

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Title 8.01 a chapter numbered 17.4, consisting of sections*  
 3 *numbered 8.01-465.26 through 8.01-465.34, relating to Uniform Consumer Debt Default Judgments Act*  
 4 *established.*

5 [H 444]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That the Code of Virginia is amended by adding in Title 8.01 a chapter numbered 17.4, consisting of**  
 9 **sections numbered 8.01-465.26 through 8.01-465.34, as follows:**

10 **CHAPTER 17.4.**11 **UNIFORM CONSUMER DEBT DEFAULT JUDGMENTS ACT.**12 **§ 8.01-465.26. Definitions.**13 *For purposes of this chapter, unless the context requires a different meaning:*

14 *"Charge off" means a creditor's removal of a consumer debt as an asset from the creditor's financial*  
 15 *records.*

16 *"Complaint" means a warrant in debt or civil claim filed to recover a consumer debt according to the*  
 17 *jurisdictional amount.*

18 *"Consumer" means an individual named as a defendant in an action for collection of consumer debt.*

19 *"Consumer debt" means an obligation or alleged obligation of an individual to pay money that arises out*  
 20 *of a transaction in which the money, property, insurance, or service that is the subject of the transaction is*  
 21 *primarily for a personal, family, or household purpose.*

22 *"Creditor" means a person to which a consumer debt is owed at the time of the charge off or, if the*  
 23 *consumer debt was not charged off, at the time of default. "Creditor" includes a person that acquired*  
 24 *charged-off debt as an incidental part of acquiring a portfolio of debt that is predominantly not charged off,*  
 25 *provided that the acquirer is the person to whom the debt was owed at the time of charge off, or if the debt*  
 26 *was not charged off, at the time of default.*

27 *"Default" means, except as used in the term default judgment, a failure to satisfy a consumer debt that*  
 28 *gives rise to an action to which this chapter applies.*

29 *"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,*  
 30 *electromagnetic, or similar capabilities.*

31 *"Finance charge" means the same as that term is defined in § 106 of the Truth in Lending Act, 15 U.S.C. §*  
 32 *1605.*

33 *"Outstanding balance" means the amount owed on a consumer debt (i) at the time of the charge off or, if*  
 34 *the consumer debt was not charged off, at the time of default or (ii) after disposition of property that secured*  
 35 *the debt.*

36 *"Person" means an individual, estate, business or nonprofit entity, government or governmental*  
 37 *subdivision, agency, or instrumentality or other legal entity.*

38 *"Record" means information (i) inscribed on a tangible medium or (ii) stored in an electronic or other*  
 39 *medium and retrievable in perceivable form.*

40 *"Secured consumer debt" means consumer debt secured by real or personal property.*

41 *"Sign" means, with present intent to authenticate or adopt a record, to (i) execute or adopt a tangible*  
 42 *symbol or (ii) attach to or logically associate with the record an electronic symbol, sound, or process.*

43 *"Unsecured consumer debt" means a consumer debt not secured by real or personal property.*44 **§ 8.01-465.27. Scope.**

45 *A. Except as provided in subsection B, this chapter shall apply to the award of a default judgment in an*  
 46 *action for the collection of (i) an unsecured consumer debt; (ii) a secured consumer debt if the action is*  
 47 *brought solely to obtain a money judgment; or (iii) a deficiency that remains after disposition of property that*  
 48 *secured a consumer debt.*

49 *B. The provisions of this chapter shall not apply to an action to (i) take possession or dispose of real or*  
 50 *personal property, even if such action includes a request for a money judgment or (ii) collect a debt owed to*  
 51 *a government, governmental subdivision, or agency in which the government, governmental subdivision, or*  
 52 *agency is the plaintiff.*

53 **§ 8.01-465.28. Complaint requirements.**

54 *A. A default judgment in an action to which this chapter applies shall be entered only if the complaint or*  
 55 *amended complaint complies with the provisions of this section and includes the notice required pursuant to*  
 56 *§ 8.01-465.29.*

57        *B. The complaint or amended complaint shall state:*  
58        *1. Each name and address of the consumer in the records of the creditor at the time of charge off or, if the*  
59 *consumer debt was not charged off, at the time of default;*  
60        *2. The name of the creditor, including any merchant brand, affinity brand, or facility name associated*  
61 *with the consumer debt;*  
62        *3. At least the last four digits of the account number or other account identifier used in communicating*  
63 *with the consumer before charge off or, if the consumer debt was not charged off, before default;*  
64        *4. The date and amount of the last payment;*  
65        *5. The date of charge off or, if the consumer debt was not charged off, the date of default;*  
66        *6. The amount of the outstanding balance;*  
67        *7. The amount of the judgment sought by the plaintiff, itemizing the outstanding balance and any of the*  
68 *following amounts not included in the outstanding balance (i) total finance charges, (ii) total fees or costs,*  
69 *(iii) total attorney fees, and (iv) total credits and payments;*  
70        *8. A statement as to whether the amount of the judgment may increase due to accrued interest, fees, or*  
71 *other charges;*  
72        *9. The authority of the plaintiff to bring the action;*  
73        *10. Facts sufficient to demonstrate that the action is being commenced in a proper venue;*  
74        *11. Facts sufficient to demonstrate that the action is being commenced within the applicable statute of*  
75 *limitations; and*  
76        *12. Unless the plaintiff is the creditor, (i) the name of each person that acquired ownership of the debt*  
77 *after charge off, or, if the consumer debt was not charged off, after default; and (ii) the date of each such*  
78 *acquisition of the consumer debt.*  
79        *C. Subject to authentication as may be required by law or the Rules of the Supreme Court of Virginia, the*  
80 *plaintiff shall attach to the complaint or amended complaint a copy of:*  
81        *1. At least one of the following that is sufficient to demonstrate the existence of the consumer debt:*  
82        *a. An agreement signed by the consumer;*  
83        *b. A record of a purchase, payment, or use of an account; or*  
84        *c. A record otherwise demonstrating that the consumer debt was incurred; and*  
85        *2. If the plaintiff is not the creditor, documentation sufficient to demonstrate the authority of the plaintiff*  
86 *to collect the consumer debt.*  
87        **§ 8.01-465.29. Consumer notice.**  
88        *A. A default judgment in an action to which this chapter applies shall only be entered if the complaint or*  
89 *amended complaint is accompanied by a separate notice warning that a default judgment may be awarded*  
90 *against the consumer.*  
91        *B. The notice shall be in a record substantially similar to the form set forth in subsection C and shall*  
92 *state:*  
93        *1. That if the consumer does not file an answer to the complaint or amended complaint within the time*  
94 *and in the manner indicated in the summons or does not appear for the hearing referred to in the summons, a*  
95 *default judgment may be entered against the consumer;*  
96        *2. That if such default judgment is entered against the consumer, the amount of the judgment, plus*  
97 *interest, remains in effect for at least 10 years, even if the judgment no longer remains on the consumer's*  
98 *credit report;*  
99        *3. That after entry of a default judgment, the plaintiff may, as permitted by relevant provisions of law, take*  
100 *steps to recover such judgment by initiating an action for (i) the judicial sale of the consumer's real property;*  
101 *(ii) requesting that the court issue a writ of fieri facias or writ of possession for the seizure or sale, or both, of*  
102 *the personal property of the consumer; (iii) attachment of specific personal property; or (iv) garnishment;*  
103        *4. That entry of a default judgment may impair access to employment, insurance, credit, or housing;*  
104        *5. That an attorney may provide assistance in understanding the complaint or amended complaint and*  
105 *advice about what action to take in response to such complaint or amended complaint; and*  
106        *6. Contact information for a legal aid or attorney referral service that may assist the consumer in finding*  
107 *an attorney who may provide free or reduced cost legal services.*  
108        *C. The following notice meets the requirements of this section:*  
109        **CONSUMER NOTICE**  
110        **WARNING**  
111        **IF YOU DO NOT ACT, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU**  
112        *1. Why am I getting this Notice?*  
113        *You are getting this notice because (name of plaintiff) says you owe money. (Name of plaintiff) has filed a*  
114 *lawsuit against you to collect the money you owe.*  
115        *2. What will happen if I do nothing?*  
116        *If you do not [ ] file a response to the lawsuit and/or [ ] appear at the hearing on the date and time*  
117 *indicated on the attached summons, a judgment may be entered against you.*  
118        *3. What happens if a judgment is entered against me?*

119        *The law provides multiple methods for a creditor to recover money against you. Your property may be*  
120 *taken and sold, money may be taken directly from your bank account, your wages may be garnished, or a lien*  
121 *may be put on your house or other real estate or your real estate may be sold.*

122        *If the judgment is not paid in full, the amount due may grow because of interest charges.*

123        *You will owe the amount of the judgment for at least 10 years, even if it no longer appears on your credit*  
124 *report.*

125        *The judgment may make it harder for you to get a job or insurance and more expensive for you to get a*  
126 *loan or credit card, rent an apartment, or buy a house or car.*

127        *4. Is help available?*

128        *You may wish to speak with a lawyer. A lawyer may be able to explain the situation and help you decide*  
129 *what to do. The following office may be able to help you find a lawyer (name and contact information of legal*  
130 *aid or attorney referral service).*

131        **§ 8.01-465.30. Waiver void.**

132        *A waiver by a consumer of any requirement of this chapter shall be deemed void. However, the provisions*  
133 *of this section shall not prevent a voluntary settlement agreement or judgment between the parties that does*  
134 *not result in a default judgment.*

135        **§ 8.01-465.31. Relation to other law.**

136        *The provisions of this chapter supplement all rights and remedies available to a consumer under any*  
137 *other law of the Commonwealth.*

138        **§ 8.01-465.32. Uniformity of application and construction.**

139        *In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law*  
140 *among jurisdictions that enact it.*

141        **§ 8.01-465.33. Relation to Electronic Signatures in Global and National Commerce Act.**

142        *This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce*  
143 *Act, 15 U.S.C. § 7001 et seq., but shall not modify, limit, or supersede 15 U.S.C. § 7001(c) or authorize*  
144 *electronic delivery of any of the notices described in 15 U.S.C. § 7003(b).*

145        **§ 8.01-465.34. Severability.**

146        *If a provision of this chapter or its application to a person or circumstance is held invalid, such invalidity*  
147 *shall not affect another provision or application that can be given effect without such invalid provision.*

148        **2. That the Office of the Executive Secretary of the Supreme Court of Virginia shall promulgate a form**  
149 **consistent with the notice statement described in § 8.01-465.29 of the Code of Virginia, as created by**  
150 **this act.**

151        **3. That the provisions of this act shall become effective on July 1, 2027.**