

AMENDED IN SENATE MAY 15, 2013

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 233

Introduced by Senators Leno and Correa
(Coauthors: Senators Calderon and Hueso)

February 11, 2013

An act to add Title 1.6C.5 (commencing with Section 1788.50) to Part 4 of Division 3 of the Civil Code, and to amend Sections 700.010, 706.103, 706.104, 706.108, and 706.122 of, and to add Section 581.5 to, the Code of Civil Procedure, relating to debt buyers.

LEGISLATIVE COUNSEL'S DIGEST

SB 233, as amended, Leno. ~~Debt buyers.~~ *buying.*

(1) Existing state and federal law regulate the practice of debt collection. Existing state law prohibits a debt collector from engaging in specified conduct, including the use of threats or causing a telephone to ring repeatedly to annoy the person called. Existing law prohibits a debt collector from obtaining an affirmation from a debtor of a consumer debt that has been discharged in bankruptcy, without clearly and conspicuously disclosing to the debtor, in writing, the fact that the debtor is not legally obligated to make such affirmation.

This bill would enact the Fair Debt Buying Practices Act, which would regulate the activities of a person or entity that has bought charged-off consumer ~~loans~~ *debt, as defined*, for collection purposes and the circumstances pursuant to which the person may bring suit. The bill would apply to consumer debt sold or resold on or after January 1, 2014. The bill would prohibit a debt buyer, as defined, from making

any written statement in an attempt to collect a consumer debt unless the debt buyer possesses information that the debt buyer is the sole owner or is authorized to assert the rights of all owners of the specific debt at issue, the debt balance, as specified, and the name and address of the creditor at the time the debt was charged off, among other things. The bill would require the debt buyer to make certain documents available to the debtor, without charge, upon receipt of a request, within 15 days. The bill would require that a specified notice be included with the debt buyer's first written communication with the debtor. The bill would require all settlement agreements between a debt buyer and a debtor to be documented in open court or otherwise in writing and would require a debt buyer who receives a payment on a debt to provide a receipt or statement containing certain information. The bill would prohibit a debt buyer from initiating a suit to collect a debt if the statute of limitations on the cause of action has expired. The bill would prescribe penalties for each violation of the act and would provide that its provisions may not be waived. The bill would require a debt buyer bringing an action on consumer debt to include certain information in his or her complaint. The bill would prohibit an entry of judgment in favor of a plaintiff debt buyer unless business records authenticated through a sworn declaration and relating to the debt and ownership of it, among other things, are submitted by the debt buyer to the court, and would permit a court to dismiss a debt buyer's action to collect with prejudice if this information is not provided or if the debt buyer fails to appear or is not prepared on the date scheduled for trial.

(2) Existing law establishes a process for the enforcement of money judgments and requires a levying officer to provide certain documents and information to a judgment debtor and to a designated employer in connection with wage garnishment. Existing law permits a process server also to serve an earnings withholding order on an employer and requires that the process server also serve certain documents at this time. Existing law requires an employer who is served with an earnings withholding order to provide certain documents to an employee who is a judgment debtor.

This bill would require, in the circumstances described above, that a copy of the form that the judgment debtor may use to make a claim of exemption and a copy of the form used to provide a financial statement also be provided.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

2 (a) The collection of debt purchased by debt buyers has become
3 a significant focus of public concern due to the adequacy of
4 documentation required to be maintained by the industry in support
5 of its collection activities and litigation.

6 (b) State law does not currently prescribe the specific nature of
7 documentation that a debt buyer must maintain and produce in a
8 legal action on the debt.

9 (c) Documentation used to support the collection of a debt must
10 be sufficient to prove that the individual who is being asked to pay
11 the debt is in fact the individual associated with the original
12 contract or agreement, and that the amount of indebtedness is
13 accurate.

14 (d) It is important to create documentation and process standards
15 for the collection of consumer debt that all interested parties can
16 easily understand.

17 (e) *This act is not intended to affect the legal enforceability, or*
18 *collectability, of a charged-off consumer debt, but is intended to*
19 *impose enforceable standards upon the collection and litigation*
20 *of consumer debt that has been purchased by a debt buyer*
21 *following the consumer debt's charge off by a creditor.*

22 (e)
23 (f) Setting specific documentation and process standards will
24 protect consumers, provide needed clarity to courts, and establish
25 clearer criteria for debt buyers and the collection industry.

26 (g) *This act shall be known, and may be cited, as the Fair Debt*
27 *Buying Practices Act.*

28 SEC. 2. Title 1.6C.5 (commencing with Section 1788.50) is
29 added to Part 4 of Division 3 of the Civil Code, to read:

30

31 TITLE 1.6C.5. FAIR DEBT BUYING PRACTICES ~~ACT~~

32

33 1788.50. (a) As used in this title, ~~“debt title”~~ *“debt title”*:

34 (1) *“Debt buyer”* means a person or entity that is regularly
35 engaged in the business of purchasing charged-off consumer debt
36 for collection purposes, whether it collects the debt itself, hires a
37 third party for collection, or hires an attorney-at-law for collection
38 litigation. *“Debt buyer”* does not mean a person or entity that

1 acquires a charged-off consumer debt incidental to the purchase
2 of a portfolio predominantly consisting of consumer debt that has
3 not been charged off.

4 (2) “*Charged-off consumer debt*” means a consumer debt that
5 has been removed from a creditor’s books as an asset and treated
6 as a loss or expense.

7 (b) The acquisition by a check services company of the right to
8 collect on a paper or electronic check instrument, including an
9 Automated Clearing House item, that has been returned unpaid to
10 a merchant does not constitute a purchase of delinquent consumer
11 debt under this title.

12 (c) Terms defined in Title 1.6C (commencing with Section
13 1788) shall apply to this title.

14 (d) This title shall apply to debt buyers with respect to all
15 consumer debt sold or resold on or after January 1, 2014.

16 1788.52. (a) A debt buyer shall not make any written statement
17 to a debtor in an attempt to collect a consumer debt unless the debt
18 buyer possesses the following information:

19 (1) That the debt buyer is the sole owner of the debt at issue or
20 has authority to assert the rights of all owners of the debt.

21 (2) The debt balance at charge off and an explanation of the
22 amount, nature, and reason for all post-charge-off interest and fees,
23 if any, imposed by the charge-off creditor or any subsequent
24 purchasers of the debt. This paragraph shall not be deemed to
25 require a specific itemization, but the explanation shall identify
26 separately the charge-off balance, the total of any post-charge-off
27 interest, and the total of any post-charge-off fees.

28 (3) The date of default or the date of the last payment.

29 (4) The name and an address of the charge-off creditor at the
30 time of charge off, and the charge-off creditor’s account number
31 associated with the debt. The charge-off creditor’s name and
32 address shall be in sufficient form so as to reasonably identify the
33 charge-off creditor.

34 (5) The name and last known address of the debtor as they
35 appeared in the charge-off creditor’s records prior to the sale of
36 the debt. If the debt was sold prior to January 1, 2014, the name
37 and last known address of the debtor as they appeared in the debt
38 owner’s records on December 31, 2013, shall be sufficient.

39 (6) The names and addresses of all persons or entities that
40 purchased the debt after charge off, including the debt buyer

1 making the written statement. The names and addresses shall be
2 in sufficient form so as to reasonably identify each such purchaser.

3 (b) A debt buyer shall not make any written statement to a debtor
4 in an attempt to collect a consumer debt unless the debt buyer has
5 access to a copy of a contract or other document evidencing the
6 debtor's agreement to the debt. If the claim is based on debt for
7 which no signed contract or agreement exists, the debt buyer shall
8 have access to a copy of a document provided to the debtor while
9 the account was active, demonstrating that the debt was incurred
10 by the debtor. For a revolving credit account, the most recent
11 monthly statement recording a purchase transaction, last payment,
12 or balance transfer shall be deemed sufficient to satisfy this
13 requirement.

14 (c) A debt buyer shall provide the information or documents
15 identified in subdivisions (a) and (b) to the debtor without charge
16 within 15 calendar days of receipt of a debtor's written request for
17 information regarding the debt or proof of the debt. If the debt
18 buyer cannot provide the information or documents within 15
19 calendar days, the debt buyer shall cease all collection of the debt
20 until the debt buyer provides the debtor the information or
21 documents described in subdivisions (a) and (b). Except as
22 provided otherwise in this title, the request by the debtor shall be
23 consistent with the validation requirements contained in Section
24 1692g of Title 15 of the United States Code. A debt buyer shall
25 provide all debtors with whom it has contact an active postal
26 address to which these requests can be sent. A debt buyer may also
27 provide an active email address to which these requests can be
28 sent and through which information and documents can be
29 delivered, if the parties agree.

30 (d) (1) A debt buyer shall include with its first written
31 communication with the debtor in no smaller than 12-point type,
32 a separate prominent notice that provides:

33
34 "You may request records showing the following: (1) that [insert
35 name of debt buyer] has the right to seek collection of the debt;
36 (2) the debt balance, including an explanation of any interest
37 charges and additional fees; (3) the date of default or the date of
38 the last payment; (4) the name of the charge-off creditor and the
39 account number associated with the debt; (5) the name and last
40 known address of the debtor as it appeared in the charge-off

1 creditor's or debt buyer's records prior to the sale of the debt, as
2 appropriate; and (6) the names of all persons or entities that have
3 purchased the debt. You may also request from us a copy of the
4 contract or other document evidencing your agreement to the debt.

5 "A request for these records may be addressed to: [insert debt
6 buyer's active mailing address and email address, if applicable]."
7

8 (2) When collecting on a time-barred debt where the debt is not
9 past the date for obsolescence provided for in Section 605(a) of
10 the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681c):
11

12 "The law limits how long you can be sued on a debt. Because
13 of the age of your debt, we will not sue you for it. If you do not
14 pay the debt, [insert name of debt buyer] may [continue to] report
15 it to the credit reporting agencies as unpaid for as long as the law
16 permits this reporting."
17

18 (3) When collecting on a time-barred debt where the debt is
19 past the date for obsolescence provided for in Section 605(a) of
20 the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681c):
21

22 "The law limits how long you can be sued on a debt. Because
23 of the age of your debt, we will not sue you for it, and we will not
24 report it to any credit reporting agency."
25

26 (e) If a language other than English is principally used by the
27 debt buyer in the initial oral contact with the debtor, the notice
28 required by subdivision (d) shall be provided to the debtor in that
29 language within five working days.

30 (f) In the event of a conflict between the requirements of
31 subdivision (d) and federal law, so that it is impracticable to comply
32 with both, the requirements of federal law shall prevail.

33 1788.54. (a) All settlement agreements between a debt buyer
34 and a debtor shall be documented in open court or otherwise
35 reduced to writing. The debt buyer shall ensure that a copy of the
36 written agreement is provided to the debtor.

37 (b) A debt buyer that receives payment on a debt shall provide,
38 within 30 calendar days, a receipt or monthly statement, to the
39 debtor. The receipt or statement shall clearly and conspicuously
40 show the amount and date paid, the name of the entity paid, the

1 current account number, the name of the charge-off creditor, the
2 account number issued by the charge-off creditor, and the
3 remaining balance owing, if any. The receipt or statement may be
4 provided electronically if the parties agree.

5 (c) A debt buyer that accepts a payment as payment in full, or
6 as a full and final compromise of the debt, shall provide, within
7 30 calendar days, a final statement that complies with subdivision
8 (b). A debt buyer shall not sell an interest in a resolved debt, or
9 any personal or financial information related to the resolved debt.

10 1788.56. A debt buyer shall not bring suit or initiate an
11 arbitration or other legal proceeding to collect a consumer debt if
12 the applicable statute of limitations on the debt buyer's claim has
13 expired.

14 1788.58. In an action brought by a debt buyer on a consumer
15 debt:

16 (a) The complaint shall allege all of the following:

17 (1) That the plaintiff is a debt buyer.

18 (2) The nature of the underlying debt and the consumer
19 transaction or transactions from which it is derived, in a short and
20 plain statement.

21 (3) That the debt buyer is the sole owner of the debt at issue, or
22 has authority to assert the rights of all owners of the debt.

23 (4) The debt balance at charge off and an explanation of the
24 amount, nature, and reason for all post-charge-off interest and fees,
25 if any, imposed by the charge-off creditor or any subsequent
26 purchasers of the debt. This paragraph shall not be deemed to
27 require a specific itemization, but the explanation shall identify
28 separately the charge-off balance, the total of any post-charge-off
29 interest, and the total of any post-charge-off fees.

30 (5) The date of default or the date of the last payment.

31 (6) The name and an address of the charge-off creditor at the
32 time of charge off, and the charge-off creditor's account number
33 associated with the debt. The charge-off creditor's name and
34 address shall be in sufficient form so as to reasonably identify the
35 charge-off creditor.

36 (7) The name and last known address of the debtor as they
37 appeared in the charge-off creditor's records prior to the sale of
38 the debt. If the debt was sold prior to January 1, 2014, the debtor's
39 name and last known address as they appeared in the debt owner's
40 records on December 31, 2013, shall be sufficient.

1 (8) The names and addresses of all persons or entities that
2 purchased the debt after charge off, including the plaintiff debt
3 buyer. The names and addresses shall be in sufficient form so as
4 to reasonably identify each such purchaser.

5 (9) That the debt buyer has complied with Section 1788.52.

6 (b) A copy of the contract or other document described in
7 subdivision (b) of Section 1788.52, shall be attached to the
8 complaint.

9 (c) The requirements of this title shall not be deemed to require
10 the disclosure in public records of personal, financial, or medical
11 information, the confidentiality of which is protected by any state
12 or federal law.

13 1788.60. (a) In an action initiated by a debt buyer, no default
14 or other judgment may be entered against a debtor unless business
15 records, authenticated through a sworn declaration, are submitted
16 by the debt buyer to the court to establish the facts required to be
17 alleged by paragraphs (3) to (8), inclusive, of subdivision (a) of
18 Section 1788.58.

19 (b) No default or other judgment may be entered against a debtor
20 unless a copy of the contract or other document described in
21 subdivision (b) of Section 1788.52, authenticated through a sworn
22 declaration, has been submitted by the debt buyer to the court.

23 (c) In any action on a consumer debt, if a debt buyer plaintiff
24 seeks a default judgment and has not complied with the
25 requirements of this title, the court shall not enter a default
26 judgment for the plaintiff and may, in its discretion, dismiss the
27 action.

28 (d) Except as provided in this title, this section is not intended
29 to modify or otherwise amend the procedures established in Section
30 585 of the Code of Civil Procedure.

31 1788.62. (a) In the case of an action brought by an individual
32 or individuals, a debt buyer that violates any provision of this title
33 with respect to any person shall be liable to that person in an
34 amount equal to the sum of the following:

35 (1) Any actual damages sustained by that person as a result of
36 the violation, including, but not limited to, the amount of any
37 judgment obtained by the debt buyer as a result of a time-barred
38 suit to collect a debt from that person.

1 (2) Statutory damages in an amount as the court may allow,
2 which shall not be less than one hundred dollars (\$100) nor greater
3 than one thousand dollars (\$1,000).

4 (b) In the case of a class action, a debt buyer that violates any
5 provision of this title shall be liable for any statutory damages for
6 each named plaintiff as provided in paragraph (2) of subdivision
7 (a). If the court finds that the debt buyer engaged in a pattern and
8 practice of violating any provision of this title, the court may award
9 additional damages to the class in an amount not to exceed the
10 lesser of five hundred thousand dollars (\$500,000) or 1 percent of
11 the net worth of the debt buyer.

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

15 (2) Reasonable attorney's fees may be awarded to a prevailing
16 debt buyer upon a finding by the court that the plaintiff's
17 prosecution of the action was not in good faith.

18 (d) In determining the amount of liability under subdivision (b),
19 the court shall consider, among other relevant factors, the frequency
20 and persistence of noncompliance by the debt buyer, the nature of
21 the noncompliance, the resources of the debt buyer, and the number
22 of persons adversely affected.

23 (e) A debt buyer shall have no civil liability under this section
24 if the debt buyer shows by a preponderance of evidence that the
25 violation was not intentional and resulted from a bona fide error,
26 and occurred notwithstanding the maintenance of procedures
27 reasonably adopted to avoid any error.

28 (f) An action to enforce any liability created by this title shall
29 be brought within one year from the date of the last violation.

30 (g) Recovery in an action brought under the Rosenthal Fair Debt
31 Collection Practices Act (Title 1.6C (commencing with Section
32 1788)) or the federal Fair Debt Collection Practices Act (15 U.S.C.
33 Sec. 1692 et seq.) shall preclude recovery for the same acts in an
34 action brought under this title.

35 1788.64. Any waiver of the provisions of this title is contrary
36 to public policy, and is void and unenforceable.

37 SEC. 3. Section 581.5 is added to the Code of Civil Procedure,
38 to read:

39 581.5. In a case involving consumer debt, as defined in Section
40 1788.2 of the Civil Code, and as regulated under Title 1.6C.5

1 (commencing with Section 1788.50) of Part 4 of Division 3 of the
2 Civil Code, if the defendant debtor appears for trial on the
3 scheduled trial date, and the plaintiff debt buyer either fails to
4 appear or is not prepared to proceed to trial, and the court does not
5 find a good cause for continuance, the court may, in its discretion,
6 dismiss the action with or without prejudice. Notwithstanding any
7 other law, in this instance, the court may award the defendant
8 debtor's costs of preparing for trial, including, but not limited to,
9 lost wages and transportation expenses.

10 SEC. 4. Section 700.010 of the Code of Civil Procedure is
11 amended to read:

12 700.010. (a) At the time of levy pursuant to this article or
13 promptly thereafter, the levying officer shall serve a copy of the
14 following on the judgment debtor:

15 (1) The writ of execution.

16 (2) A notice of levy.

17 (3) If the judgment debtor is a natural person, a copy of the form
18 listing exemptions prepared by the Judicial Council pursuant to
19 subdivision (c) of Section 681.030, the list of exemption amounts
20 published pursuant to subdivision (e) of Section 703.150, a copy
21 of the form that the judgment debtor may use to make a claim of
22 exemption pursuant to Section 703.520, and a copy of the form
23 the judgment debtor may use to provide a financial statement
24 pursuant to Section 703.530.

25 (4) Any affidavit of identity, as defined in Section 680.135, for
26 names of the debtor listed on the writ of execution.

27 (b) Service under this section shall be made personally or by
28 mail.

29 SEC. 5. Section 706.103 of the Code of Civil Procedure is
30 amended to read:

31 706.103. (a) The levying officer shall serve upon the
32 designated employer all of the following:

33 (1) The original and one copy of the earnings withholding order.

34 (2) The form for the employer's return.

35 (3) The notice to employee of earnings withholding order.

36 (4) A copy of the form that the judgment debtor may use to
37 make a claim of exemption.

38 (5) A copy of the form the judgment debtor may use to provide
39 a financial statement.

1 (b) At the time the levying officer makes service pursuant to
2 subdivision (a), the levying officer shall provide the employer with
3 a copy of the employer's instructions referred to in Section
4 706.127. The Judicial Council may adopt rules prescribing the
5 circumstances when compliance with this subdivision is not
6 required.

7 (c) No earnings withholding order shall be served upon the
8 employer after the time specified in subdivision (b) of Section
9 699.530.

10 SEC. 6. Section 706.104 of the Code of Civil Procedure is
11 amended to read:

12 706.104. Any employer who is served with an earnings
13 withholding order shall:

14 (a) Deliver to the judgment debtor a copy of the earnings
15 withholding order, the notice to employee of earnings withholding,
16 a copy of the form that the judgment debtor may use to make a
17 claim of exemption, and a copy of the form the judgment debtor
18 may use to provide a financial statement within 10 days from the
19 date of service. If the judgment debtor is no longer employed by
20 the employer and the employer does not owe the employee any
21 earnings, the employer is not required to make such delivery. The
22 employer is not subject to any civil liability for failure to comply
23 with this subdivision. Nothing in this subdivision limits the power
24 of a court to hold the employer in contempt of court for failure to
25 comply with this subdivision.

26 (b) Complete the employer's return on the form provided by
27 the levying officer and mail it by first-class mail, postage prepaid,
28 to the levying officer within 15 days from the date of service. If
29 the earnings withholding order is ineffective, the employer shall
30 state in the employer's return that the order will not be complied
31 with for this reason and shall return the order to the levying officer
32 with the employer's return.

33 SEC. 7. Section 706.108 of the Code of Civil Procedure is
34 amended to read:

35 706.108. (a) If a writ of execution has been issued to the county
36 where the judgment debtor's employer is to be served and the time
37 specified in subdivision (b) of Section 699.530 for levy on property
38 under the writ has not expired, a judgment creditor may deliver
39 an application for issuance of an earnings withholding order to a

1 registered process server who may then issue an earnings
2 withholding order.

3 (b) If the registered process server has issued the earnings
4 withholding order, the registered process server, before serving
5 the earnings withholding order, shall deposit with the levying
6 officer a copy of the writ of execution, the application for issuance
7 of an earnings withholding order, and a copy of the earnings
8 withholding order, and shall pay the fee provided by Section 26750
9 of the Government Code.

10 (c) A registered process server may serve an earnings
11 withholding order on an employer whether the earnings
12 withholding order was issued by a levying officer or by a registered
13 process server, but no earnings withholding order may be served
14 after the time specified in subdivision (b) of Section 699.530. In
15 performing this function, the registered process server shall serve
16 upon the designated employer all of the following:

17 (1) The original and one copy of the earnings withholding order.

18 (2) The form for the employer's return.

19 (3) The notice to the employee of the earnings withholding
20 order.

21 (4) A copy of the form that the judgment debtor may use to
22 make a claim of exemption.

23 (5) A copy of the form the judgment debtor may use to provide
24 a financial statement.

25 (6) A copy of the employer's instructions referred to in Section
26 706.127, except as otherwise prescribed in rules adopted by the
27 Judicial Council.

28 (d) Within five court days after service under this section, all
29 of the following shall be filed with the levying officer:

30 (1) The writ of execution, if it is not already in the hands of the
31 levying officer.

32 (2) Proof of service on the employer of the papers listed in
33 subdivision (c).

34 (3) Instructions in writing, as required by the provisions of
35 Section 687.010.

36 (e) If the fee provided by Section 26750 of the Government
37 Code has been paid, the levying officer shall perform all other
38 duties required by this chapter as if the levying officer had served
39 the earnings withholding order. If the registered process server
40 does not comply with subdivisions (b), where applicable, and (d),

1 the service of the earnings withholding order is ineffective and the
2 levying officer is not required to perform any duties under the
3 order and may terminate the order and may release any withheld
4 earnings to the judgment debtor.

5 (f) The fee for services of a registered process server under this
6 section shall be allowed as a recoverable cost pursuant to Section
7 1033.5.

8 SEC. 8. Section 706.122 of the Code of Civil Procedure is
9 amended to read:

10 706.122. The “notice to employee of earnings withholding
11 order” shall contain a statement that informs the employee in
12 simple terms of the nature of a wage garnishment, the right to an
13 exemption, the procedure for claiming an exemption, and any other
14 information the Judicial Council determines would be useful to
15 the employee and appropriate for inclusion in the notice, including
16 all of the following:

17 (a) The named employer has been ordered to withhold from the
18 earnings of the judgment debtor the amounts required to be
19 withheld under Section 706.050, or such other amounts as are
20 specified in the earnings withholding order, and to pay these
21 amounts over to the levying officer for transmittal to the person
22 specified in the order in payment of the judgment described in the
23 order.

24 (b) The manner of computing the amounts required to be
25 withheld pursuant to Section 706.050.

26 (c) The judgment debtor may be able to keep more or all of the
27 judgment debtor’s earnings if the judgment debtor proves that the
28 additional earnings are necessary for the support of the judgment
29 debtor or the judgment debtor’s family supported in whole or in
30 part by the judgment debtor.

31 (d) If the judgment debtor wishes a court hearing to prove that
32 amounts should not be withheld from the judgment debtor’s
33 earnings because they are necessary for the support of the judgment
34 debtor or the judgment debtor’s family supported in whole or in
35 part by the judgment debtor, the judgment debtor shall file with
36 the levying officer an original and one copy of the “judgment
37 debtor’s claim of exemption” and an original and one copy of the
38 “judgment debtor’s financial statement.”

39 SEC. 9. The provisions of this act are severable. If any
40 provision of this section or its application is held invalid, that

- 1 invalidity shall not affect other provisions or applications that can
- 2 be given effect without the invalid provision or application.

O