

Tenn. Code Ann. § 20-6-104

Current through the 2024 Regular Session.

**TN - Tennessee Code Annotated > Title 20 Civil Procedure > Chapter 6 Pleadings > Part 1
General Provisions**

**20-6-104. Debt collection by subsequent creditors — Requirements to initiate
action — Default judgment — Exclusions.**

- (a) As used in this section:
- (1) "Charge off" means a creditor's removal of a consumer debt as an asset from the creditor's financial records;
 - (2) "Consumer debt" means an obligation or alleged obligation of an individual to pay money that arises out of a transaction in which the money, property, or service that is the subject of the transaction is primarily for a personal, family, or household purpose; and
 - (3) "Original creditor" means a person, business, financial institution, governmental entity, or other commercial entity, including each's parents, subsidiaries, or successors in interest by name change, merger, acquisition of substantially all of each entity's assets or stock, or operation of law, that owned the consumer credit account on the date of default or on the date of charge off that gave rise to the cause of action.
- (b) In an action on consumer debt filed in a court established under title 16, chapter 15, the plaintiff shall include the following information with a civil warrant or any other leading process used to initiate the action:
- (1) A statement that the debt claim has been transferred or assigned;
 - (2) The date of the transfer or assignment of the debt claim;
 - (3) The name of any prior holders of the debt starting at the point of charge off; and
 - (4) The name or a description of the original creditor.
- (c) Prior to an award of a default judgment on any action subject to the requirements of subsection (b), the plaintiff shall present to the court documentation sufficient to demonstrate the authority of the plaintiff to collect the debt and at least one (1) of the following that is sufficient to demonstrate the existence of the consumer debt:
- (1) An agreement signed by the consumer;
 - (2) A record of a purchase, payment, or use of an account; or
 - (3) A record otherwise demonstrating the debt was incurred.
- (d) The requirements of this section apply irrespective of any evidence submitted by the plaintiff, including affidavits submitted to the court in accordance with § 24-5-107.
- (e) This section does not apply to a plaintiff who is an original creditor on the consumer debt at issue or is otherwise listed as a lienholder on property securing the debt issue.

History

STATEMENT IN COMPLIANCE WITH T.C.A. 20-6-104

In compliance with TCA 20-6-104, I hereby certify the following :

() . The Plaintiff in this matter is the original creditor.

() . If not the original creditor, I affirm that the debt claim at issue has been transferred or assigned, effective _____(date of transfer or assignment).

The name and description of the original creditor is as follows:

All known prior holders of the debt at issue(starting at the point of charge off as defined by statute), are as follows:

Pursuant to section (c) of this statute, one or more of the following are available upon immediate demand by the Court or the alleged debtor, by either hard paper copy or by electronic means which can be retrieved immediately on demand:

- (1) An agreement signed by the consumer
- (2) A record of a purchase, payment, or use of an account
- (3) A record otherwise demonstrating the debt was incurred

Please note, per this statute, the above is irrespective of filings and statements complying with TCA 24-5-107.

Plaintiff or Plaintiff Attorney

Date