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Consumers' wages being seized for bogus debts

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NEW YORK - Consumers are increasingly being dunned, their wages seized and their bank accounts frozen for supposed debts that turn out to be disputed or even bogus, consumer advocates testified Tuesday at a state legislative hearing.

"The number-one complaint we get on the hotline is from people whose bank accounts have been frozen, and they never had notice of the debt," said Claudia Wilner, staff attorney at the Neighborhood Economic Development Advocacy Project, a New York City anti-poverty group.

The hearing by the Assembly Committee on Consumer Affairs and Protection probed a surge in complaints about debt collection. Complaints to the Federal Trade Commission have risen for the past eight years, and New York City's consumer bureau has seen complaints jump 70 percent in two years, committee chair Audrey I. Pheffer said.

The committee hearing follows a series of articles in The Buffalo News in July, and articles elsewhere, examining the boom in complaints about collectors.

The hearing's goal was to help the Legislature draft a package of measures to combat abusive practices. Pheffer, a Democratic assembly member from Queens, has proposed a debtor "bill of rights" that collectors would be required to provide to consumers they contact. Other attendees called for statewide licensing of collection agencies - unlicensed outside Buffalo and New York City - higher penalties for abusive tactics and more oversight of the practice of debt buying.

Collection industry representatives said existing federal and state laws are sufficient to protect consumers, and that complaints don't necessarily indicate wrongdoing by collectors.

"There are many people who don't like being called on the telephone by a stranger," said Mark Davitt, president of New York collection agency ConServe and past president of the industry's national association, ACA International. The numbers of complaints amount to a small fraction of collection activity as consumers' debt load swells, industry representatives said.

As a center of the collection industry, Western New York has an economic stake in the regulatory push. Agencies employ about 5,000 people in the region, making it one of the nation's top 10 industry centers and a magnet for consumer complaints.

The federal Fair Debt Collection Practices Act forbids harassing calls and false threats. It also requires collectors to stop dunning action and verify a debt if a consumer disputes a debt in writing. If a consumer wins

a civil case under the act, the violator is subject to a \$1,000 fine plus attorney fees. The Federal Trade Commission and state Attorney General can levy higher penalties.

"There are agencies out there that don't care about the rules and regulations, but there are remedies," said Assemblyman David G. McDonough, Republican member of the consumer affairs committee from Nassau County.

Pheffer said the revelations of surprise seizures of funds required action from lawmakers, to tighten requirements that consumers be notified when a collection action has been filed against them. Notices are required by courts, but consumer advocates said that the service of papers often falls through.

"Some of these (clients) had their wages garnished for six weeks even though they didn't owe any debt," Wilner said. Four of her clients showed in court that their supposed debts were the result of identity theft and mistaken identity. Others give up fighting the collection action and relinquished their money rather than miss work for court appearances, she said.

Funds supposedly exempt from seizure, such as Social Security payments, are sometimes being caught up in collection actions, other consumer advocates said.

"Many elderly consumers have not been able to take care of their basic need for food, shelter and clothing" because of asset seizures, said Marla Tepper, general counsel of the New York City department of consumer affairs.

The practice of debt buying came under fire from an array of consumer advocates. Debts sold off by the original creditor lacked account information necessary to verify the consumer actually owed the money, and hadn't paid it back previously, they said. Industry estimates have put the amount of debt sales in the billions of dollars, most of it unpaid credit-card bills.

Faced with a dispute of a year's-old debt, collectors return it to the debt buyer, who can hire another collector to continue dunning, or even resell the debt instead of examining the dispute. "The collection industry is not sufficiently verifying the debts they're collecting," Tepper said.

Lynn Goldberg, president of the New York State Collectors Association, acknowledged problems linked to debt buying. "Validation does become harder and harder to provide - it is a problem," he said.

Verification of a debt is a creditor's responsibility, Goldberg added, not something that their hired collection agencies can address. The industry group has 140 member agencies, 32 in Buffalo, he said.

The national collection agency association also emphasized the responsibility that creditors, including debt buyers, have to insure that the debts they're hiring collectors to collect are legitimate.

"Who bears responsibility for knowing what's really going on with those accounts?" said Rozanne M. Andersen, general counsel of ACA International in Minneapolis, formerly the American Collectors Association.

The ACA, with about 6,000 member agencies, is studying complaints to the FTC to pinpoint the sources of consumer gripes, she said. Abusive practices hurt the industry and agencies that play by the rules. "ACA is as concerned about collectors who do not adhere to the law as anybody in this room," she said.

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