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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.*)

TITLE 1.6C.17. Fair Debt Settlement Practices [1788.300 - 1788.307] (*Title 1.6C.17 added by Stats. 2021, Ch. 454, Sec. 1.*)

CHAPTER 3. Enforcement of the Fair Debt Settlement Practices Act [1788.305 - 1788.307] (*Chapter 3 added by Stats. 2021, Ch. 454, Sec. 1.*)

1788.305. (a) A debt settlement provider and a payment processor shall comply with this title.

(b) A consumer may bring a cause of action against a debt settlement provider and a payment processor for violation of any provision of this title in order to recover or obtain any of the following:

(1) Damages in an amount equal to the sum of the following:

(A) Statutory damages in an amount to be determined by the court of no less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) per violation of this title.

(B) Any actual damages sustained by the consumer as a result of the violation.

(2) Injunctive relief.

(3) Any other relief that the court deems proper.

(c) (1) In the case of any successful cause of action under this section, the court shall award costs of the action, together with reasonable attorney's fees as determined by the court.

(2) Reasonable attorney's fees may be awarded to a prevailing debt settlement provider and a prevailing payment processor upon a finding by the court that the consumer's prosecution of the cause of action was not in good faith.

(d) A debt settlement provider or a prevailing payment processor shall have no civil liability for damages under this section if the debt settlement provider or a prevailing payment processor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error, and occurred notwithstanding the maintenance of procedures reasonably adopted to avoid any error.

(e) A cause of action brought under this section shall be brought within four years of the latter of the following dates:

(1) The last payment by or on behalf of the consumer.

(2) The date on which the consumer discovered or reasonably should have discovered the facts giving rise to the consumer's claim.

(*Added by Stats. 2021, Ch. 454, Sec. 1. (AB 1405) Effective January 1, 2022.*)

1788.306. Any waiver of the provisions of this title is contrary to public policy, and is void and unenforceable.

(*Added by Stats. 2021, Ch. 454, Sec. 1. (AB 1405) Effective January 1, 2022.*)

1788.307. The provisions of this title are severable. If any provision of this title or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

