

# THE END DEBT COLLECTOR ABUSE ACT of 2012

Senator Franken

Abusive debt collection practices have been detailed extensively in reports by the Federal Trade Commission, GAO, and the Minnesota Attorney General, and in recent news articles. Too often, debt collectors go after the wrong person, try to collect debts that have already been paid, and are unresponsive to consumer disputes about the debt owed. Some unscrupulous debt collectors use intimidation to collect debts, going so far as to seek arrest warrants when consumers fail to respond to alleged unpaid debts. Most disturbingly, there have been recent reports of collectors targeting patients in emergency rooms and using private health information to pressure consumers to pay medical debts.

**The End Debt Collector Abuse Act would address gaps in the federal debt collection law that have left patients vulnerable and would update the law to help consumers better protect themselves, keep debt collectors honest, and stop the abuse of public resources for corporate profit.**

## **The End Debt Collector Abuse Act would amend the Fair Debt Collection Practices Act (FDCPA) to:**

- **Recognize the special nature of medical debt.** FDCPA protections in most cases do not apply to creditors collecting on their own debt, and some companies have construed the law as only applying to debts that are in default. Some hospitals and their contractors—arguing they are not subject to FDCPA protections—have gone so far as to accost patients in the emergency room and demand payment for medical bills before services are even given. The bill would address any gap in the law by making clear that FDCPA protections against abusive, deceptive, and unfair practices apply to anyone collecting a medical debt, regardless of the age of the debt.
- **Protect patients.** Hospital patients are often sick, scared, and vulnerable; they are in no condition to deal with aggressive debt collectors. The bill would protect patients by prohibiting collectors from contacting consumers in hospital emergency rooms, labor and delivery departments, and intensive care units. The bill would also prohibit collectors from withholding, delaying, or implying that emergency medical services will be withheld until a debt is paid. Finally, the bill would expressly prohibit collectors from using protected health information (as defined by HIPAA) to collect a debt, except as is absolutely necessary to provide adequate information to consumers.
- **Help patients access financial assistance.** Many consumers with outstanding medical debts are eligible for financial assistance—such as hospital charity care programs or Medicaid—but are unaware that these programs exist. The bill would help patients access these programs by requiring those collecting on a medical debt to inform consumers about any financial assistance programs that may help pay their medical bills.
- **Prohibit debt collectors from seeking arrest warrants to collect on debts.** Despite our nation's abolishment of debtors' prisons, collectors seek arrest warrants when consumers fail to respond to alleged unpaid debts. These collection firms are exploiting public resources—law enforcement agencies and state courts—for their own gain. The bill would prohibit collectors from seeking arrest warrants to collect debts, but it would not prohibit courts from issuing warrants if a judge decides it's merited by the case.
- **Give consumers information they need to protect themselves from unscrupulous debt collectors.** The FDCPA requires debt collectors to send consumers a written notice with basic information about the debt allegedly owed and the consumer's legal rights. The bill would require them to include additional information so consumers can recognize the debt and exercise their rights—including the name and address of the original creditor; an itemization of the principal, interest, and fees that make up the debt; and how to file a complaint with the collector. Additionally, the bill would require debt collectors to conduct thorough investigations when consumers dispute a debt and produce verification specific to the disputed issue.
- **Hold bad actors accountable.** The FDCPA keeps debt collectors honest by allowing consumers to sue when they break the law. However, the statutory damage limits have not been raised since the bill's passage in 1977, gradually limiting the effectiveness of the law. Due to inflation, debt collectors who break the law today are effectively getting a 74% discount. For that reason, the bill would raise statutory damage limits to reflect inflation since 1977 and index them to inflation going forward. The bill would also confirm that judges can provide injunctive relief to consumers when debt collectors continue to violate their rights under the FDCPA.

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## Endorsements

### Minnesota Organizations

- SEIU Minnesota
- Take Action Minnesota
- Housing Preservation Project
- Latino Economic Development Center
- Minnesota Community Action Partnership
- Metropolitan Consortium of Community Developers
- Legal Services Advocacy Project (Minnesota)
- Lutheran Social Service of MN
- Minnesota Jewish Community Relations Council
- Catholic Charities of St. Paul and Minneapolis
- Minnesota Nurses Association
- Affirmative Options Coalition
- Minnesota Disability Law Center
- Mid-Minnesota Legal Aide

### National Organizations

- National Consumer Law Center (on behalf of its low-income clients)
- Consumers Union
- National Consumers League
- National Health Law Program
- Families USA
- National Association of Consumer Advocates
- Consumer Action
- Consumer Federation of America
- National Immigration Law Center
- Community Catalyst
- NAACP
- The Leadership Conference on Civil and Human Rights