DC BAR

D I S T R I C T O F C O L U M B I A B A R
Antitrust and Consumer Law Section

August 18, 2015

The Honorable Vincent Orange
Chairman
Committee on Business, Consumer, and Regulatory Affairs
Council of the District of Columbia
1350 Pennsylvania Ave., N.W.
Washington, DC 20004

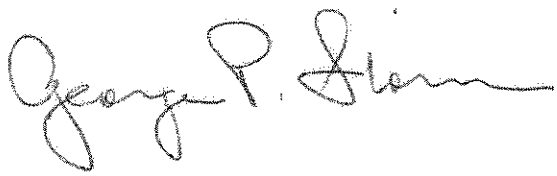
RE: B-21-0190, DEBT BUYING LIMITATION AMENDMENT ACT OF 2015

Dear Councilmember Orange:

The Steering Committee of the Antitrust and Consumer Law Section of the District of Columbia Bar submits the enclosed statement in support of the referenced legislation to reform the procedures for the collection by debt buyers of consumer debts in the District of Columbia, to provide greater notice and other protections to consumers.

The statement reflects only the views of the Antitrust and Consumer Law Section of the D.C. Bar, and not the views of the D.C. Bar or of its Board of Governors.

Respectfully submitted,



George P. Slover
Daniel P. Ducore
Co-chairs, Antitrust and Consumer Law
Section Steering Committee
District of Columbia Bar

cc: The Honorable Mary M. Cheh
The Honorable Anita Bonds

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D.C. Bar Antitrust and Consumer Law Section Statement of Support for Debt Buying Limitation Amendment Act of 2015
August 18, 2015

Note: The views expressed herein represent only those of the D.C. Bar Antitrust and Consumer Law Section, and not those of the D.C. Bar or its Board of Governors.

The D.C. Bar's Antitrust and Consumer Law Section (the "Section") submits this statement in support of Bill B-21-0190, the Debt Buying Limitation Amendment Act of 2015, introduced by Councilmembers Mary Cheh and Anita Bonds.[1] We believe the proposed legislation is an appropriate and effective response to concerns regarding reported careless and abusive debt collection practices by those who have purchased interests in debts from other lenders who are relinquishing their own efforts to collect.

There are disturbing reports of debt buyers aggressively seeking to collect consumer debts without having first sufficiently ascertained that the debt is in fact owed by the consumer whom the creditor is pursuing, the amount of the debt, the circumstances surrounding any nonpayment, and that the consumer is still legally obligated to pay, and without having given the consumer proper notice. This has been a growing nationwide concern among consumer groups, regulatory and law enforcement agencies, and legislators.[2] Legal services attorneys representing low-income consumers in D.C. Superior Court say they often encounter cases with these defects. We believe the D.C. Council should take steps to ensure that District residents are appropriately protected.

The bill furthers this purpose by adding new basic protections that include the following:

- Requiring that the debt buyer have specific and reliable information regarding the identity of the consumer debtor, the amount of the original debt and when it arose, an itemized date and amount of any interest or penalty accrued, and the chain of ownership of the debt from the original creditor to the debt buyer, before the debt buyer is permitted to contact the consumer debtor or seek to recover the debt.

- Requiring the debt buyer to provide this information to the consumer debtor within 5 days of request, along with documentation of the debt buyer's right to collect the debt.

- Prohibiting a debt buyer from –

  – disclosing, or threatening to disclose, a debt known to be disputed by the consumer debtor without making clear that it is disputed;

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[1] The Section Steering Committee voted, without dissent (two Steering Committee members, Carrie Anderson and Robert Hauberg , abstained) , on August 5, 2015, to adopt this public statement.

[2] *See generally* Federal Trade Commission, The Structure and Practices of the Debt Buying Industry, January 2013; Consumer Financial Protection Bureau, Annual Report on Fair Debt Collection Practices Act, March 20, 2014. Debt collection practices constituted 12 percent of complaints from District consumers to the Federal Trade Commission in 2013, ranking second only to complaints about banks and lenders, and ranking first in 2012. *See* Federal Trade Commission, "Consumer Sentinel Network Data Book, January - December 2013" (2014), and "Consumer Sentinel Network Data Book, January - December 2012" (2013).

– disclosing or threatening to disclose information affecting the consumer debtor's reputation for creditworthiness with knowledge or reason to know that the information is false; or

– communicating with the consumer debtor or his or her household with harassing frequency or manner.

- Prohibiting a debt buyer from bringing a court case to recover a debt when it knows or reasonably should know that collecting the debt is barred by the statute of limitations, and specifying that a new affirmation or payment by the consumer debtor after the limitations period expires does not extend the limitations period.

- Requiring that the debt buyer include, in any action filed in court to collect the debt, specified information regarding the debt, the consumer debtor, the amount owing, the legal basis for any interest or fees, and the debt buyer's right to collect, with documentation attached.

- Requiring that, before the court can approve a settlement requiring payments from income legally protected from garnishment, the court be satisfied that the consumer debtor is aware that the income is legally protected, and is able to make the payments. (We would recommend also requiring that the court be satisfied that the consumer is receiving a significant benefit in exchange for agreeing to make such payments.)

- Providing consumer debtors with a cause of action against debt buyers who violate these requirements, including reasonable attorney's fees and a bar against further attempts to collect the debt or any related amounts.

We believe these are appropriate and reasonable protections to provide consumer debtors, consistent with maintaining the fair right of creditors, including debt buyers, to collect debts legitimately and demonstrably owed.

We therefore recommend that the D.C. Council approve this bill. In this regard, we would be pleased to assist the Committee with its consideration of the bill, to help you ensure that it achieves its purpose.

Respectfully,

George P. Slover
Daniel P. Ducore
Co-Chairs, Antitrust & Consumer
Law Section Steering Committee,
District of Columbia Bar