

A RESOLUTION

24-213

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 13, 2021

To declare the existence of an emergency with respect to the need to amend section 28-3814 of the District of Columbia Official Code to include all consumer debt under the District's collection law, to prohibit deceptive behavior from debt collectors, including threatening to accuse people of fraud, threatening to sell or assign consumer debt such that the consumer would lose defense to a claim, or disclosing or threatening to disclose consumer debt information without acknowledging such debt is in dispute or in a way that would harm the consumer's reputation for credit worthiness, to prohibit debt collectors from making more than 3 phone calls to a consumer in 7 days, to prohibit the communication of consumer indebtedness to employers, except when such indebtedness is guaranteed by the employer, the employer requests the loan, or the information is an attachment to an execution or judgment allowed by law, to prohibit debt collectors from communicating an individual's indebtedness to family, friends, or neighbors, except through proper legal processes, to require debt collectors to have complete documentation related to the consumer debt being collected, to require debt collectors who enter into a payment schedule or settlement to provide a written copy of the schedule or agreement, to implement specific requirements for a debt collector when initiating a cause of action against a consumer for consumer debt, to allow for the awarding of damages and other fees to a consumer when a debt buyer or debt collector violates this section, to establish specific requirements for the awarding of attorneys' fees when the plaintiff is the prevailing party, to establish specific requirements for courts to issue bench warrants for civil arrest for failure to appear in debt collection cases, to prohibit the imprisonment or jailing or any consumer for failure to pay consumer debt, and to establish debt-collection protections during a public health emergency declared by the Mayor.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Protecting Consumers from Unjust Debt Collection Practices Emergency Declaration Resolution of 2021".

Sec. 2. (a) On March 11, 2020, the Mayor of the District of Columbia issued Mayor's Orders 2020-45 and 2020-46, declaring a public emergency and a public health emergency in the

District due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of COVID-19. Additionally, the Council has enacted many resident protections through legislation such as the Coronavirus Support Temporary Amendment Act of 2021, effective June 24, 2020 (D.C. Law 24-9; 68 DCR 4824).

(b) Under D.C. Law 24-9, creditors and debt collectors cannot file new collection lawsuits, garnish, seize, or withhold property or wages, repossess vehicles, visit consumer households or places of employment or initiate communications with a debtor via any written or electronic communication with limited exceptions. With the pending expiration of the public health emergency, these protections will lapse even as the effects of the pandemic continue to impact residents:

(1) According to the Census Bureau's Household Pulse Survey, over 25% of households report using credit cards or loans to meet their routine spending needs in the last 7 days.

(2) According to data from the New York Federal Reserve Bank Consumer Credit Panel/Equifax, auto loan delinquency in the District was at 10.35% as of the last quarter of 2020, higher than at any point during the Great Recession.

(3) Medical debt has exploded due to the pandemic. Nationally, Credit Karma estimates that consumers carried an additional \$2.2 billion in overdue medical debt from January 2020 to March 2021, reaching \$47 billion in total. A survey by Lending Tree found that nearly 10% of medical debt was for coronavirus-related hospital stays.

(c) Given the lingering impacts of the pandemic and the adverse impact that usual debt collection practices can have on residents, it is necessary to amend D.C. Official Code § 28-3814 to provide consumers greater protections against certain methods and practices of debt collectors. These include:

(1) Expanding the definition of debt so it includes all consumer debt, including medical debt;

(2) Prohibiting excessive communications from debt collectors that constitute harassment, such as making more than 3 phone calls in a 7-day period;

(3) Prohibiting the use of deceptive behaviors by debt collectors, such as threatening action the debt collector cannot take, disclosing disputed information without disclosing that it is disputed, threatening to disclose false information, initiating causes of action when the statute of limitations has expired, seeking to collect funds exempted by District or federal law, or seeking to collect debts owed by deceased consumers from those with no legal obligation to pay them;

(4) Placing a reasonable cap on attorney's fees paid by individual consumers so debt collection lawsuits do not drive consumers further into debt;

(5) Requiring debt collector plaintiffs to perform reasonable investigations to verify a defendant's address for service of process so that consumers are more likely to receive service;

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(6) Providing procedural protections against arrest and imprisonment, including a prohibition against imprisoning or the jailing of debtors for failure to pay debts or failure to appear; and

(7) Requiring separate and additional procedures for debt buyers, including dismissal of the action if the debt buyer does not comply with law, and authorizing a private cause of action by consumers against debt buyers for violations.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Protecting Consumers from Unjust Debt Collection Practices Emergency Amendment Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.