Reform 'Horse and Buggy' Debt Laws

Responsible Lending

Charlene Crowell

An adage advises that one man's pain is another man's gain. As consumers nationwide struggle to recover financially from the Great Recession, this adage is also a truism. Across the country, creditors and debt collectors are taking advantage of archaic laws to extract payments that satisfy court judgments for consumer debts.

Depending upon a given state's exemption laws, garnished wages are not the only option available to creditors. Many state laws have left loopholes that allow bank accounts, autos, or even household goods to be seized. Now a new research report by the National Consumer Law Center urges states to protect consumer wages and property from aggressive debt collection by creditors and debt buyers. The research comes at a time when many consumers' finances remain fragile.

The report, "No Fresh Start: How States Let Debt Collectors Push Families into Poverty," reveals how these outdated state laws have failed to keep pace with the nation's economy and its technology. Laws that remain a relic of yesteryear include a Delaware exemption that protects a sewing machine owned and used by a seamstress; or a Vermont law that exempts one cow, two goats and three swarms of bees from being taken to satisfy a judgment. Other exemption laws that protect wages or other personal property have not changed to reflect inflation, protecting less than $500 in personal property in some states.

"It's a travesty when outdated state laws protect farm animals and their feed but not a living wage, a working car, and a bare bones checking account," said Robert Hobbs, NCLC deputy director. "This report is a wake-up call for states to update their exempt property laws and stop putting millions of families at risk."

The inadequacies in state exemption laws only make matters worse for consumers with judgments against them for debts not owed, already paid, or others too old, or the result of identity theft. When creditors and debt buyers obtain wrongful judgments against consumers, they are then able to take advantage of the obsolete exemption laws to extract money from consumers who never owed them in the first place.

In 2012, the Federal Trade Commission (FTC) received more than 125,000 consumer complaints about debt collection. That's more than any other industry and represents almost 25 percent of all consumer complaints received. The Consumer Financial Protection Bureau is charged with regulating larger debt collectors by enforcement of the Fair Debt Collection Act. This law makes it illegal for debt collectors to use deceptive, unfair and abusive tactics to collect debts. The Federal Trade Commission also shares monitoring and enforcement of the law.

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The NCLC report ranks each state with letter grades measuring how well consumers were protected by five specific standards:

Preventing debt collectors from seizing so much of the debtor's wages that the consumer is pushed below a living wage;

Allowing the debtor to keep a used car of at least average value;

Preserving the family's home – at least a median-value home;

Preventing seizure and sale of the debtor's necessary household goods; and

Preserving at least $1,200 in a bank account so that the debtor has minimal funds to pay essential costs such as rent, utilities and commuting expenses.

The report found that no state met all five standards and only two came close: Massachusetts, which recently modernized its exemption laws, and Iowa.

Conversely, Alabama, Delaware, Kentucky and Michigan were rated an "F" for their exemption laws that allowed debt collectors to seize nearly everything a debtor owns. States rated "D-"were Arkansas, Georgia, New Jersey, Pennsylvania, Utah and Wyoming.

NCLC urges states to update their laws with remedies that include protecting wages, family housing and necessary household goods and transportation; close loopholes that enable some lenders to evade exemption laws; protect retirees from destitution; and allow a reasonable amount of money on deposit. Model language for state legislation is available at www.nclc.org/mffpa.

"By updating their exemption laws, states can prevent debt buyers from reducing families to poverty," the report states. "These protections also benefit society at large, by keeping workers in the work force, helping families stay together, and reducing the demand on funds for unemployment compensation and social services."

Charlene Crowell is a communications manager with the Center for Responsible Lending.

Take Action During Medicare Open Enrollment

UnitedHealthcare

Jeff Underwood

According to a recent survey, more than 60 percent of Medicare beneficiaries have never shopped around to find health or prescription drug coverage that might better suit their needs, despite their annual opportunity to do so during the Open Enrollment Period (Oct. 15 to Dec. 7). That's unfortunate because Medicare is not a one-size-fits-all program, and a lot can change in a year in terms of people's health status and budget, as well as the plans that are available.

Perhaps even more concerning is the confusion surrounding the new state health insurance marketplaces (also called "exchanges"). The survey found that more than a third of older adults who are aware of the exchanges incorrectly believe that Medicare beneficiaries can shop for and enroll in Medicare coverage through them. Simply put: People cannot enroll in Medicare plans through the exchanges.

Decisions about health coverage are important and personal. I encourage the more than 304,000 Medicare beneficiaries in the Portland area as well as their caregivers to take action during open enrollment by evaluating their options and deciding if they should switch to a new plan that would better meet their needs. The Open Enrollment Period for Medicare began on Oct. 15 and continues until Dec. 7. Like in years past, people can shop for and compare plans in their area at www.Medicare.gov.

Jeff Underwood is the regional vice president of UnitedHealthcare Medicare & Retirement in Portland. Serving nearly one in five Medicare beneficiaries, UnitedHealthcare Medicare & Retirement is the largest business dedicated to the health and well-being of seniors and other Medicare beneficiaries.

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