







July 7, 2009

Protecting North Carolina's Families from Abusive Debt-Buying Practices

Senate Bill 954 would Implement New Regulations and Increase Penalties for Violations

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EXECUTIVE SUMMARY:

-  DEBT BUYERS PAY PENNIES ON THE DOLLAR for old "debt." In some cases, the debt has been charged off and the applicable statute of limitations has passed. In addition, sometimes debt buyers claim the debt is for more money than it actually is.
-  ABUSIVE DEBT BUYERS TARGET LOW-INCOME FAMILIES because they often cannot afford a lawyer. The debt buyers file lawsuits against the consumers, and if the consumers don't respond to the legal filings, they could face default judgments that cost them thousands of dollars.
-  ABUSIVE DEBT BUYERS ALSO USE HARASSMENT and threats to get consumers to pay. Although many of these tactics violate current regulations, the penalties are not large enough to deter these practices.
-  SENATE BILL 954 WOULD INCREASE PENALTIES for violations of North Carolina's debt collection laws and add those protections to the activities of debt buyers. It would also stop debt buyers from filing unsubstantiated lawsuits, and it would require a debt collector to show evidence to establish the amount and nature of the debt before a judge can enter a default or summary judgment against a consumer.

ACROSS THE COUNTRY AND IN NORTH CAROLINA, COMPANIES ARE BUYING UP MILLIONS OF DOLLARS IN OLD DEBT FOR PENNIES ON THE DOLLAR AND THEN FILING LAWSUITS AGAINST THE ALLEGED DEBTORS.

Often times, the debt isn't even owed and has already been paid off, or the statute of limitations on the debt has long since passed. However, the debt buyers' targets – usually low-income people who can't afford lawyers – are frequently unaware of how this scam works and don't know how to fight back. So they don't respond to lawsuits and end up owing debt buyers thousands of dollars – the original debt plus interest and attorney's fees.

Protecting families from unfair and unlawful practices always makes sense. But now, when hundreds of thousands of North Carolina families are struggling, it is critical that the General Assembly act to stop the abusive practices of debt buyers. Passage of Senate Bill 954 will help to curb some of the most abusive practices by implementing new regulations and increasing the penalties for violations.

Debt-Buying Abuses

Abusive debt buyers employ two basic strategies – lawsuits and threats.

Often, the debt buyers do not have the necessary documentation to prove in court that the debt is valid, but many consumers cannot afford to hire an attorney and do not reply to legal filings. Sadly, many courts rule in favor of the debt buyers by default.

In addition to the principle owed – legitimately or not – the consumer will have to pay interest and attorney’s fees, which can total thousands of dollars. The debt buyer can then execute on the judgment and seize property, including the consumer’s land, car or home.

In some cases, the debt buyers use harassment and threats to get consumers to pay on old “debts,” often in violation of the Fair Debt Collection Practices Act. For example, debt buyers may falsely represent the amount of the debt, threaten to “send the sheriff” to take consumers’ possessions if they don’t pay, or tell them their homes will be auctioned off if they don’t pay.

Although many of these practices violate current federal and state laws, the penalties for these violations are not large enough to serve as a deterrent. The profits debt buyers make through unchallenged lawsuits and improperly obtained payments make risking the occasional penalty well worth it.

What Senate Bill 954 Does

Senate Bill 954 makes several changes to current law to better protect consumers from abusive practices. First, it would increase penalties for violations of North Carolina’s debt collection laws and add those protections to the activities of debt buyers.

Second, it would stop debt buyers from filing unsubstantiated lawsuits by requiring them to include certain documentation of the debt, such as copies of contractual documents and records showing the debt is legitimate and the debt buyer is the owner of the debt.

In addition, before a judge will be able to enter a default or summary judgment against a consumer, the debt collector will have to show evidence to establish the amount and nature of the debt.

Throughout North Carolina, abusive debt buyers have used illegal and unethical practices to target the assets of working families. As the unemployment rate climbs and working-class families find themselves struggling to keep their heads above water, it makes sense for their elected representatives to take action to protect their hard-earned dollars.

Senate Bill 954 will help protect North Carolinians and their assets from the abusive practices of debt buyers. Passing this legislation is one way the NC General Assembly can help families weather these tough economic times.