UNIVERSITY OF PUERTO RICO BUSINESS LAW JOURNAL

VOLUME XVII
NUMBER 1
2026

VOLUME XVII **2026** **No.1**

VOLUME XVII **2026** **No.1**

Shaming Debtors in a Digital Age: Why It Is Time to Repeal 15 USC § 1692b

Lee C. Graboski[1]

Table of Contents

ABSTRACT

This article examines the outdated provision of the Fair Debt Collection Practices Act (FDCPA), § 1692b, which allows debt collectors to "communicate" with third parties for the purpose of locating debtors. The article illustrates how such third-party communication provisions can lead to abuse and harassment, despite the FDCPA's protective intent. While the Act was groundbreaking when it was enacted in 1977, significant technological advancements have rendered it obsolete and prone to abuse. Debt collectors today have access to a wide array of digital tools and data sources that make third-party communication unnecessary for locating individuals. Nevertheless, collectors continue to exploit this provision, often using it as a tactic to shame or coerce debtors by communicating with family, friends, and co-workers without authorization. The article argues that the ambiguous language of § 1692b, creating a safe harbor for "communicating" with third parties, not only creates confusion in judicial interpretation but also undermines the core consumer protection goals of the FDCPA. It demonstrates that repealing § 1692b would better align with modern privacy expectations and reduce harm to consumers. The article argues that modern technology has eliminated the need for § 1692b through advances like skip tracing and the ubiquity of digitally stored information. Finally, the article makes clear that repealing § 1692b would leave debt collectors with sufficient legal mechanisms such as garnishments, liens, and litigation to collect debts. The article concludes that repealing this provision is a necessary and overdue reform for today's digitally connected world that would restore the FDCPA's original mission: to protect consumers from abusive, deceptive, and unfair debt collection practices.

[1]Lee Christopher Graboski is a Juris Doctor (J.D.) candidate at the Elizabeth Haub School of Law at Pace University. He received both a Bachelor of Science and a Master of Science in Criminal Justice from Roger Williams University. He currently works at a law firm focused on consumer protection law, where he evaluates potential claims and prospective client matters. His scholarly interests include corporate governance, civil litigation, and international law.

INTRODUCTION

On a rainy night, a single mother named Maria was driving home after a long day. Maria had her two-year-old child in a car seat in the back seat of her car, and she was pregnant with her second child. As Maria pulled out of her driveway, she noticed the headlights of an unknown vehicle following her. As she parked, the other vehicle pulled in close behind hers, preventing her from reversing. Maria watched as two adult males whom she did not recognize exited the unmarked vehicle. One of the men walked over and placed himself between Maria and the front door of her house, and the second man made his way towards the driver's side door of Maria's car. When he arrived at her car door, he began knocking on the glass and screaming at Maria, demanding that she pay her debts or there would be trouble. Maria remained in her car with the doors locked, shaking in fear of her life and the lives of her children. As it turned out, these men were agents of a debt collection agency hired to collect past-due balances Maria owed. After the men left, Maria was traumatized. She decided to reach out to a law firm to discuss what had happened to her and what legal remedies were available to her after such an ordeal.

The 1977 Fair Debt Collection Practices Act ("FDCPA" or "The Act")[2] is a federal statute that regulates what debt collectors may do to try to collect past-due payments from debtors. The Act prescribes how a debt collection company may and may not contact someone; if contact is allowed, what language a debt collector may use; the relevant statutes of limitations; and regulations governing third-party communications. At its core, the FDCPA was designed to be an affirmative protection for debtors against the often abusive and harassing tactics used by debt collectors.[3]

In situations such as Maria's, the FDCPA is an effective means of combating debt collector abuses. As a result of the trauma Maria had experienced, she was able to get compensated for the harassment, have her debts wiped away, and have the debt collection company that was responsible for this abuse held accountable for their actions through sanctions and additional monetary fines.[4] In this situation, the FDCPA works flawlessly to protect consumer rights when its regulations are so clearly violated.

---

[2] Fair Debt Collection Practices Act, 15 USC § 1692 (1977).
[3] *See* Sheriff v. Gillie, 578 U.S. 317, 319 (2016) (maintaining that the FDCPA aims to eliminate abusive debt collection practices).
[4] The FDCPA entitles debtors who were victimized by debt collector abuses up to $1,000 compensation for the violation. However, the Federal Trade Commission (FTC) goes a step further and can impose additional fines for debt collectors. These fines are adjusted annually

However, as time has evolved and technology has advanced, aspects of the FDCPA have become outdated and no longer effectively protect debtors from abusive collection practices. While the FDCPA has been used as the primary tool in civil suits to protect consumers from debt-collection abuse and harassment, little has been done to change its structure or amend its language to adapt to an ever-changing world.[5]

Under the FDCPA, § 1692c prohibits debt collectors from communicating with any individual other than the debtor they are seeking to collect from.[6] Typically, these other individuals are friends, family members, and co-workers of the debtor, and such prohibited interactions are referred to as "third-party communications." If a debt collector communicates with any third party regarding the debtor's personal or financial situation, then the debt collector would violate § 1692c and is subject to penalties under the FDCPA.[7] While this provision may seem ironclad, there is, however, one exception.

Under the FDCPA, § 1692b sets forth the one circumstance under which a debt collector can find legal refuge in reaching out to individuals not associated with the debt they are trying to collect: communicating with third parties.[8] Section 1692b of the FDCPA permits a debt collector to communicate with third parties only to ascertain the debtor's location or contact information.[9] This section is commonly

---

for inflation. As of 2024, the fines were up to $50,000 per violation for any debt collector that the FTC found to be using unfair or deceptive debt collection practices. *See* Dr. Nick Oberheiden, *Violations, Civil Liability & Penalties Under the Fair Debt Collection Practices Act (FDCPA)*, THE NATIONAL LAW REVIEW (Aug. 1, 2024), https://natlawreview.com/article/violations-civil-liability-penalties-under-fair-debt-collection-practices-act-fdcpa.

[5] The first major change to the FDCPA took place on November 30th, 2021, when "Regulation F" was added to the Act by the CFPB. This addition impacted how debt collectors could contact debtors. More specifically, it had much to do with "limited content messages," which had to be left on voicemail boxes for debtors. These limited content messages had several provisions for debt collectors including that they: could only state the debt collector's business name as long as the name does not reveal that the debt collector is in the debt collection business; cannot disclose any information in the voicemail that the debtor owes a debt; must give a callback number for the debtor to call the debt collector back at. This provision touches upon indirect third-party communication. Voicemails left on a debtor's home phone may be overheard by other third parties, so this regulation controls what information debt collectors are allowed to leave in voicemails to better protect consumers from third party disclosure. This regulation is the first notable change made to the FDCPA since its creation in 1977. Susan Manship Seaman, *Six Things Creditors Should Know About the New Federal Debt Collection Rule*, AMERICAN BAR ASSOCIATION (Dec. 28, 2020), https://www.americanbar.org/groups/business_law/resources/business-law-today/2021-january/six-things-creditors-should-know/.

[6] Fair Debt Collection Practices Act, 15 USC § 1692c(b). Specifically, the statute reads: "a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer."

[7] *Id.* § 1692c.

[8] Several Supreme Court rulings have held that the FDCPA is designed to broadly limit debt collector communication with third parties. *See* Heintz v. Jenkins, 514 U.S. 291, 292-93 (1995) (stating that the FDCPA sets out rules that a debt collector must follow when "acquiring location information" from third parties); *see also* Obduskey v. McCarthy & Holthus LLP, 586 U.S. 466, 476 (2019) (confirming that the FDCPA has broad limitations on a debt collector communicating with third parties when collecting debts).

[9] Fair Debt Collection Practices Act, § 1692b. This section begins with: "[a]ny debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall," with several provisions that debt collectors must abide by while communicating with third parties.

referred to as the "safe harbor" provision of the FDCPA and allows debt collectors a narrow window to communicate with third parties solely to locate a debtor.

When enacted almost fifty years ago, in 1977, this provision was considered necessary to allow debt collectors to find debtors who had moved, changed addresses, or changed home phone numbers. But today, almost anyone can be located by using the internet. The widespread availability of digitally stored public information and other "skip tracing" tools allows a debt collector to find phone numbers, addresses, employers, and other information about debtors with ease, given the amount of personal data now stored online.[10]

At the same time, this safe harbor is more commonly used by debt collectors to embarrass debtors into paying and to harass third parties who are somehow connected to the debtor and have no legal recourse. As a tactic, communicating with the people closest to a debtor and disrupting or repeatedly reaching out to them forces debtors into succumbing to the debt collectors' wishes.

Since the dawn of the digital age, there has been no need for debt collectors to communicate with third parties to obtain debtors' location and contact information. This type of behavior, while useful in the past, is now widely abused by debt collectors to undermine debtors' privacy and consumer rights nationwide.[11] In essence, the FDCPA was designed to protect consumers, and courts across the country should interpret its language more broadly to serve consumers better.

This article argues that § 1692b should be repealed. First, § 1692b's language is unclear, thereby allowing debt collectors to harass debtors through third-party communications. Second, § 1692b should be repealed rather than amended because it would provide more effective and uniform consumer protection.

---

[10] Skip tracing is a commonly used technique implemented in many different industries, such as debt collection, law enforcement, real estate investors, and journalism to find different pieces of information from online databases on people. This process involves several steps. First, data mining is used to gather copious quantities of information. Second, the data is cross-referenced with things like utility bills, job applications, and social media platforms. Finally, software systems dedicated to storing and analyzing this type of information on people are used to present the most accurate information profile on the individual or entity the research is focused on. *What is Skip Tracing? An Overview*, THOMAS REUTERS (Aug. 27, 2024), https://legal.thomsonreuters.com/blog/what-is-skip-tracing-an-overview/ [https://perma.cc/99AA-CVES].

[11] Many complaints have been submitted to the Consumer Financial Protection Bureau (CFPB) regarding instances of debt collectors communicating with third parties leading to embarrassment for the debtor. *See* Compl., Consumer v. Terrier Holdings Inc., No. 11907089, (Consumer Fin. Protection Bureau [2/3/2025]) (stating a debt collector had communicated with a third party and disclosed details of a debt to that third party); Compl., Consumer v. Persolve, LLC, No. 5607755, (Consumer Fin. Protection Bureau [5/27/2022]) (alleging that a debt collector had communicated with a third party on more than one occasion and disclosed that they were a debt collector looking to collect a debt); *see also* Compl., Consumer v. R.T.R. Financial Services, Inc., No. 6849120, (Consumer Fin. Protection Bureau [4/17/2023]) (asserting that a debt collector disclosed to a third party the amount of the debt that the debtor owes).

Further, the digital age has created more efficient means of locating debtors today than ever before. Lastly, if § 1692b is repealed, debt collectors will still be able to collect debts effectively. This repeal is not only necessary but also well overdue.

Part I of this article will discuss the historical and procedural background of the FDCPA, provide an overview of § 1692b, and examine how interpretations of this section have evolved. Part II is divided into four sections that discuss the ambiguous language of § 1692b, the resulting mischief it creates, the existence of technology that curbs the need for third-party communications, and, finally, the alternative means available to debt collectors for collecting debts. This article concludes by recommending § 1692b be repealed from the FDCPA to better promote the FDCPA's goal of consumer protection.

I. BACKGROUND

A. The Modern Debt Collection Industry

Today's debt collection industry comprises thousands of legitimately registered debt collection agencies.[12] The primary function of these agencies is to collect debts from individuals and businesses. If an individual fails to pay their insurance premiums, or if a business fails to pay its landlord the monthly rent, the delinquent accounts are sold to debt collection companies. Debt collection companies help original creditors recoup losses when an account is in default by purchasing the accounts and collecting from debtors.[13] A debt collection company's business plan is centered on buying delinquent accounts, usually for less than the total amount owed, and collecting the full balance due from the debtor, plus any accrued interest and debt collection fees.

The most common delinquent accounts among consumers today are student loans, credit card bills, mortgage and auto loans, and medical bills.[14] These types of debts are called consumer debts, and they are the ones the FDCPA governs. These debts can range from as little as $1 to tens of thousands of dollars, depending on the type of debt. If an individual does not pay their debt, the creditor (i.e., the original creditor)

---

[12] Cheryl R. Cooper, Cong. Rsch. Serv., R46477, *The Debt Collection Market and Selected Policy Issues*, 4 (2021).
[13] *Id.*
[14] As of today, there is a total of $18.20 trillion of debt among American households, a record high. The largest contributors of this total come from mortgages at $12.80 trillion, auto loans at $1.64 trillion, student loans at $1.63 trillion, and credit cards at $1.18 trillion. There is also an increasing percentage of accounts that are more than 30 days past due today at 4.3%. Maureen Milliken, *The Demographics of Household Debt in America*, DEBT.ORG (Jul. 11, 2025), https://www.debt.org/faqs/americans-in-debt/demographics/#:~:text=The%20Demographics%20of%20Household%20Debt,in%20some%20stage%20of%20delinquency.

may try to alert the debtor and send notices. However, debt collection is not part of their job; pursuing delinquent debt is not the responsibility of the original creditors; their job is only to provide funds and credit. Once debts remain outstanding for a certain period, these companies sell the accounts to a debt collection company, which then becomes the third-party collector for that account. When an account is sold to collections, it is done so electronically. These accounts typically include basic contact information such as a debtor's name, address, date of birth, Social Security number, and email or phone number.[15]

While most states have statutes of limitations outlining how long after a debt becomes delinquent a consumer can be sued, or how long a debt can remain on an individual's credit report, the period usually lasts several years after delinquency. This gives debt collectors ample time to attempt to collect these past-due balances repeatedly.

Furthermore, even after the statute of limitations runs out and a consumer cannot be sued for a debt and cannot have a debt posted on their credit reports, a debt collector can still call, text, email, and mail consumers to try to collect the debt. If the consumer makes a payment during this time, or even promises to pay, the statute of limitations can be reset, making the consumer vulnerable to litigation again.

In the United States today, roughly one-third of consumers are behind on their debt payments.[16] While the reasons for these delinquencies may vary, more consumers are having their accounts sent to collection agencies than ever before.[17] While debt collectors have successfully collected roughly $16.4 billion annually within the last five years, the number of complaints about debt collector abuse and harassment has also increased.[18] The Federal Trade Commission (FTC) is the agency responsible for monitoring debt collection abuses, and it has received more consumer complaints related to debt collection than any other industry.[19]

---

[15] Debt Collection (Regulation F); Advanced Notice of Proposed Rulemaking, 78 Fed. Reg. 67849, 67854-55 (Nov. 12, 2013).
[16] Tyler Smith, *Debt Collection: How prevalent is wage garnishment in the United States?*, AMERICAN ECONOMIC ASSOCIATION (Mar. 18, 2024), https://www.aeaweb.org/research/charts/wage-garnishment-new-facts-us? [https://perma.cc/AXC5-EMPX].
[17] Fifty two percent of debt collection agencies in the United States have seen an increase, or significant increase, in the number of accounts placed or acquired in the last twelve months as of January 2025. *More Than Half of Debt Collection Companies Saw Increased Volume of Accounts in the Past 12 Months*, TRANSUNION (Jan. 15, 2025), https://newsroom.transunion.com/more-than-half-of-debt-collection-companies-saw-increased-volume-of-accounts-in-past-12-months/ [https://perma.cc/65KM-C77M].
[18] Alexander Govdysh, *Debt Collection Agencies in the US*, IBIS WORLD (March 2025), https://www.ibisworld.com/united-states/industry/debt-collection-agencies/1474/.
[19] *Debt Collection*, FEDERAL TRADE COMMISSION (Jul. 2025), https://www.ftc.gov/news-events/topics/consumer-finance/debt-collection#:~:text=The%20FTC%20enforces%20the%20Fair,and%20causes%20substantial%20consumer%20harm.

Even if a past-due balance is owed, a consumer is still protected under the FDCPA from abuse and harassment by debt collectors. So, when a debt collector begins calling debtors' friends, family, and co-workers, there is one primary tool available to combat these abusive debt collection practices: the FDCPA.

B. History of the FDCPA

In 1977, the FDCPA was enacted as Title VIII of the Consumer Credit Protection Act and emerged from Congress's clear concern over rampant "abusive, deceptive, and unfair debt collection practices" affecting consumers nationwide.[20] According to congressional findings, such misconduct contributed to personal bankruptcies, marital strain, job loss, and invasions of privacy.[21]

Congress further recognized that existing laws had not curbed these systemic problems and that other non-abusive means existed for collecting debts.[22] Thus, the objectives of the FDCPA were (1) to eliminate abusive practices, (2) protect well-intentioned third-party collectors from unfair competition, and (3) encourage uniform state and federal regulation.[23]

The FDCPA has multiple provisions that control how debt collectors can collect debts from consumers.[24] For instance, debt collectors cannot contact a consumer if they know an attorney represents the consumer;[25] they cannot use the threat of violence against the consumer to try to collect debts;[26] they may not communicate the existence of a debt in any way by information posted on the outside of any envelope or mailing.[27] While these provisions are clear, a much more difficult issue is how, if at all, a debt collector may communicate with a third party in order to reach the consumer who owes the money.

---

[20] § 1692.
[21] Zortman v. J.C. Christensen & Assocs. Inc., 870 F. Supp. 2d 694, 698 (D. Minn. 2012).
[22] § 1692.
[23] § 1692.
[24] § 1692.
[25] § 1692c(a)(2); *see also* Isham v. Gurstel, Staloch & Chargo, P.A., 738 F.Supp.2d 986, 1000 (D. Ariz. 2010) (holding that the debt collector was in violation of the FDCPA because they had continued to contact the plaintiff even after being notified by that plaintiff that she was being represented by an attorney).
[26] § 1692d(1); *see also* Glover v. Ocwen Loan Servicing, LLC, 127 F.4th 1278, 1287 (11th Cir. 2025) (affirming that debt collectors may not use a threat of violence against a debtor when the debt collector is communicating about a debt).
[27] § 1692f(8); *see* Douglass v. Convergent Outsourcing, 765 F.3d 299, 305-06 (3d Cir. 2014) (asserting that the debt collector was in violation of the FDCPA because they listed the debtors account number with the debt collector on the outside of an envelope that was sent to the debtor, and this information was considered to be "impermissible language or symbols" under the FDCPA); *accord* Diaz v. Credit Protection Association, L.P., 2020 WL 13747402 (M.D. Fla. 2020) (the Court denies Defendant's motion to dismiss citing section 1692f(8) which prohibits any language or symbol from appearing on the envelope containing a debt collection letter other than the debt collector's business name or address); *see also* Fondacaro v. Solomon & Solomon, P.C., 2018 WL 4054075 (N.D.N.Y. 2018) (holding that if a law firm that engages in debt collection does not list their full name, specifically the words "Law Firm" on an envelope, then there is no FDCPA violation).

At the time the Act was passed, it was common for debt collectors to contact third parties to locate debtors. The debt collector may have received limited information from the original creditor regarding the debtor's whereabouts due to the lack of digitally stored information. Or, if the debtor had moved or changed phone numbers, then locating that individual would be impossible without outside assistance from third parties who knew the debtor's location, or how to reach them. Unfortunately, this practice resulted in debt collectors communicating with third parties and disclosing details about the debtor and the debt they owe, a tactic used to embarrass the debtor into paying.

The legislative history of the FDCPA reveals a clear focus on curbing abusive debt collection practices regarding third-party communication through the creation of § 1692c.[28] The enactment of § 1692c prohibits debt collectors from communicating with any party that is not associated with the debt they are trying to collect, which demonstrates the intent of the FDCPA's creators to prevent the communications debt collectors have with third parties.[29] However, these provisions may not appear to be as clear and convincing as the other sections of the Act.

In the FDCPA, § 1692c prohibits debt collectors from communicating with any third party not associated with the debt they are seeking to collect.[30] This provision plainly states, "[w]ithout the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt…"[31] While this may appear to be a straightforward blanket statement protecting consumers completely from third party communications and abuses, the FDCPA also includes a "safe harbor" provision located in § 1692b.[32]

The safe harbor provision, § 1692b, was intended to outline the limited circumstances under which debt collectors could legally communicate with third parties, such as family members, neighbors, or

[28] § 1692c(b). This section outlines, plainly, the intent of the FDCPA to stop third party communications. The Act uses clear phrasing such as "may not communicate… with any person other than the consumer," to effectuate an end to third party communications.
[29] *Id*.
[30] *Id*.
[31] § 1692c(a).
[32] § 1692b.

employers, to obtain a debtor's location information.[33] This provision was created to aid debt collectors in locating only contact and location information from debtors.

Over the years, courts have interpreted § 1692b in conflicting ways, leading to more situations where the FDCPA may be applicable. In the landmark case of *Heintz v. Jenkins*, the Supreme Court affirmed that the FDCPA applies to attorneys who "regularly" engage in debt collection activities, thereby broadening the scope of who is considered a debt collector under the Act.[34] This decision underscored the importance of adhering to the outlines set forth in § 1692b, even for legal professionals.[35]

In a hearing before the Senate subcommittee on Consumer Affairs and Coinage, a former debt collector discussed tactics debt collectors use against third parties to collect a debt.[36] The former debt collector described tactics such as "block parties," in which a debt collector would call all the debtor's neighbors to look for the debtor.[37] He also described "office parties" in which the debt collector would dial consecutive extensions at the debtor's workplace to speak with co-workers about the debtor.[38] These tactics are permitted by the FDCPA's safe harbor provision, which allows debt collection companies to take advantage of the statute's language and communicate with third parties.

In sum, the FDCPA's safe harbor provision may have been useful to debt collectors in the past, but it has now been weaponized by some to harass third parties, embarrass consumers, and abuse their rights. To combat this harassment, § 1692b should be repealed from the FDCPA.

II. ANALYSIS

A. The Language in § 1692b Creates Confusion and Exposes Consumers to Third-Party Contact Abuses

The FDCPA's language regarding third-party communications has created confusion and invites debt collectors to communicate with third parties at will.[39] This confusion stems from the language of the Act. The

---

[33] *Id.*
[34] *See* Heintz v. Jenkins, 514 U.S. 291, 299 (1995) (holding that the FDCPA applies to attorneys who "regularly" engage in debt collection activity, even if that activity is litigation).
[35] *Id.*
[36] The Fair Debt Collection Practice Act: Hearing Before the Subcomm. on the Consumer Affairs and Coinage of the Comm. on Banking, Finance, and Urban Affairs, 102nd Cong. 2 (1992), 10-15, Statement of Richard Bell, Former Debt Collector.
[37] *Id.* at 12.
[38] *Id.*
[39] Manuel H. Newburger & Barbara M. Barron, *Commercial Law League of America Amicus Curiae Brief in Support of Petitioners in Heintz v. Jenkins*, 100 COMLJ 38, 49 (1995). If the language of the FDCPA is taken in its most literal light, then debt collectors would not be allowed to bring forward cases to courts. If a debt collector hires a process server to serve a summons to a consumer for owing a debt, or

Act begins with, "[a]ny debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall…" and includes several provisions regarding how debt collectors can communicate with third parties.[40]

Specifically, it is the term "communicating" in § 1692b that has created much of the confusion. Luckily, § 1692a defines the terms used in the FDCPA.[41] In the words of § 1692a(2), "[t]he term 'communication' means the conveying of information regarding a debt directly or indirectly to any person through any medium."[42]

While this may seem straightforward, in *Marx v. General Revenue Corp.*, the Tenth Circuit Court of Appeals interpreted the statutory language of the Act to apply to conduct that reveals the existence of a debt.[43] There, the court held that a facsimile from the debt collector to a debtor's employer requesting employment information did not breach the FDCPA because it did not contain any information regarding the existence of a debt.[44] On the other hand, in *Thomas v. Consumer Adjustment Co.*, the District Court held that a communication to a third party can violate the FDCPA even if the communication does not actually convey information about a debt.[45] There, a debt collector called the debtor's apartment and spoke with an individual who was neither the debtor nor otherwise associated with the debt.[46] The court ruled in favor of the debtor on the third-party disclosure claim because it found that the debt collector communicated with the third

---

if a collector discusses facts of the case with witnesses, or if they communicate to the court clerk details of the debt, then the debt collector would, in theory, be violating 15 U.S.C. § 1692b-c.

[40] 15 U.S.C. § 1692b. This section of the Act lists six requirements debt collectors must follow to stay protected under § 1692b's safe harbor provision. These requirements include that a debt collector must: identify himself and state that he is only trying to gather location and contact information; not disclose that the debtor owes a debt; not communicate with any third party more than once unless the debt collector reasonably believes that third party gave an erroneous or incomplete answer, or that the third party now has accurate information; not communicate by postcard; not use any language or symbol on any envelopes that indicates the debt collector is in the debt collection business or that they are trying to collect a debt; and not communicate with any individual if the debt collector knows that individual is represented by an attorney.

[41] 15 U.S.C.§ 1692a.

[42] 15 U.S.C. § 1692a(2).

[43] Marx v. Gen. Revenue Corp., 668 F.3d 1174, 1177 (10th Cir. 2011). Here, the plaintiff, Marx, defaulted on their student loans and was sued by the defendant, General Revenue Corp. (GRC), for collection. GRC sent a form to Marx's employer asking for employment information on Marx, and Marx sued GRC for third party disclosure.

[44] *Id*.

[45] Thomas v. Consumer Adjustment Co., 579 F. Supp. 2d 1290, 1296-97 (E.D. Mo. 2008). The issue in this case was surrounding the debt collector's language and intent when they called the consumer's residence. The debt collector called the debtors residence and spoke to a third party who answered the debtor's home phone on at least four separate occasions. Further, the debt collector asked this third party for "a better number" to reach the debtor at. The District Court concluded that this collection attempt did not fall under the protection of § 1692b since the debt collector was calling the debtor's residence and were told the debtor was not present. Asking for more information other than the debtor's "place of abode and his telephone number at such place, or his place of employment," was seen as attempting to get more than what was necessary for location and contact information on the debtor.

[46] *Id*. at 1292-93.

party for reasons other than to obtain location or contact information.[47] Thus, here, the court interpreted the term "communication" as one connected to a debt, but not necessarily one communicating the existence of the debt to the third party.[48] And clearly, in *Thomas*, the communication was not for the purpose of locating the debtor because the debt collector called the debtor's home.[49] Therefore, even a communication with a third party that does not contain information regarding the existence of a debt can be a violation of § 1692b.

These distinctions cause as much confusion for the courts as they do for debt collection agencies who wish to adhere to the law but are unclear how to do so. In *Calhoun v. Sentry Credit, Inc.*[50], the debt collector communicated with the debtor's mother and attempted to gather location information for the debtor who had promised to return the debt collector's call, but never did.[51] The debt collector did not communicate with the debtor's mother for any deceitful purpose and did not disclose any information that would reveal the existence of a debt.[52] While the debt collector appears to have followed the terminology of § 1692b to the letter, the District Court still found them in violation of the FDCPA because the caller said the call was regarding "an important personal matter" for the debtor.[53]

What was once used as a protection for debt collectors, § 1692b has proven to be more difficult and confusing for courts and debt collectors alike. Not only does the language confuse courts, but it also invites third-party disclosure by debt collectors, both devious and well-intentioned, that is unnecessary to locate the debtor.

B. Repealing § 1692b Would Provide Improved and More Uniform Consumer Protection

The United States Supreme Court has agreed that the FDCPA's purpose is to eliminate abusive debt collection practices and protect consumers by imposing a myriad of requirements on debt collectors.[54]

---

[47] *Id*.
[48] *Id*.
[49] *Id*.
[50] Calhoun v. Sentry Credit, Inc., No. 2:18-cv-00222-MHH, 2019 WL 2435868 at *2 (N.D. Ala. June 11, 2019).
[51] *Id*.
[52] *Id*. at 2.
[53] *Id*. at 4.
[54] The Supreme Court stated in Obduskey v. McCarthy & Holthus LLP:

> "Debt collectors may not use or threaten violence, or make repetitive annoying phone calls. § 1692d. Nor can debt collectors make false, deceptive, or misleading representations in connection with a debt, like misstating a debt's "character, amount, or legal status." § 1692e. And, as we have mentioned, if a consumer disputes the amount of a debt, a debt collector must "cease collection" until it "obtains verification of the debt" and mails a copy to the debtor. § 1692g(b)". Obduskey v. McCarthy & Holthus LLP, 586 U.S. 466, 474 (2019).

Supreme Court Justice Sotomayor stated in concurrence that the FDCPA was enacted for "broad, consumer-protective purposes."[55]

However, debt collectors are now using the safety net of § 1692b's provision to communicate with third parties.[56] By giving debt collectors the ability to communicate with third parties, even with the specific intent only to gather location or contact information on the debtor, Congress unintentionally opened the door to violations of consumer rights by debt collectors abusing, or accidentally violating, § 1692b's protections.

The Supreme Court has indeed ruled that the party who raises an affirmative defense has the burden of proving that defense.[57] Similarly, a debt collector must prove whether the irreparable damage they may have caused to a consumer's reputation and expectation of privacy resulted from legal or illegal third-party communications. Perhaps a simpler strategy would be to entirely restrict debt collectors' ability to communicate with third parties.

By repealing the section of the FDCPA that allows debt collectors to communicate with third parties, consumers would be better protected from third-party violations by eliminating the underlying assumption that debt collectors are sometimes allowed to communicate with third parties, or at all. Hindering a debt collector's ability to communicate with third parties, even for the purpose of locating a debtor, would strengthen consumer protection and reduce the risk of FDCPA violations and reputational harm.

Even when collectors claim to seek only contact information, these third-party communications often lead to embarrassment, anxiety, or misunderstandings, especially when friends, family members, or employers are involved.[58] Prohibiting all third-party communication would create a clear boundary in the

---

[55] *Id*. at 483 (stating in the concurrence, "[t]he FDCPA was enacted not only 'to eliminate abusive debt collection practices' but also 'to promote consistent State action to protect consumers against debt collection abuses,'").

[56] Evankavitch v. Green Tree Servicing, LLC, 793 F.3d 355, 365 (3d Cir. 2015) (affirming that debt collectors may communicate with third parties under the assumption that they will be protected by § 1692b's "safe harbor" provision).

[57] Meacham v. Knolls Atomic Power Laboratory, 554, 95 U.S. 84, 94-95 (2008) (holding that Congress and the Supreme Court agree that an affirmative defense is defined as an excuse or justification for behavior that would normally violate a statute's prohibited language. Further, the responsibility for proving the affirmative defense rests on the party who brings the claim forward). The protections of § 1692b provide debt collectors with an affirmative defense to third party disclosure under § 1692c. *See Affirmative Defense*, BLACK'S LAW DICTIONARY (12th Ed. 2024) (stating that an affirmative defense is "an assertion by a defendant that raises new facts and arguments that defeat the plaintiff's claim even if all of the allegations in the complaint are true"). By doing so, Congress makes clear that third party communications are inherently a violation of the FDCPA because a defense to a third-party disclosure claim must be proved by the debt collector whom the claim is against. It is not a given.

[58] Basinger-Lopez v. Tracy Paul & Associates, No. C 08-5192 SBA, 2009 WL 1948832, at *1, *4 (N.D. Cal. July 6, 2009) (stating the plaintiff suffered "damages, including emotional distress, embarrassment, humiliation, invasion of privacy, harassment, stress and anxiety,

law, reduce opportunities for abuse, and better align the FDCPA with modern expectations of privacy and dignity for consumers.

One step already taken to further this goal of protecting consumers from third-party communications is Regulation F (Reg F). Reg F is the first major change to the FDCPA since 1977 and focuses on a more modern approach to debt collection and current technology.[59] This addition to the FDCPA, among other things, helps limit debt collectors' communications with third parties by controlling what information they may leave in voicemails.[60] If an unknowing debtor listens to a message from a debt collector on their voicemail, it is possible that other people in the debtor's residence, whether they be family members or visiting guests, may overhear details of the debt left on the voicemail. Reg F prohibits debt collectors from leaving any information related to the debt in a voicemail, except for very basic information, which is called a "limited content message."[61] These types of messages are not considered direct "communications" under the FDCPA because they do not convey any information about the purpose of the call or even who the debt collector is.[62] This addition to the FDCPA further limits debt collectors' communications and protects debtors from third-party communications by debt collectors.[63]

When Congress enacts laws, it does so to improve the country and to serve a specific legislative purpose.[64] However, when a law is enacted and put into effect, sections of that law or act, when fully implemented in society, may yield unforeseen results that Congress had not predicted. The Supreme Court

---

sleeplessness, and medical issues," as a result of the debt collector threatening to speak with the plaintiff's relatives, neighbors and employers about the debt); *see* Annis v. Eastern Asset Management, LLC, No. 08-CV-458S, 2010 WL 1035273, at *5 (W.D.N.Y. March 18, 2010) (citing that the plaintiff (debtor) and their parents (third-parties) were all called by the debt collector. The debt collector consistently disclosed details of the debtor's debt to their parents which caused relationship strain on the debtor and her boyfriend such as emotional distress, humiliation, and embarrassment. The parents stated that they lost sleep and had to take medication to sleep because of the debt collector's actions); *see also* Barker v. Tomlinson, No. 8:05-CV-1390-T-27EAJ, 2006 WL 1679645, at *2 (M.D. Fla. June 7, 2006) (discussing the repercussions the plaintiff experienced after the debt collector continuously called her job regarding her debt. The debt collector called the plaintiff's job and stated that they would be sending an arrest warrant to the plaintiff's job due to the unpaid debt causing the plaintiff to feel embarrassed).

[59] *See* Emily Schmidt, *Why Is A Debt Collector Texting Me? The Modernization Of Debt Collection Practices*, 91 UCINLR 253, 261 (2023).

[60] *See* Scott J. Hyman & Stephen D. Britt, *Update On California's Debt Collection Licensing Act, Amnesty Legislation, and Proposed Regulations*, 76 CONFLQR 227, 248 (2022).

[61] *See* 12 C.F.R. § 1006.2(j) stating that "Limited content messages" can only include: the debt collection company name, or an acronym of the name if the name might give away that the debt collector is in the debt collection business; a request for a callback; the name of anyone at the company that the debtor can speak with; and a callback number at which the debtor can reach the debt collector.

[62] *See* Scott J. Hyman & Stephen D. Britt, *Update On California's Debt Collection Licensing Act, Amnesty Legislation, and Proposed Regulations*, 76 CONFLQR 227, 248 (2022).

[63] *See* Emily Schmidt, *Why Is A Debt Collector Texting Me? The Modernization Of Debt Collection Practices*, 91 U. CIN. L. REV. 253, 278 (2023).

[64] Congress was intended to serve as the voice of the people and is vested with legislative authority under Article I of the Constitution. United States Congress, *About Congress*, VISIT THE CAPITAL (Aug. 1, 2025), https://www.visitthecapitol.gov/explore/about-congress.

assesses the viability of the laws and determines if a section of the law is constitutional and working the way Congress envisioned to better support Congressional intent, and further Congress's objectives.[65]

Since § 1692b is creating a loophole for debt collectors to abuse consumer rights, the Supreme Court should sever this safe harbor provision to further Congress's vision of protecting consumers.[66] This process would protect both consumers and the rest of the FDCPA, and further Congress's initial purpose in creating the FDCPA.

C. The Availability of Information in This Digital Age Makes Safe Harbor Irrelevant

Since the FDCPA's enactment in 1977, much has changed in the world. Most notably, the advent of the digital age has had lasting impacts on our world, especially on the debt collection industry. The digital age has reshaped how debt collection agencies receive accounts from original creditors, manage their filing systems, and communicate with debtors. With advancements in technology, traditional methods of debt collection, such as mailed notices and face-to-face interactions, have been widely supplemented by emails, text messages, and automated systems. Despite these advancements, the rules governing debt collection under the FDCPA have remained largely unchanged.[67]

Unlike the previous century, many original creditors, such as banks, credit unions, and hospitals, store their customers' information digitally on their online servers.[68] This allows these entities to process

---

[65] *See* Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803) (stating that "[i]t is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule.").

[66] This would not be the first time that the Supreme Court severed, or invalidated, a law based on its examination of congressional intent. In *Barr v. American Association of Political Consultants, Inc.*, the Supreme Court found that a section of the Telephone Consumer Protection Act (TCPA) was unconstitutional and subsequently struck that section based on their analysis of congressional intent. Barr v. Am. Ass'n of Pol. Consultants, Inc., 591 U.S. 610. The Court states that Congress may sometimes include severability clauses in the law which are used to clearly state which parts of an act or statute can be severed without completely dismantling the rest of that act or statute. However, when Congress does not include a severability clause, such as in the FDCPA, the Supreme Court can infer Congress' intent and determine if sections of acts and statutes can be severed.

[67] The Consumer Financial Protection Bureau (CFPB) stated that the FDCPA has remained widely unchanged since its enactment in 1977. As a result, there are many different statutory revisions that can be made that would enhance consumer protections regarding the debt collection process under the FDCPA. The CFPB went on further to state:

> A comprehensive and coherent system for information about debts would make it more likely that those who demand that consumers pay debts have accurate and complete information bearing on claims of indebtedness. Having accurate and complete information, in turn, would facilitate disclosing information to consumers through validation notices and other methods, as well as assist in preventing false or misleading claims as to who owes debts and how much is owed.

Debt Collection (Regulation F); *Advanced Notice of Proposed Rulemaking*, 78 Fed. Reg. 67849, 67854 (Nov. 12, 2013). As technology has developed overtime, the rules and regulations surrounding debt collection have not evolved in suit. To better protect consumer rights, the FDCPA should, too, evolve with the modern age and implement these new technological advancements.

[68] Creditors such as banks and credit unions compile a surplus of personal and financial information on individuals who use their institutions. This personal information includes names, social security numbers, addresses, phone numbers, emails, and driver's license

massive amounts of information quickly and easily for their use. It also allows this information to be shared just as easily and quickly with debt collectors once the original creditors sell the account to them. Then, when an account is sold to collections, the transfer of ownership of that debt happens instantly. Once the debt collector receives the account, they can begin legally collecting on it.[69]

While many debtors may change phone numbers and addresses due to personal circumstances, these changes usually do not occur overnight.[70] Most people whose accounts are sold to debt collectors will have the same phone numbers and addresses before and after the sale, since the electronic sale of accounts takes only a few moments.[71] This means that the need to communicate with third parties has become an outdated practice and is no longer necessary for debt collectors because most debtors will have the same location and contact information before and after the instantaneous sale of their account to the collection agency.

Further, many debt collectors follow suit by electronically storing information about debtors.[72] This allows them to easily access and manage their debt collection accounts, keeping all the information they were given by the original creditor stored safely and securely. In earlier times, spilled coffee on a list of debtors' addresses or misplaced files may have created the need for a debt collector to resort to communicating with third parties, as the debt collector's only source of information on a person may have been lost. However, modern technology has created a widely used system that prevents these types of mistakes and improves debt

---

numbers. It also includes financial information such as credit and debit transactions, lists of financial assets, retirement portfolios, and tax documents such as W-2 forms. U.S. Government Accountability Office, *Better Disclosures Needed on Information Sharing by Banks and Credit Unions: United States Government Accountability Office Report to the Chairman*, Committee on Banking, Housing, and Urban Affairs, *U.S. Senate*, 116th Cong. 2 (2020).

[69] Once the original creditor and debt collector come to an agreement to sell/ buy the debt, a purchase agreement is signed. After this moment, the debt collector is free to begin collecting on the account. Unlike in previous times where this process had to be performed via mail over the course of several days or even weeks, this system is electronic and takes no more than several moments for the electronic documentation to be transferred from one company to the other. The debt collector, in that moment, receives all the consumer information that the original creditor had on the debtor such as the original agreement, payment history, and contact information of the debtor as of that day. James Heinz, *Selling Debt to a Debt Collection Agency and Understanding Your Rights*, SHEPHERD OUTSOURCING (Apr. 8, 2025), https://www.shepherdoutsourcing.com/post/selling-debt-collection-agency-rights.

[70] The Federal Communications Commission outlines the steps to take for people who are changing addresses and carriers but still want to keep the same phone number when they move. This process is called 'porting,' and it allows individuals to keep the same area code and phone number even if they are moving to a new geographic area. *Porting: Keeping Your Phone Number When Change Providers*, FEDERAL COMMUNICATIONS COMMISSION (Dec. 10, 2025), https://www.fcc.gov/consumers/guides/porting-keeping-your-phone-number-when-you-change-providers.

[71] Forty five percent of people change their phone numbers every two years or more according to a study performed by PhoneArena. This is a considerable amount of time in relation to how quickly past due accounts are transferred to debt collection agencies. *How often people switch phone numbers by continent and how many phone numbers are owned on average by continent*, WONDER (Jan. 18, 2018), https://askwonder.com/research/often-people-switch-phone-numbers-continent-owned-average-continent-p42s1kxca [https://perma.cc/UTL8-Q6FE].

[72] The CFPB stated that the FTC has acknowledged that technological advancements over the past thirty years have exponentially increased the ability of creditors and debt collectors to obtain, store, and transfer data about consumers and their debts. Debt Collection (Regulation F); Advanced Notice of Proposed Rulemaking, 78 Fed. Reg. 67849, 67854-55 (Nov. 12, 2013).

collectors' ability to maintain accurate, securely stored information about debtors. Today, debt collectors have an unprecedented array of technology at their disposal to locate debtors, including data software, social media monitoring, and skip tracing systems. These tools allow debt collection companies to locate debtors with ease. The customary practice of storing electronic information alone calls into question the existence of § 1692b. This is because the original creditor would already have the most up-to-date location and contact information for the debtor digitally stored and linked to the debtor's account when it is sold to the debt collector.[73]

One of the most common tools for locating individuals is through skip tracing, which pulls information from public records, credit reports, utility bills, and even social media to build comprehensive profiles of debtors.[74] These systems can track changes in addresses, employment status, phone numbers, and other identifying details in real time.[75] In addition, many agencies use data brokers who aggregate and sell consumer information, giving collectors access to a vast network of personal data.[76] Some even employ artificial intelligence and machine learning algorithms to predict a debtor's likelihood of repayment or to identify the best time and method to make contact.[77]

With all these resources available at their disposal, debt collectors are more equipped than ever to find the people they are looking for, often without needing to reach out to anyone else. These technological developments have become standard in recent years, and while they aim to help companies enhance their productivity, they have also imposed unnecessary burdens on consumers due to antiquated laws such as § 1692b. Third-party communication has become an outdated practice in the professional debt collection world.

---

[73] *Id.*

[74] Skip tracing is an investigative process based around locating individuals who are missing, evasive, or difficult to contact due to unpaid debts, legal obligations, or other unresolved matters. An individual engaging in skip tracing typically begins by verifying existing information such as addresses, phone numbers, and social security details. Then, they gather additional data from public records and databases to track them down. A more large-scale version of this process, known as batch skip tracing, is used by industries like real estate agencies to collect contact information on large groups of people. Plus, any individual can go through this type of process. First, they would gather the information on an individual that they already might know such as name, date of birth, and last known address or city. Then, they would search free, public databases such as Google, social media, and White Pages. Next, they would use paid skip tracing software or private investigators to collaborate and cross reference these data points. Finally, they would reach out and verify the contact information. Joseph Jones, *What is Skip Tracing? How it Works and What You Should Know*, BOSCO LEGAL SERVICES (Sep. 14, 2022), https://www.boscolegal.org/blog/what-is-skip-tracing/ [https://perma.cc/AL5Y-DRTH].

[75] *Id.*

[76] *Id.*

[77] *Id.*

D. Repealing § 1692b Would Still Permit Effective Debt Collection Practices

Even without § 1692b, debt collectors would still retain the legal ability to collect debts from consumers, as the core provisions governing debt collection remain intact under the broader Fair Debt Collection Practices Act (FDCPA). This ability is rooted in basic contract law, which defines a contract as a legal promise for the breach of which a remedy is available under the law.[78] While the FDCPA regulates how debt collectors can collect debts, removing § 1692b does not eliminate the underlying debt, nor the debtor's obligation to pay that debt. It does not limit the way or extent to which debt collectors can contact debtors. Even without § 1692b, debt collectors have an arsenal of legal remedies for collecting delinquent accounts.

For example, repealing the safe harbor would still permit debt collectors to communicate with a debtor's employer to effectuate a court-ordered wage garnishment. A wage garnishment is defined as a court order for a debtor's employer to withhold a portion of the debtor's salary to pay off the debt.[79] This process typically entails a debt collector hiring a law firm to sue a debtor.[80] If the suit is successful, then the court may enter a judgment to order a wage garnishment based on the amount of the debt and a debtor's standard pre-tax pay.[81] These types of judgments allow a debt collector to successfully collect debts without breaching a consumer's privacy rights.

Another useful tool debt collectors can use to collect debts is securing a lien on a debtor's property. A lien is a charge or encumbrance imposed on a specific property to secure a debt or other obligation.[82] Courts

---

[78] Restatement (Second) of Contracts § 1 (Am. L. Inst. 1995).
[79] *Garnishment*, BLACK'S LAW DICTIONARY (12th Ed. 2024).
[80] In more than half of the lawsuits involving a debt collector suing a debtor, the owner of the debt (the debt collector) wins and is awarded a default judgment by the courts due to the debtors not showing up to court. This allows the debt collector to be awarded a garnishment or a lien against the debtor's property. Cheryl R. Cooper, Cong. Rsch. Serv., R46477, *The Debt Collection Market and Selected Policy Issues*, 4 (2021).
[81] Wage garnishments are becoming more popular as a means for debt collectors to collect on a debt. In 2014, .8% of workers were being garnished, and by 2019 that percentage rose to 1.1%. 28 U.S.C. § 3205; *see* Tyler Smith, *Research Highlights Featured Chart*, AMERICAN ECONOMIC ASSOCIATION (Mar. 18, 2024), https://www.aeaweb.org/research/charts/wage-garnishment-new-facts-us? [https://perma.cc/X2LB-WJBP]. This method of debt collection is typical today, and instances of debt collectors moving for wage garnishments can be seen in countless cases. *See also* Woodward v. Credit Service International Corporation, 132 F.4th 1047, 1050 (8th Cir. 2025) (awarding a wage garnishment in favor of the debt collector for an unpaid dental bill); Revels v. Morgan & Associates, P.C., 764 F.Supp.3d 1181, 1184 (M.D.F.L. 2025) (showing a law firm acting as a debt collector being awarded a garnishment after a default judgment); Howard v. Patenaude & Felix APC, 634 F.Supp.3d 990, 998 (W.D.W.A. 2022) (granting the debt collector a garnishment for an unpaid Target credit card).
[82] *Lien*, BLACK'S LAW DICTIONARY (12th Ed. 2024).

typically grant liens when the debt in question arises from defaults on property, such as real estate or motor vehicles.[83]

Debt collectors have multiple options available to them for collecting debts without communicating with third parties. Removing § 1692b does not pose a legitimate threat to debt collectors who wish to collect debts from debtors who have not paid.

CONCLUSION

This paper argues that § 1692b should be repealed. First, its language is unclear and invites debt collectors to engage in third-party debt collection practices that violate a consumer's rights. Second, repealing § 1692b would be in the best interest of protecting consumers and debt collectors, and consistent with the clear purpose of the FDCPA itself, because communicating with third parties invites debt collectors to intentionally or accidentally violate consumer rights. Third, the digital world has equipped debt collectors with technology that eliminates the need to rely on third-party communications. Finally, given the many technological tools available to debt collectors, repealing § 1692b would not hinder their ability to collect debts.

[83] Matos v. Lexington Place Condominium Association, Inc., No. 22-11875, 2024 WL 3617254 (11th Cir. Aug. 1, 2024) (finding that the debt collector was awarded a lien by the first court who saw the case for a condominium purchase on which the debtor had defaulted. When the Court of Appeals heard the case, they found that the process of filing the lien against the debtor did not produce any injury to the debtor).