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Calling the debt collectors on abuse

By Michelle Singletary
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People dread getting calls from bill collectors. And it's not always because they can't pay. It can be a degrading experience, especially with third-party collectors who are overly aggressive, even threatening.

A new report from the Government Accountability Office calls for major reform to the law that governs how companies collect old debt from consumers.

The reform can't come soon enough. Debt defaults are at the highest level in 18 years. About 6.6 percent of credit card holders were 30 days or more past due in the first quarter of 2009. In 2008, credit issuers had more than \$23 billion in unsecured debt that was between 30 and 180 days delinquent.

There are many scrupulous debt collectors that compassionately work with borrowers to get them to repay what they owe. But there are also bottom-feeders in the industry that resort to any means necessary, harassing and intimidating consumers to pay up on accounts for which the collectors have paid pennies on the dollar.

It's the dreadful players in this industry and their often illegal practices that was the subject of the GAO report on the effectiveness of the Fair Debt Collection Practices Act, or FDCPA, which was enacted in 1977. The law, enforced by the Federal Trade Commission, dictates how third-party debt-collection companies can communicate with debtors. It prohibits the companies from using unfair, abusive or deceptive practices. The FDCPA does not apply to creditors collecting on their own accounts.

"With the economy in crisis and many people struggling to pay their bills, debt collectors have responded by becoming more aggressive," Sen. Carl Levin (D-Mich.), said in a prepared statement after the release of the GAO report. "Debt collection abuses are not getting the attention they should." The FTC reports that it receives more complaints about debt collectors than it does on any other specific industry. Among the most common complaints are excessive telephone calls, collectors misrepresenting the amount or legal status of a debt, and the addition of unauthorized fees and interest to accounts. People also complain that collectors try to get them to pay debts that have been discharged in bankruptcy -- an action that is against the law.

Last year, the FTC said it won the largest civil penalty ever -- \$2.25 million -- in a case in which a company, among many other actions, physically threatened people and made unauthorized withdrawals from consumer bank accounts.

With a surge in companies trying to collect past-due debts, it's vital that federal and state laws adequately protect borrowers from dishonest debt collectors.

The FTC has already begun investigating what changes are needed. Although some sections of the

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FDCPA have been amended, it hasn't been substantially revised since its enactment 32 years ago.

On Dec. 4 in Washington, the agency is scheduled to hold the third in a series of roundtable discussions examining the treatment of consumers by debt collectors. The meeting is open to the public and can also be viewed live via a webcast. For more information about the roundtable, go to <http://www.ftc.gov> and search for "Debt Collection: Protecting Consumers." In February, the FTC issued its own report recommending that the regulations covering debt collection be improved. Chief among the concerns for both the FTC and the GAO is the way that debts are verified as old accounts are passed around.

When consumers become seriously delinquent, their original creditors may give up trying to collect. The creditors may then sell the debt as a way to make something on the accounts.

The accounts can then be resold so many times that it becomes hard to verify that the debt actually belongs to the person the collectors say it does, or that it was discharged in a bankruptcy case. Third-party debt collectors may not have access to or copies of billing statements, credit card agreements or applications, and other documents to verify a debt is owed.

The FTC and the GAO say Congress should modify the law to require collectors and debt buyers to disclose the original creditor; break down the debt by principal, total interest and fees; and inform consumers of certain rights they already have under the FDCPA.

What's in the law now?

If a consumer disputes a collection action in writing, the collector must prove what is owed. But here is where the law is seriously flawed. The statute isn't clear on what constitutes proof.

It's time to fix this gaping loophole, which should have been closed long ago.

Readers can write to Michelle Singletary at The Washington Post, 1150 15th St. NW, Washington, D.C. 20071.

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