

## States raise limits on creditors as debtors squirm

By EMERY P. DALESIO (AP) – October 14, 2009

WINSTON-SALEM, N.C. — With many Americans in dire financial straits, states are cracking down to make sure aggressive debt collectors target only people who legitimately owe them money.

National consumer credit laws already prohibit collection agencies from harassing, deceptive, or unfair practices like telling neighbors or family about what is owed, or calling before 8 a.m. or late at night. Since the recession started, at least a half-dozen states have adopted additional limits, like imposing statutes of limitation on collections and adding opportunities to punish abusive practices in court. Other states may follow suit.

Lawmakers are increasingly focusing on outfits that buy bad debt from credit card companies and other lenders for pennies on the dollar and profit when they collect more than they paid.

Debtors — some agree they owe money, others say they've already paid or are disputing their bills — have reported being bombarded with calls and subjected to foul language and threats of arrest or deportation.

A North Carolina law that took effect this month requires debt buyers filing collection lawsuits to produce documents proving they're the ones owed the money. Trying to collect on a debt that a company should reasonably know is invalid could lead to lawsuits and civil penalties of up to \$4,000 per violation.

North Carolina Attorney General Roy Cooper cites the case of a 65-year-old woman who had been plagued by up to five collection calls a day until her lawyer demanded proof she owed the money, then learned collectors were looking for a debtor in Greensboro, about 140 miles to the west.

"We've gotten a lot of cases that the debt is not owed or the debt has been paid off," Cooper said. "They call and they browbeat people to pay money that they don't even owe."

Other states including Idaho, Colorado, New York, Arkansas and Maryland, along with New York City, have also recently passed more explicit rules for debt collectors. Legislators in several more — including Massachusetts and New Jersey — have pushed bills that could come up again in next year's legislative sessions.

North Carolina's law came too late to help Eleanor Chittum, 63, who now lives in a Winston-Salem convalescent home. Her records showed she owed \$1,439 to Direct Merchants Credit Card Bank on a Visa card, but paid off that account by transferring it to another card. She was stunned when a collection company contacted her to say she owed \$1,800.

"Then they sent me a bill for that amount, and I said, 'Why do I owe that? I paid it off,'" Chittum said. "I was shocked to see this bill come in like that."

A North Carolina company called Brock and Scott Holdings Inc. filed a lawsuit in late 2007 saying Chittum owed them the original amount plus interest. The company's lawyer said it wasn't required to prove from the outset that Chittum owed the debt, just that its records were kept properly. Under the new state law, it would have had to document that she owed the money.

"If she owes the debt, she'll pay it. We've tried for a year and a half to get them to prove that she owes the debt," said Charles F. Hall IV, a Legal Aid attorney representing Chittum.

Neither Brock and Scott Holding executives nor an attorney pursuing Chittum's debt responded to requests for comment.

"The bottom line: people should pay their debts," Cooper said. "But what this legislation does is make the debt buyer produce proof that the debt is actually owed."

A New York City ordinance passed last spring requires similar proof from debt collectors, forcing them to tell consumers what company they represent, the original creditor, and the amount of the debt they owe.

"Anyone contacted by a debt collection agency will now be empowered to demand written documentation regarding the status and history of the debt," Mayor Michael Bloomberg said.

But debt buyers say it's unfair to limit their right to force people to pay their bills.

"They should be eligible to pursue any remedy in court that any owner of an asset can," said David Cherner, state government affairs director for ACA International, a trade association for the collection industry.

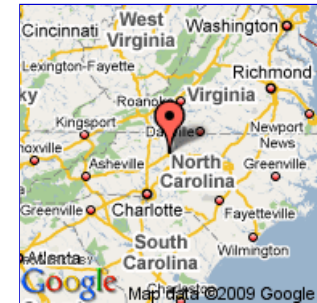
Debt collectors' reputation for flooding courts with lawsuits led the Federal Trade Commission to hold two days of meetings in Chicago in August with state judges, government officials, industry representatives, and consumer advocates. Expanded federal regulations are being considered.

Certainly Americans owe plenty of money to keep the industry busy — more than \$900 billion in revolving debt like credit cards, according to the Federal Reserve. Credit card issuers have given up on collecting 10.6 percent of their accounts in July, just off a record 10.8 percent in June but almost two-thirds higher than July 2008, said Fitch Ratings.

But times are getting tougher. A record one-third of all debt collection companies and four out of 10 debt buyers reported layoffs in the first quarter of the year, according to a survey by Kaulkin

**AP** Associated Press

Map



Ginsberg Co., a consulting firm for the collections industry.

"Just like everything else, they're hurting right now," said Robert Murphy, a Fort Lauderdale, Fla., attorney who specializes in consumer litigation. "If a consumer is losing her home in foreclosure, do you think she is going to be very concerned about being sued for a \$4,000 credit card debt?"

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