.E.2d 553 (Ohio Ct. App. 1988)

- Criminal cases- credit card abuse

- Menard v. State, 14-04-00717-CR, 2006 WL 994593, at \*1 (Tex. App.—Houston [14th Dist.] Apr. 18, 2006, no pet.)

# Credit Cards

## Federal claims:

- TILA/FCBA
- FDCPA
- FCRA
- TCPA



## State claims:

- Declaratory Judgment – CPRC Ch. 37
- ID theft statute- Tex. Bus. Com. Code Ch. 521
- Breach of Contract
- Negligence/DTPA for failing to investigate a billing dispute
- State debt collection statute- Tex. Fin. Code Ch. 392

# FDCPA

## Federal Debt Collection Practices Act (FDCPA) 15 U.S.C. §1692a-p

- Applies only to debt collectors, not original creditors
- 1 year SOL
- Up to \$1,000.00 statutory damages, actual damages, and attorney's fees
- Requires that collection agencies take certain actions:
  - Provides the right for a consumer to request all communications about a debt stop. §1692c
  - Provides the right for a debtor to receive notice of their right to dispute the debt. §1692g
  - If consumer disputes and requests validation, must suspend all collection efforts on the portion of the disputed debt, until collector responds to the request. §1692g
  - Dictates venue for collection suit (county of residence or where contract signed) §1692i

# FDCPA

## Other examples activity prohibited under the FDCPA:

- Communicating with third parties about the debt unless the consumer has given the collector permission or if contact is solely for the purposes of locating the consumer and do not reveal the call is about an unpaid debt. [§1692b](#) and [§1692c](#)
  - some exceptions to third party communications i.e. creditors or attorneys
- Communicating at unusual or inconvenient times - or places-like at work if the collector knows the employer prohibits personal calls. [§1692d](#)
- Contacting a consumer when the collector know is represented by a lawyer (unless the consumer initiates the contact under new [Reg F §1692c](#)
- Contacting a consumer after receiving a cease letter. [§1692c](#)
- Using obscene, derogatory, or insulting remarks, or threatening arrest. [§1692d](#)
- Making false, misleading, or deceptive representations in collecting debts or about the character, amount, or legal status of the debt. [§1692d](#)

# FDCPA

## Practical tips:

- Always dispute and/or request validation under §1692g
  - Make sure to do by the 30-day deadline because of protections evoked
  - Make sure to do in writing and by CMRR
- Advise consumer to keep a log of all calls, names of creditors, copies of any letters or written communications, and if possible save recordings of any messages.
  - Consider state laws regarding recording of calls (probably doesn't apply to voicemail messages because implied consent)
- Don't forget interplay of FDCPA and FCRA due to providing inaccurate information to CRAs
  - §1692e(8) violation to provide false credit info. (including not saying a debt is disputed)

# FDCPA

## New Reg F changes to FDCPA

- Provisions regarding debt parking on credit reports: before reporting a debt to a credit reporting agency, collector must:
  - speak to consumer in person or by phone, or
  - mail a letter or electronic communication to the consumer, wait a reasonable amount of time to make sure that the message is delivered, and monitor for non-delivery
    - A reasonable period of time = 14 days (whether sent by postal mail or electronic communication)
- Electronic communications such as emails, texts, even DMs on social media (not opt in, but opt out)
  - No numeric caps on electronic communication but total number of communications can violate general prohibition on abuse and harassment

# FDCPA

## New Reg F changes to FDCPA

initial communication or can be sent in a hyperlink in an email or in writing in the initial communication or within 5 days of the initial communication.

- **Clear and conspicuous**
  - readily understandable
  - written: readily noticeable and legible; no minimum font size
  - oral: volume and speed sufficient for consumer to hear and comprehend
- **Initial communication**
  - First time collector conveys information, directly or indirectly, about debt to the consumer
  - Does not include: legal pleadings (including bankruptcy proof of claims), limited content messages, certain legally required notices

# FDCPA

## New Reg F changes to FDCPA

### Limited Content Message (LCM)

- a voicemail for a consumer that includes:
  - Name of debt collector that does not indicate that they are in the collection business
  - Request that consumer reply
  - The name of someone the consumer can contact and a contact number
  - Can include other specific, optional content
- Considered an “attempt to communicate” not a “communication”
  - No violation of 1692c(b), 1692d(6), or 1692e(11) if LCM complies with regs
  - Voicemails that don’t qualify as LCMs can still violate these requirements

### Collection of time-barred debt

- Collector cannot sue or threaten to sue consumer on a time-barred debt
- Collector can still try to collect time-barred debt outside of court
- In some states, partial payment or even acknowledgement of the debt can revive the statute of limitations



# FDCPA

## New Reg F changes to FDCPA

### **Turning off” particular types of communications**

- Collector is prohibited from using any medium of communication if person has requested that collector not use that medium
  - Can be a type of communications - e.g. calls, emails, texts, etc.
  - Can be a particular phone number, email address, etc.
- Request can be made orally
- Consumer can stop some types of communications without ceasing all communications

### **Use of social media**

- Collectors cannot communicate or attempt to communicate through social media if the message is viewable by the general public or the person’s social media contacts
- Prohibition applies to any person, not just consumers
- Only applies to communications or attempted communications in connection with the collection of a debt
- Does not prohibit other forms of communication via social media platforms, such as direct messages

# FDCPA

## New Reg F changes to FDCPA

### Inconvenient time or place:

- If consumer initiates contact with collector during a time or from a place previously designated as inconvenient, collector may respond once at that time or to that place
- Presumption that communications after 9:00 pm or before 8:00 am are inconvenient
- Relevant time is when electronic communications are sent
  - **Safe harbor:** “If a debt collector has conflicting or ambiguous information regarding a consumer’s location . . . collector complies . . . if the debt collector communicates . . . at a time that would be convenient in all of the locations at which the debt collector’s information indicates the consumer might be located.”

# FDCPA

## New Reg F changes to FDCPA

- Allows 7 contacts per debt per week (i.e. presumption that it complies and is not harassing but can prove fewer calls than 7 is still harassing in a court based on facts)
- Call limits apply per debt- not per consumer
  - If a collector is attempting to collect 3 different accounts from the same consumer, it can call up to 21 times in a 7-day period.
  - If the collector speaks to the consumer about one account, it can have a conversation about another account without waiting 7 days after the first conversation as long as it didn't discuss both accounts in the first conversation.
  - Exception - for student loan debt - call limits are applicable to all student loans serviced under a single account number

# EFTA

Electronic Fund Transfer Act, (“EFTA”) 15 U.S.C. Sec. 1693, *et. seq.*

Regulation V, 12 C.F.R. part 1022: ONE YEAR STATUTE OF LIMITATIONS

- Covers use of a debt card which has access to a consumer’s account, withdrawals, transfers between accounts
- **Accounts**: demand deposit, savings deposit, asset account established for personal, family, or household use.
- **Electronic fund transfer**: transfer of funds, other than via check, draft, or other paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape to debit or credit an account

## Electronic Fund Transfer includes:

- Point of sale transfers (stores)
- Automated teller machines
- Direct deposits
- Withdrawal of funds
- Transfers of funds

There are several exclusions—so read the statute!



# EFTA and Identity Theft

Consumer discovers debit card was stolen and used to withdraw money from their bank account at their bank (you can't make this up), through an atm (with a camera) and to purchase goods at a store. Nothing reported on their consumer reports (yet).

How do you use EFTA?

- Written Dispute
- Bank Investigates
- Bank doesn't believe consumer is a victim of identity theft
- Bank doesn't give consumer his/her/their money back
- You sue bank for all available damages.

## Section 1693f: Error Resolution

- Must notify bank with 60 days after bank makes written documentation available to consumer of the transfers that there is a problem (can be oral or written, but best to be in writing)
- Notice must include: name and account number, what error exists, reasons for belief that an error exists
- Bank shall investigate, determine if an error has occurred and report the results of the investigation to the consumer within 10 business days. If the dispute was oral, the bank can require written notification in those 10 days.
- Provisional credit possible if consumer initially provides written documentation.

# EFTA and Identity Theft

- Bank has 45 days to investigate.
- If bank determines there was an error (or identity theft) it has to correct the error within one business day. (MIRACLE)
- Absence of error – **1693f(d)**: after investigation bank must send consumer an explanation of findings within 3 business days after conclusion of investigation.
  - Consumer can, **AND SHOULD**, request all documents used to come to conclusion
- Treble Damages available if the court finds that the bank “knowingly and willfully concluded that the consumer’s account was not in error when such conclusion could not reasonable have been drawn form the evidence available”



# EFTA and Identity Theft

## **Damages:**

- actual damages sustained by the consumer
- in individual case, between \$100-\$1000
- costs of litigation, with reasonable attorney's fees

## **Factors to determine amount of damages:**

- frequency and persistence of noncompliance, nature of noncompliance, and the extent to which the noncompliance was intentional

## **Defenses include:**

- Unintentional violation AND bona fide error notwithstanding the maintenance of procedures reasonable adapted to avoid any error

# TCPA

## Telephone Consumer Protection Act (TCPA) 47 U.S. Code § 227

- Unlawful to make any autodialed calls (robocalls) to cell phones without prior express consent [227\(b\)\(1\)\(A\)\(iii\)](#)
  - This includes texts\*
  - This includes debt collection calls. *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Request of ACA International for Clarification and Declaratory Ruling*, CG Docket No. 02-278, FCC Release 07-232, 23 FCC Rcd 559, 565; 2008 FCC LEXIS 56; 43 Comm. Reg. (P & F) 877 (Jan. 4, 2008) (“ACA Declaratory Ruling”), at ¶11.

# TCPA

- Express consent:
  - The FCC has determined that consumers who provide their cell phone numbers to a business as contact information expressly consent to the use of robocalls, either by that business or its collection agent. *ACA Declaratory Ruling*, ¶9
  - However, businesses which “capture” incoming numbers or obtain them through skip-tracing do not qualify. 23 F.C.C.R. 559, fn. 34 (2008) ("The Commission also noted, however, that if a caller's number is 'captured' by a Caller ID or an ANI device without notice to the residential telephone subscriber, the caller cannot be considered to have given an invitation or permission to receive autodialer or prerecorded voice message calls.")
  - Castro v. Green Tree Servicing, 10cv7211, 2013 WL 4105196 (S.D.N.Y., Aug. 14, 2013) (placing call from cell phone to creditor is not consent).
  - Many cases on this topic flushing out when consent given if phone given during time of transaction/credit application or not

# TCPA

## Express consent:

- Burden of proof for showing consent is on caller.

“To ensure that creditors and debt collectors call only those consumers who have consented to receive autodialed and prerecorded message calls, we conclude that the creditor should be responsible for demonstrating that the consumer provided prior express consent. The creditors are in the best position to have records kept in the usual course of business showing such consent, such as purchase agreements, sales slips, and credit applications. Should a question arise as to whether express consent was provided, the burden will be on the creditor to show it obtained the necessary prior express consent.” ACA Declaratory Ruling, ¶10.

- This is an affirmative defense, and not a pleading requirement. See 23 F.C.C.R. 559, 565 (Dec. 28, 2007)

## Liability:

- Creditors liable for collection agents.

“Similarly, a creditor on whose behalf an autodialed or prerecorded message call is made to a wireless number bears the responsibility for any violation of the Commission's rules. Calls placed by a third party collector on behalf of that creditor are treated as if the creditor itself placed the call.” ACA Declaratory Ruling, ¶10.

# TCPA

## Other factors:

- Revocation is key and in writing is extremely important
  - Case law on revocation depending on your district regarding what constitutes revocation
  - Best practice to do so in writing
- Wrong number calls are actionable under 227b(1)- no distinction between recipient and intended recipient

## Remedies:

- 4 year SOL
- Statutory damages of \$500 per call and up to \$1500 per call (discretionary) if “willful or knowing” 227b(3)(B) and 227b(3)(c)
- No attorney’s fees under TCPA, Klein v. Vision Lab Telecommunications, Inc., 399 F.Supp.2d 528, 542 (S.D.N.Y. 2005), but may be available under state law. US Fax Law Center, Inc. v. Henry Schein, Inc., 205 P.3d 512, 516-17 (Colo. App.

# Auto Loans

## Federal claims:

- TILA violations
  - Apparent on face of document 15 U.S.C. § 1638(a) and Regulation Z, 12 C.F.R. 226.18(b)
  - Not providing disclosures 15 USC § 1631(a)
- FCRA
- Collection statutes (FDCPA/Texas Finance Code Ch. 392)
- TCPA

## State claims:

- DTPA claims
- Declaratory action (CPRC Ch. 37)
- Repossession statutes (TBCC Ch. 9)
- Possible violations regarding clean title / transfer of title
- ID theft statute- Tex. Bus. Com. Code Ch. 521



# High-Cost Loans

## Payday loans:

- State specific
  - Is such a loan allowed?
  - If allowed, what are lenders' responsibilities prior to granting loan? (verifying identity, etc.)
- State law contract defenses
- TILA violations
  - Apparent on face of document [15 U.S.C. § 1638\(a\)](#) and [Regulation Z, 12 C.F.R. 226.18\(b\)](#)
  - Not providing disclosures [15 USC § 1631\(a\)\\*](#)
- Collection statutes ([FDCPA/Tex. Fin Code Ch. 392](#))
- TCPA if no consent to robocall
- Declaratory action [CPRC Ch. 37](#)
- ID theft statute- [Tex. Bus. Com. Code Ch. 521](#)



# High-Cost Loans

## Title loans:

- Same as payday loans, but added considerations regarding properly attaching secured interest in the collateral and repossession
  - State specific, mostly UCC

## Rent-to-own loans:

- Possible TILA violations
  - Apparent on face of document 15 U.S.C. § 1638(a) and Regulation Z, 12 C.F.R. 226.18(b)
  - Not providing disclosures 15 USC § 1631(a)\*
- repossession (TBCC Ch. 9)
- Contract defenses
- Collection statutes (FDCPA/Tex. Fin Code Ch. 392)
- FCRA
- TCPA
- Declaratory action (CPRC Ch. 37)
- ID theft statute- Tex. Bus. Com. Code Ch. 521





# Rental Lease

## State law specific:

- Ex: [Tex. Prop. Code §§92.016 and 92.0161](#) provisions regarding early termination due to domestic violence or sexual assault.
- Look to lease as well for possible provisions (general contract law and contract defenses)
- Problems with early termination:
  - Collection statutes ([FDCPA/Tex. Fin Code Ch. 392](#))
  - FCRA



# Mortgages

Mostly state specific law.

- If married at the time of signing:
  - Does state law require married parties to jointly sign deed of trust? (is abuser's name on the deed)
  - Is there a divorce decree mandating possession, refinance, disposition (sale), etc. (poss. remedy to coercion)
- If unmarried (partners but not married/common-law):
  - Did both sign or just one individual?
  - Want to keep home or sell?
- Threat of foreclosure? (some states unable to bring counterclaims or defenses in same foreclosure suit)
- FCRA application for credit reporting effects and possibly FDCPA application if delinquent
- TILA disclosure requirements to anyone who has an ownership interest and lives in the home, even if they did not sign the loan documents [Reg Z § 1026.2\(a\)\(11\)](#)



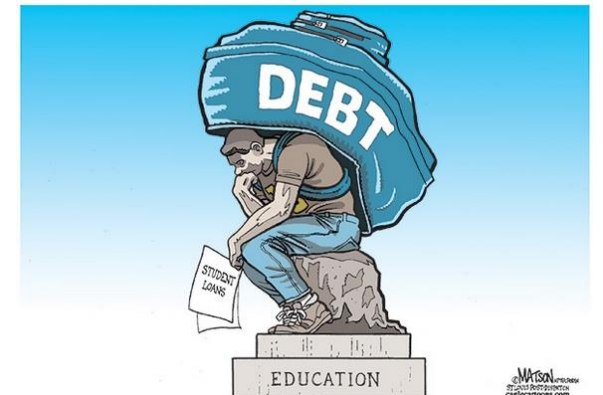
# Student Loans

## Private lender:

- State law on SOL and contractual defenses
  - Id theft statutes
  - Declaratory action **CPRC Ch. 37** or **TBCC Ch. 521**
- FDCPA
- FCRA

## Fed guaranteed loan:

- Ombudsman dispute re. ID theft (discharge)
- **TBCC Ch. 521** or **CPRC Ch. 37**



# Utilities/Phone/Cable

## Federal claims:

- FCRA
- FDCPA
- TCPA

## State claims:

- TBCC Ch. 521
- CPRC Ch. 37
- Contract law/defenses
- State regulations/boards governing disputes
- State debt collection statute – Tex. Fin. Code Ch. 392

# Questions?

For questions or to join the TCCD GoogleGroup Community

Email us at:

[texascoalitiononcoerceddebt@gmail.com](mailto:texascoalitiononcoerceddebt@gmail.com)

Check out our Coerced Debt Toolkit for more information and resources:

<http://financialabusehelp.org/>