

BUSINESS AND ECONOMIC DEVELOPMENT

Resolution BED-17-14

A RESOLUTION CALLING FOR AN END TO ABUSIVE DEBT COLLECTION PRACTICES

WHEREAS, 77 million Americans have debt in collections reported on their credit files, with African American neighborhoods more likely to have residents who have debts in collection;

WHEREAS, as outlined by the US Senate Banking, Housing and Urban Affairs Committee in a report supporting the federal Fair Debt Collection Practices Act, the overwhelming majority of people who are in debt and being pursued by debt collectors are not in debt by choice, but due to circumstances such as unexpected job loss, divorce or marital problems, overextension, and serious illness;

WHEREAS, the Federal Trade Commission (FTC), Consumer Financial Protection Bureau (CFPB), and many state Attorneys General receive more complaints about debt collection than any other industry;

WHEREAS, the top complaint by consumers to the Consumer Financial Protection Bureau on debt collection is being pursued for debts not owed;

WHEREAS, debt collectors often use aggressive tactics to collect debts, including pursuing the wrong person, attempting to collect debts not owed or already paid, making harassing and threatening phone calls, and filing wrongful lawsuits;

WHEREAS, debt collectors, when they acquire or purchase debts, often receive limited or outdated information about the debts they are collecting and individuals who allegedly owe the debts and rarely receive account documentation establishing that the debt is owed;

WHEREAS, debt collectors file hundreds of thousands of lawsuits each year in state courts to collect debts, even if they lack sufficient information and documentation on the debts to establish that an individual owes a specific debt;

WHEREAS, the vast majority of debt collection cases result in judgments in favor of the debt collector, often because an individual does not defend against the case for reasons including lack of notice of the lawsuit, inability to afford an attorney, a lack of understanding of the legal process, or inability to get off work;

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WHEREAS, in most states, a court judgment, which can last for a decade or more, enables a debt collector to garnish wages, freeze bank accounts, and place a lien on property to satisfy the judgment;

WHEREAS, court judgments are included in consumer credit reports, have a negative impact on credit scores, and as a result, may impede access to affordable credit and housing and shut individuals out of job opportunities;

WHEREAS, abusive debt collection tactics result in individuals paying money for debts they may not owe or are not legally required to pay;

WHEREAS, consumers suffer financial harm as a result of lawsuits filed using inadequate information, whether due to defending a wrongful lawsuit or for wages garnished following a judgment, and this is particularly true for debts not owed;

WHEREAS, black neighborhoods suffer a disproportionate share of debt collection lawsuits and judgments than white neighborhoods – black neighborhoods have two times the number of judgments than white neighborhoods, regardless of income level;

WHEREAS, armed with those judgments, debt collectors and creditors extract millions of dollars from black neighborhoods each year, some for debts they cannot prove or the individual does not owe, causing residents to struggle to make ends meet;

WHEREAS, the Consumer Financial Protection Bureau is currently considering the first ever federal rule on debt collection to address abusive debt collection practices;

WHEREAS, the federal government currently lacks regulations requiring debt collectors to possess, and creditors to pass on, necessary information and documentation before initiating debt collection activities, including filing lawsuits;

WHEREAS, some states have taken steps to enact important protections against abusive debt collection practices, many state governments and judiciaries similarly lack strong rules on documentation of debts and ownership required prior to attempting to collect, bringing suit, and obtaining judgments against consumers in court; and

WHEREAS, federal and state laws on wage garnishment are outdated and often do not protect enough income from seizure to allow families to subsist or provide for basic living expenses.

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THEREFORE BE IT RESOLVED, the National Black Caucus of State Legislators believes, individuals have the right to be free from unfair, abusive, and deceptive debt collection practices that result in harassment, coerced payments, or wrongful court judgments;

BE IT FURTHER RESOLVED, the NBCSL condemns abusive debt collection tactics that subject individuals to harassment and threats, cause them to pay money for debts they do not owe, and subject individuals to wrongful lawsuits and court judgments;

BE IT FURTHER RESOLVED, the NBCSL calls on state legislatures to adopt legislation requiring more detailed and accurate information and documentation when debt collectors seek to collect debts in their states, including filing lawsuits;

BE IT FURTHER RESOLVED, the NBCSL encourages state judiciaries to tighten evidentiary requirements for obtaining judgments – including default and summary judgments – against consumers in debt-related cases;

BE IT FURTHER RESOLVED, the NBCSL urges the Consumer Financial Protection Bureau to issue strong rules that bring needed reforms to abusive debt collection practices;

BE IT FURTHER RESOLVED, the NBCSL urges federal regulators, including federal banking regulators, to bring oversight to creditor debt collection practices, including the sale of old debts;

BE IT FURTHER RESOLVED, the NBCSL urges federal regulators, especially the Consumer Financial Protection Bureau in its upcoming debt collection rule, to prohibit the initiation of collection efforts on any debt unless the debt collector has the information necessary to substantiate and verify the debt being sought;

BE IT FURTHER RESOLVED, the NBCSL encourages federal and state legislators to pass legislation that protects more income and property from wage garnishment and seizure, particularly for lower-income households; and

BE IT FINALLY RESOLVED, that a copy of this resolution be transmitted to the President of the United States, the Vice President of the United States, members of the United States House of Representatives and the United States Senate, and other federal and state government officials as appropriate.

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SPONSOR: Senator Floyd B. McKissick, Jr. (NC)

Committee of Jurisdiction: Business and Economic Development Policy Committee

Certified by Committee Chair: Senator Jeffery Hayden (MN)

Ratified in Plenary Session: Ratification Date is December 3, 2016

Ratification is certified by: Senator Catherine Pugh (MD), President