

July 5, 2017

Councilmember Kenyan McDuffie  
Chair, Committee on Business and Economic Development  
Council of the District of Columbia  
1350 Pennsylvania Avenue, N.W. Suite 506  
Washington, D.C. 20004

**Re: Support and Committee Hearing for the *Debt Buying Limitation Amendment Act of 2017***

Dear Chairman McDuffie:

We write to urge you to support and schedule a committee hearing and mark-up for the Debt Buying Limitation Amendment Act of 2017 (the Act). The Act would provide critical protections from the often destabilizing effects that debt collectors' practices and lawsuits are having on District residents.

Dealing with debt collectors has become a widespread problem for District residents. Based on an extensive survey of D.C. residents published in 2016, almost half of low-income residents reported problems with debt—and of the survey participants with debt-related problems, the most common problem cited (31%) was receiving calls from debt collectors.<sup>1</sup> Unscrupulous debt collection techniques are common, and the collateral consequences can be profound. All too often, harassing communications with misleading information about debts or consequences of nonpayment lead vulnerable consumers to pay debts that they cannot afford and may not even owe, solely out of fear. Such calls may become a step in a downward spiral for the community member, beginning with unpaid rent or utility bills, followed by impairment of credit reports, wage garnishment, difficulties in finding a job or housing, and increased risks of homelessness.

The District needs effective protections for its residents facing debt collection and a law that deters abusive collection practices. Existing law has critical gaps in the area of abusive debt collection. This bill is not about helping consumers avoid the debts they actually owe—it is about providing for a fair debt collection system in which District residents are not harassed or intimidated into paying debts or subjected to wrongful legal action.

Debt collection tactics used against District residents are of particular concern given the civil rights and racial justice aspects of the issues surrounding debt collection lawsuits: as a 2016 report by Pro Publica concluded: “Black communities are hit much harder by debt collection lawsuits than white ones, even in places where black households and white households have similar incomes.”<sup>2</sup>

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<sup>1</sup> See DC Consortium of Legal Service Providers, *The Community Listening Project* (2016) available online at [www.lawhelp.org/dc/resource/community-listening-project](http://www.lawhelp.org/dc/resource/community-listening-project).

<sup>2</sup> Paul Kiel, *So Sue Them: What We've Learned About the Debt Collection Lawsuit Machine* (Pro Publica May 5, 2016), available online at <https://www.propublica.org/article/so-sue-them-what-weve-learned-about-the-debt-collection-lawsuit-machine>

These problems are all the more concerning in light of the volume of collections cases filed by debt buyers and judgments against individual community members obtained by default, both nationally and here in D.C. A national report concluded that “the most common outcome of a debt collection lawsuit ... is a judgment by default,”<sup>3</sup> *i.e.*, with no participation in the case by the defendant. The default rate for debt collection actions in D.C is likewise significant: in 2016, based on an informal analysis of collections calendar dockets, almost 42% of D.C. Superior Court defendants with cases on the small claims debt collection calendar had a default or default judgment entered against them at their initial hearing. Thus, even if a case has been filed or pursued illegally, there remains a good chance that the default will result in the debt collector obtaining judgment anyway—rewarding, rather than deterring, the improper collection activity.

There are many reasons defendants in debt collection cases do not file an answer or appear in court other than being in denial or otherwise refusing to pay a legitimate debt. In some cases, defendants may fail to appear because they lacked notice of the court case, either due to improper service of process or other reasons. Emerging research also suggests that “low-income individuals do not have the financial resources to hire a lawyer; do not feel comfortable making appearances in court; do not believe they possess sufficient social, economic, or political power to make an appearance in the court system worthwhile; or do not have sufficient flexibility in their lives to attend court without running the risk of catastrophic consequences such as losing a job or leaving a child unattended”.<sup>4</sup>

The proposed Act would make two key, necessary improvements to the District’s current law. First, it would expand the scope of the statute’s baseline protections to cover common types of consumer debt, including medical and credit card debt. Second, it would build in important substantiation requirements for debt buyers to help protect against baseless claims. In today’s marketplace, debt buyers purchase billions of dollars of debt and attempt to collect based on spreadsheets of summary information that are frequently inaccurate, incomplete, or outdated. Failure to verify or correct the information before pursuing consumers for collection often results in collection attempts against the wrong individuals, for inaccurate amounts, or for debts that have already been paid or are beyond the statute of limitations. The Act addresses these problems by requiring the collector to provide such information to the consumer proactively, by prohibiting collection activity on out-of-statute debt, and by precluding payment of such debt from reviving the limitations period.

The problems that the Act would address are problems seen throughout the country. Abusive debt collection practices are consistently one of the top issues identified in consumer complaint studies. In 2016, the Federal Trade Commission received over 859,000 complaints about debt collection—comprising 28% of the overall complaints received. Similarly, the first-ever national survey of consumer experiences with debt collectors, conducted by the Consumer Financial Protection Bureau, found the following: 27% of consumers contacted by debt collectors felt threatened, 53% of consumers said at least one collection effort was mistaken in some way, and one in seven consumers contacted about a debt reported being sued.

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<sup>3</sup> NPR, *Millions Of Americans' Wages Seized Over Credit Card And Medical Debt*, available online at <http://www.npr.org/2014/09/15/347957729/when-consumer-debts-go-unpaid-paychecks-can-take-a-big-hit>

<sup>4</sup> Greiner, D. James and Matthews, Andrea, *The Problem of Default, Part I* (June 21, 2015). Available at SSRN: <https://ssrn.com/abstract=2622140>

But in light of the current climate at the federal level, it is vital that effective consumer protection come from action at the local and state levels. States such as North Carolina, California, New York, Colorado, and Maryland have now enacted bills with important protections for those facing debt collection abuse. This proposed Act presents the District with an opportunity to be a part of this growing number of leading states that have sought to protect their residents and their courts from the deluge of problematic lawsuits filed by debt buyers.

For these reasons, we urge you to schedule a hearing for, and to support, the Act. Finally, we are advised that the Office of the Attorney General for the District of Columbia is supportive of the consumer protection reforms proposed in the legislation. Moreover, OAG pledges to work with the Council and all relevant stakeholders throughout the legislative process.

Thank you for your consideration of this important matter.

Sincerely,

Legal Aid Society of the District of Columbia  
Tzedek DC  
Bread for the City  
Center for Responsible Lending  
D.C. Fiscal Policy Institute  
Legal Counsel for the Elderly  
National Association of Consumer Advocates  
National Consumers League  
Public Citizen

CC: Councilmember Jack Evans  
Councilmember Charles Allen  
Councilmember Anita Bonds  
Councilmember Vincent C. Gray