

Midas Issue Brief: Protecting Consumers from Debt Collection Abuse



Consumers face harsh tactics by debt collectors in an unregulated market subsidized by taxpayers

Financial insecurity and inequality is at an all-time high, especially in Massachusetts¹.

As a recognized leader on the issues of consumer financial protection and asset building, The Midas Collaborative promotes advocacy and research on the state and federal levels to address the systemic issues that lead to financial insecurity. Through Midas' direct service work and from our member collaborative of 25+ community organizations, we've seen a rise of instability in employment for lower wage and entry level workers. The instability in employment for lower wage and entry level workers is exacerbated by unnecessary abuses in the consumer debt market, which require attention by policymakers in Massachusetts.

Inequality is made worse by crippling personal debt.

Nearly 25% of Massachusetts residents have one or more debts in collection, owing an average of \$1002 per debt. The debt load is even higher for non-white residents at 46%, exacerbating the racial wealth gap². Borrowers need a path to repay debts without getting trapped by snowballing fees or arrest warrants.

Consumers face harsh tactics by debt collectors.

A new phalanx of debt buying companies have entered the financial marketplace, buying debt from banks, hospitals, and college lenders for

pennies on the dollar, and engaging in unregulated and opaque pursuits of consumers³ to make a profit. The debt buyers, most of whom are debt collectors as well, use their purchased lists - many with errors - and immediately sue borrowers for profit.

Consumers often don't respond to the unknown plaintiffs and face snowballing fees, exorbitant wage garnishment, and civil arrest for these dubious claims. While low-income consumers rarely have legal representation and face compounding legal consequences for obsolete and inaccurate claims⁴, the debt buying industry has increased 6.5 times in 38 years⁵.

Massachusetts taxpayers subsidize for-profit debt collection companies at the expense of consumers.

Over the last decade, private debt buying companies have increasingly used local court systems to secure their unsecured debt. This use of local public sector services to support the private debt collection market has bogged down local small claims and civil courts with an increasing number of cases. In 2015 alone, more than 66,000 cases were filed in Massachusetts small claims and district courts by debt buyers⁶. The cost to sue someone in small claims is so low (\$40) that it presents an incentive for debt collectors to pursue claims in court⁷. The balance of the court costs are borne by taxpayers.

RECOMMENDATIONS:

At the state level, passage of the Debt

Collections Fairness Act [S120: Lead Sponsor Senator Jamie Eldridge, H2811 Lead Sponsor Representative Paul Brodeur] takes the necessary steps in:

1. Allowing consumers to protect a minimal level of their own income to cover basic expenses, giving them time to repay the loan while avoiding complete financial ruin.
2. Limiting attorney's fees and interest that creditors and debt collectors can recover, in addition to the debt.
3. Prohibiting debt collectors from pursuing court judgments on debts more than four years old. Currently, 10 states have four year statute of limitations and 16 states have three year statute of limitations.
4. Decreasing the period of time to begin collection on a court judgment from 20 years to five years. The national average is six years, with Massachusetts being one state that has the maximum amount of time allowed.

5. Reducing the number of civil arrest warrants for arrests issued in debt collection lawsuits.

Outside of Massachusetts, reform efforts have picked up momentum in recent years, with:

- **States such as Wisconsin, Maryland, Connecticut, California, Maine, Mississippi,** and others enacting laws that limit statute of limitations, ban wage garnishment, prohibit debt revival, and allow for reciprocal attorney's fees.
- **Support by the Consumer Financial Protection Bureau to enact debt collection regulations,** which have stalled due to changing leadership at the bureau.

Enactment of pending legislation ensures a more transparent and just debt collection process that leads to more prosperous communities in Massachusetts.

Supported by:

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The Midas Collaborative advances the financial security of low and moderate income residents across Massachusetts in collaboration with its member organizations and partners. We facilitate asset development and asset protection of families in a manner that is collaborative, helps build communities, and is practitioner-tested and informed by state and national initiatives.

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¹ The Gini index for Massachusetts, a measure of income inequality, was 6th highest in the US, according to US Census Bureau, 2015.

² *"Delinquent Debt in America", Urban Institute, 2016

³ Halpern, J. The Paper Boys (2014) (http://www.nytimes.com/interactive/2014/08/15/magazine/bad-paper-debt-collector.html?_r=0)

⁴ For more detail, see Stauffer, Brian, Human Rights Watch, "Rubber Stamp Justice; US Courts, Debt Buying, and the Poor" (2016) (<https://www.hrw.org/report/2016/01/20/rubber-stamp-justice/us-courts-debt-buying-corporations-and-poor>)

⁵ Hunt, R. (2013). (<http://www.ftc.gov/bcp/workshops/lifeofadebt/UnderstandingTheModel.pdf>)

⁶ National Consumer Law Center, (2016) Debt Buying Statistics (Unpublished research)

⁷ Commonwealth of Massachusetts, (2010) (<http://www.mass.gov/ago/consumer-resources/consumer-assistance/small-claims-court.html>)