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State Sen. William Stachowski, D-Lake View, says concern about losing Western New York bill collection jobs is the reason he opposes the bill to clamp down on the industry.

Harry Scull Jr./Buffalo News file photo

Proposal on buying of old debt opposed

Plan aims to prevent abusive tactics

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A Democratic state lawmaker from Buffalo, the state's banks and the region's burgeoning debt-collection industry are fighting a proposal in Albany to tighten state collections rules, reduce lawsuits and prevent abusive tactics by debt-buying firms.

A bill sponsored by two Democrats would impose new requirements on buyers of old debt before they can file lawsuits against debtors and obtain default judgments against them. It would also limit the amount of time debt collectors can collect on old debts.

Banks say the bill would force them to go to court sooner to collect debts and thus make the process more expensive. But supporters say the legislation is intended to plug holes in existing law and address abuses that consumer advocates say harm low-income, elderly and minority consumers.

"It would help to curb a lot of these abusive practices," said Josh Zinner, co-director of the Neighborhood Economic Development Advocacy Project in New York City, which released a report in late May with three other groups, laying out the abuses. "We see it as a real critical piece of legislation."

They insist the bill would not stop creditors and collectors from pursuing legitimate debt, as long as they are doing it properly and fairly. “It wouldn’t at all impact legitimate debt collection,” Zinner said.

The bill has been blocked by State Sen. William Stachowski, D-Lake View, who is concerned about jobs in Western New York, where debt collectors employ 10,000. He said the bill doesn’t differentiate between “the legitimate bill collectors and the ones who are causing the problems.” A Long Island senator is also opposed.

“I don’t want to see all the thousands of jobs in Western New York leave,” Stachowski said. “We have a lot of people who are getting back into the job market and can work at these places. This bill would just devastate that whole industry.”

Banks and debt-buyers are raising strenuous opposition. Debt collectors say the bill would actually backfire on consumers, forcing creditors and debt collectors to file more lawsuits immediately upon default to ensure that they don’t miss out on the debt. They also say that the bill would drive up costs for debt collectors, hindering their ability to cut deals with consumers down the road.

“I don’t know if consumers realize that that may be the impact of this,” said Barbara Sinsley, general counsel to DBA International, a trade group. “The strategy is going to be harmful to consumers because the debt collectors and the creditors don’t have a choice.”

Banks say the bill would accelerate the process of sending debt to an outside collector instead of keeping it with a lender who probably has other relationships with the customer aside from debt collection. And they say it would result in more harm to consumers’ credit records and less likelihood that consumers who eventually want to pay debts will do so.

M&T Bank Corp. and HSBC Bank USA reached out to Stachowski, who said he received a letter from M&T CEO Robert G. Wilmers.

“These changes would have the effect of making it far more difficult and expensive to collect debt owed on consumer credit contracts in New York, reducing consumers’ access to credit and raising its cost,” the New York Bankers Association said in a memo opposing the bill.

The bill passed the Assembly on June 16 and is pending in the Senate. It’s sponsored by Sen. Eric Schneiderman, a downstate Democrat, who is also running for state Attorney General. The state Legislature completed its session early this month, but the Senate has to come back to finish the revenue portions of the budget.

The practices of debt collectors have long been a source of controversy, as firms proclaim their right to ensure that consumers pay what they owe while consumer advocates decry the methods that are sometimes used. In particular, advocates denounce debt buyers — firms that purchase old debts for pennies on the dollar and then keep whatever they collect.

According to the advocates' May report, debt buyers "routinely" violate state law by filing meritless lawsuits against low-and moderate-income consumers without proof of their claims and without proper notice to them that they are being sued. As a result, the report said, consumers don't appear, and debt buyers win default judgments nine times in 10.

The proposed Consumer Credit Fairness Act would require that debtors be properly served with notice from the court of a lawsuit against them, giving them a chance to defend themselves.

The legislation would require collectors to submit more information to the court and lay out the facts about the debt, including proving they own it or have the right to collect it.

Finally, the bill would cut the statute of limitations for debt collection to three years from six, identical to Arizona, Arkansas, Delaware, Kansas, Louisiana and Maryland. And it would eliminate any right to collect after that expires, as in Wisconsin and Mississippi.

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