

Summary of LD 1092

What is debt buying?

Debt buying abuses are a new spin on an old problem. Debt buyers buy old consumer debts from the original lender for pennies on the dollar. Then they sue the consumer without determining if the amount owed is correct, or even if the consumer still owes the debt. Before the borrower knows it, the courts have garnished their wages or placed a lien on their property.

When a debt is sold, the buyer generally receives a spreadsheet with little information other than the name and last known address of the borrower. In many instances, Mainers paid off the debt long ago, or debt buyers have the wrong person. Or borrowers have payment plan agreements with the original lender that are not honored by the debt buyer.

The debt buyer business model is based on getting quick court judgments against consumers. The Consumer Financial Protection Bureau (CFPB) called one debt collector with a team of 8 attorneys a “lawsuit factory” after it filed 350,000 suits against consumers since 2009. Eight attorneys filing 350,000 suits in 5 years? That’s nearly 9,000 suits per attorney, per year. It’s the robo-signing of debt-collection, and once a judgment is filed, Mainers are left with little recourse.

What types of debt are subject to debt buying?

Debt buyers purchase a wide range of liabilities. However, the most commonly occurring debts for purchase are: credit cards (44%), medical debts (28%), consumer debts (4%), utility debts (6%), auto loans (7%), and “other,” which includes student debt (11%)¹.

Who is harmed by debt buying?

Research tells us that these debt buying abuses harm seniors, military service members and veterans, women, and students.

- One-third of the complaints from Americans 65 and older to the Consumer Financial Protection Bureau concerned the tactics of unscrupulous debt collectors about debt that they do not owe.²
- Forty percent of debt collection complaints by service members, veterans, and their families involve attempts to collect debt that is not owed.³
- Women are the most affected by credit card debt, medical debt, and student debt, which together, these types of debt represent about 72% of the current debt buying market.⁴

¹ Stifler, Lisa and Leslie Parrish. *The State of Lending in America and its Impact on US Households: Debt Collection and Debt Buying* p. 5 (2014) retrieved 1/22/15 from <http://www.responsiblelending.org/state-of-lending/reports/11-Debt-Collection.pdf>

² Protection Bureau: Office for Older Americans. *A Snapshot of Debt Collection Complaints Submitted by Older Americans*, November 2014.

³ Consumer Financial Protection Bureau, *Service Member Fact Sheet*, November 2014.

What is the extent of the problem in Maine?

The impetus for LD 1092 was growing concern among the legal services community, the AARP, and Legal Services for the Elderly about abusive debt collection practices.

Maine has higher-than-average population of senior citizens, veterans, and women, all demographics that are particularly vulnerable to unscrupulous debt buyers.

In fact, nearly all of the districts represented on members of the Joint Standing Committee on Insurance and Financial Services have a senior citizen, veteran, and female populations higher than the national average.

District	City/Town	% Women US - 50.8	% Veteran US -6.8	% 65+ US - 13
110	Oakland	51.5	7.5	13.2
	Waterville	53.2	8.9	16.7
61	Lewiston	51.9	8.6	15.5
47	Chebeague Island	51.6	NA	34.9
	Long Island	50.6	NA	28.7
	Yarmouth	52.9	8.9	16.7
31	Portland	51.2	5.5	12.6
50	Brunswick	52.9	10.7	18.2
62	Auburn	51.7	9.1	15.2
7	Wells	51.7	11.4	21
104	Charleston	43.8	NA	10.4
	Dexter	52	NA	18.5
	Exeter	51.4	NA	12.3
	Garland	48.9	NA	13.1
	Stetson	50	NA	14
108	Fairfield	50.6	12.5	13.8
	Smithfield	50.8	NA	16.9
17	Lyman	50.4	NA	13.2
	Waterboro	49.2	9.1	8.2
9	Bangor	51.8	9	14.4
	Hermon	50.7	9.1	12.0
3	Somerset County	50.4	10.3	18.3
23	Sagadahoc County	51.5	11.4	18.8

⁴ Mottola, Gary. *In our Best Interest: Women, Financial Literacy, and Credit card Behavior*, 2012, p 2 Salagincoff, Alina, Usha Ranji, Adara Beamesderfer and Nisha Kurnai. *Women and Healthcare in the Early Years of the Affordable Care Act: Key Findings from the 2013 Kaiser Family Foundation Survey*, 2014, p. 16 and American Association of University Women. *For Women, Student Loan Debt is an Even Bigger Crisis*, 2014.

How does LD 1092 address the problem of debt buying?

The Act to Prevent Abusive Debt Collection Tactics updates Maine's Fair Debt Collection Practices Act (ME FDCPA) to provide the following common sense reforms to their abusive practices:

1. Ensures Mainers are not harassed for debts they do not owe.

Under the current ME FDCPA, very little information and documentation is currently required with regard to collection actions beyond the name of the creditor and amount of the debt. This Act requires that a debt buyer, prior to initiating any collection actions, be in possession of information and documentation to ensure they are only collecting the correct debt from the correct Mainer. (Section 2, para. 6)

This Act prohibits a debt buyer from selling or otherwise transferring ownership in a debt if they do not possess the required information about the debt. It also prohibits the sale or transfer of any debt that has been resolved or paid-off, and any debt that is beyond the statute of limitations. (Section 2, para. 9)

2. Increases transparency.

This Act enhances the existing the information contained in debt buyers' existing requirements to provide written notice prior to any collection actions. (Section 3, para. 1)

In some instances, Mainers reach payment plan agreements with debt collectors to effectively pay of their debt, but yet when that debt is sold by debt collectors—without the consumer's knowledge—these agreements are not honored by the next debt collector. This Act would require that within 10 business days of entering into a payment arrangement with Mainer, a debt collector must provide the agreement in writing. (Section 2, para. 7)

3. Reduces the amount of time on which debt buyers can collect on old debt.

The longer that old debts can be pursued for collection, the more likely that the accuracy of the information about the debt or borrower deteriorates. This Act reduced the statute of limitations for collecting old debt from 6 to 3 years. (Section 2, para. 10)

The Act also ensures that this debt does not become a "zombie debt" – coming back to life when it should otherwise be extinguished, a common practice among debt buyers. It does that by prohibiting the collection of debt for which the statute of limitations is expired. (Section 2, para. 10)

4. Ensures that debt buyers don't abuse the court system to collect on illegitimate debts.

A significant source of debt collection abuses by debt buyers involves operating as “lawsuit factories” in which debt buyers file lawsuits seeking to collect on debt for which they have very little proof that the debt is owed.

This Act enhances protections in by (1) clarifying the information required at the time the lawsuit is filed, (2) clarifying the requirements of documenting the debt on which they seek to collect, and (3) ensuring that a judgment is not issued against a borrower if the debt buyer fails to provide adequate documentation. Violations of this section will result in a dismissal of the debt buyers’ lawsuit. (Section 4, para. 1, 2, 4, and 5)

In addition, debt buyers the significant majority of lawsuits are filed against Mainers without access to legal representation, or often without proper notice that a lawsuit has been filed against them. This Act ensures that debt collectors are prepared to proceed when a consumer appears in court as required. (Section 4, para. 3)

This Act reduces the maximum post-judgment interest rate to 6%. (Section 4, para. 6)

5. Holds debt buyers accountable.

To ensure compliance with the protections in this bill, the bill establishes that any violations of the ME FDCPA provisions by a debt buyer prohibits the debt buyer (or any person legally entitled to seek collection of the debt) from collecting on the debt entirely. (Section 6, para. 6)

Debt and the Elderly

In the last decade, more senior citizens have found themselves facing their golden years deeply in debt. While only 30% of Americans 65 and older were in debt in 1998, 43% in 2010 were struggling to pay bills¹.

Not only do more Americans owe money, they owe more money. Maine Senator Susan Collins called attention to this in a September 2014 letter to her constituents, where she noted that, on average, senior citizens carry more than \$21,000 in debt². And while half of that can be attributed to mortgages, the other half is mostly consumer loans—including auto loans, credit cards, and even student loans.

Those are exactly the types of debts that are on the balance sheets of debt buyers, leaving our seniors vulnerable to the abusive practices that LR 919 seeks to end.

Abusive debt collection practices are senior citizen's number one complaint to the federal Consumer Financial Protection Bureau.

In a November 2014 report, the Consumer Financial Protection Bureau (CFPB) released information showing that one-third of the complaints from Americans 65 and older concerned the tactics of unscrupulous debt collectors³. These tactics included continuing attempts to collect debts not owed, abusive phone calls and letters, threatening alleged debtors with illegal arrest, and even attempting to collect the debts of deceased spouses or children⁴.

Maine's seniors have worked hard to save for a secure retirement. It's time we make sure they aren't paying for debts they don't owe.

Older Americans complain about being harassed for debts they do not owe.

Senior citizens' most frequent complaint is that debt collectors are attempting to collect debts they do not owe. Often, the actual debtor has the same name as the senior, but that's where similarities end.

When a debt is sold, the buyer generally receives an electronic portfolio or spreadsheet with little information other than the name and last known address of the borrower. In fact, only about 6% of portfolios include any documentation of the debt being sold⁵.

¹ Karmacheva, Neda "Is Household Debt Growing for Older Americans?" Urban Institute: Older Americans Economic Security. No. 33, January 2013. Retrieved from: <http://www.urban.org/UploadedPDF/412742-Is-Household-Debt-Growing-for-Older-Americans.pdf> 2/9/15.

² Collins, Sen. Susan. "Senior Citizens Struggling with Debt" Sep. 12, 2014 retrieved from: <http://www.collins.senate.gov/public/index.cfm/2014/9/senior-citizens-struggling-with-debt> 2/9/2014.

³ Consumer Financial Protection Bureau: Office for Older Americans "A Snapshot of Debt Collection Complaints Submitted by Older Americans" November 2014 retrieved from: http://files.consumerfinance.gov/f/201411_cfpb_snapshot_debt-collection-complaints-older-americans.pdf 2/9/2015.

⁴ Ibid.

⁵ Stiffler, Lisa and Leslie Parrish. "The State of Lending in America and It's Impact on US Households: Debt Collection and Debt Buying." April 2014. Retrieved from <http://www.responsiblelending.org/state-of-lending/reports/11-Debt-Collection.pdf> 2/10/2014.

For seniors, that means they could well be held liable for debts they don't owe. LD 1092 isn't about helping Mainer's avoiding their debts, it's about making sure they actually owe the money they are being asked to pay.

Older Americans report that they often cannot identify the debt being collected.

Almost one-third of older consumers told the CFPB that they could not identify the debt being collected⁶. That isn't unusual. In fact, the phenomenon of old, forgotten debts coming back to life is so common it even has its own pop culture-referencing nickname—"zombie debt."

A zombie debt is a debt that is so old the original creditor is no longer trying to collect it. It may also describe a debt that has been settled, paid, or discharged in bankruptcy, but is still being sold to debt collectors. Often, zombie debt is collected far past the time limit allowed by law.

LD 1092 would address zombie debt by enforcing a three-year statute of limitations for debt collection. It would also close a loophole in the law that "resurrects" a long-dead debt if a consumer makes a payment.

Older Americans describe being treated rudely and abusively by debt collectors.

Not only to senior citizens report that they can't identify the debt being collected, they also complain that their good faith attempts to ask for clarification are often met with harassment and abuse. A word cloud created by the CFPB in their report shows that senior citizen's most often describe their interactions with debt collectors as "rude," abusive," "nasty," and "threatening".

When consumers are trying to protect themselves and their families by ensuring a debt is valid, they should be treated with respect. No Mainer should be held responsible for a debt they don't owe.

⁶ Consumer Financial Protection Bureau: Office for Older Americans "A Snapshot of Debt Collection Complaints Submitted by Older Americans" November 2014 retrieved from: http://files.consumerfinance.gov/f/201411_cfpb_snapshot_debt-collection-complaints-older-americans.pdf 2/9/2015.

Women and Debt

Of the debt most likely to make its way onto debt buyers' balance sheets, 72% disproportionately affects women.

Debt buyers purchase a wide range of liabilities. However, the most commonly occurring debts for purchase are credit cards (44%), medical debts (28%), consumer debts (4%), utility debts (6%), auto loans (7%), and "other which includes student debt (11%).¹ Of these, women are disproportionately affected by credit card debt, medical debt, and student debt—or about 72% of the current debt buying market.

Women are 26% more likely than men to incur late fees on credit cards.

In a 2012 study, the Financial Industry Regulation Authority (FINRA) found that women are 26% more likely than men to incur a late fee on credit card payments and 11% more likely to carry balances.² According to the FINRA study, this credit gender gap can and does negatively impact the financial health of women.

Late payments lead to missed payments. Missed payments lead to charged-off debt. And charged-off debt can lead to debts being sold, for pennies on the dollar, with little documentation to unscrupulous debt buyers

Women are more likely than men to be driven into debt by medical bills.

A 2014 Kaiser Family Foundation study found that women have more medical debt than men, and that they have a harder time paying it off. Three in ten women, or 28%, find themselves in debt because of medical issues, as opposed to just 19% of men. Worse, 32% of women have an outstanding medical bill, while just 22% of men do.³

Of the women who have an outstanding bill, more than half have admitted to being in collections. That debt could very well end up in a debt buyer's portfolio.⁴

Women are more likely than men to have student loan debt, and have a harder time paying it off.

While women and men pay the same for college, the gender wage gap means that women are left with more student loan debt after graduation, and it takes them longer to pay it off. While only 39% of men have debt after college graduation, 53% of women do.⁵ This increased student loan debt means increased exposure to the harassment by debt buyers who buy and collect on old student loan debt, for which they might not actually have the proper documentation that they are even collecting the right debt from the right woman.

¹ Stifler, Lisa and Leslie Parrish. *The State of Lending in America and its Impact on US Households: Debt Collection and Debt Buying* p. 5 (2014) retrieved 1/22/15 from <http://www.responsiblelending.org/state-of-lending/reports/11-Debt-Collection.pdf>

² Mottola, Gary. *In our Best Interest: Women, Financial Literacy, and Credit card Behavior*. p 2 (2012) retrieved 1/22/15 from <https://www.finra.org/Newsroom/NewsReleases/2012/P125972>.

³ Salagincoff, Alina, Usha Ranji, Adara Beamesderfer and Nisha Kurnai. *Women and Healthcare in the Early Years of the Affordable Care Act: Key Findings from the 2013 Kaiser Family Foundation Survey*. p. 16 (2014) retrieved on 1/28/2015 from: <https://kaiserfamilyfoundation.files.wordpress.com/2014/05/8590-women-and-health-care-in-the-early-years-of-the-affordable-care-act.pdf>.

⁴ Ibid. p. 17

⁵ American Association of University Women. *For Women, Student Loan Debt is an Even Bigger Crisis*. (2014) retrieved 1/22/14 from <http://www.aauw.org/2014/07/08/women-and-student-loan-debt/>.

Debt and the Vet

Debt is a serious issue for military members and veterans. With frequent relocations and deployments, members of the military are uniquely positioned to find themselves in debt resulting from credit cards, mortgages, and consumer financial products. Further, in the last decade, unscrupulous post-secondary education companies targeting active duty military and veterans for GI Bill dollars have persuaded the men and women of our armed forces to take out millions of dollars in student debt for degrees that leave them little better off than they were before.

It is no wonder, then, that members of the military are disproportionately affected by the abusive debt collection and debt buying practices that LD 1092 seeks to address.

Fastest Growing Category of Complaints

According to the Office of Service Member Affairs at the Consumer Financial Protection Bureau (CFPB), abusive debt collection is the fastest growing category of complaints from service members, veterans, and their families¹. In fact, the Bureau has collected 11,000 such complaints since 2013². Over 50% of service members contact the agency about debt collectors attempting to collect on debts they do not owe, or debt collection agencies that refuse to verify the debt's legitimacy³.

The common sense reforms embodied in LD 1092 would address both of these issues by requiring that debt buyers prove the consumer they are attempting to collect from actually owes the debt.

Service Members Have More to Lose

For the men and women serving in our armed forces, a debt collector attempting to collect from the wrong consumer is more than just a hassle—it could cost them their job. According to the Department of Defense, “Many of our youngsters must attain and maintain security clearances that demand complete and unquestionable integrity. A service member saddled with debt, fear, and considerable stress could suddenly find his integrity compromised. His job performance will probably suffer, and he most likely will lose his security clearance and be temporarily removed from his assignment.”⁴ Indeed financial issues are the cause of 80% of military security revocations.⁵

The job security of our nation's finest shouldn't be put at risk because of bad business practices.

¹ Petraeus, Holly. “Are Unpaid Debts A Military Career Killer” (2015) retrieved April 10, 2015 from <http://www.consumerfinance.gov/blog/are-unpaid-debts-a-military-career-killer/>.

² Ibid.

³ Consumer Financial Protection Bureau, Office of Servicemember Affairs. “Complaints Received From Servicemembers, Veterans, and their Families: A Snapshot by the Office of Servicemember Affairs” pp. 11-13 (2014) retrieved April 10, 2015 from http://files.consumerfinance.gov/f/201403_cfpb_snapshot-report_complaints-received-servicemembers.pdf.

⁴ Center for Responsible Lending. “Pentagon Finds Predatory Lending Harms Troops: A Call for Strong Protective Measures” pp. 2 (2006) retrieved April 10, 2015 from <http://www.responsiblelending.org/payday-lending/tools-resources/Summary-DoDReport-0806.pdf>.

⁵ Ibid.

We Should Defend Those Who Aren't Always Here to Defend Themselves

Debt buyers operate by buying—and collecting—in bulk. The debt collector business model is based on getting quick court judgments against consumers. Last summer, the CFPB called one debt collector with a team of 8 attorneys a “lawsuit factory” after it filed 350,000 suits against consumers since 2009. Eight attorneys filing 350,000 suits in 5 years? That’s nearly 9,000 suits per attorney, per year. It’s the robo-signing of debt-collection, and once a judgment is filed, Mainers are left with little recourse.

But what about military members deployed overseas? Troops on deployments are especially vulnerable to abusive debt collectors. A soldier stationed in Iraq or Afghanistan, for example, cannot appear in court to argue against a lawsuit filed by a debt collector seeking to collect on debt which the soldier does not owe.

Like all Mainers, our military members, veterans, and their families deserves to be treated fairly by debt collectors and debt buyers. They shouldn’t have to pay debts they don’t owe. LD 1092 is the common sense reform needed to make sure we are defending those who defend us.