Chairman Phil Mendelson

A PROPOSED RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To declare the existence of an emergency with respect to the need to amend DC Code Section 28-3814 to protect consumers from unfair debt collection practices after the expiration of the public health emergency.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Protecting Consumers from Unjust Debt Collection Practices Emergency Declaration Resolution of 2021”.

Sec. 2. (a) On March 11, 2020, the Mayor of the District of Columbia issued Mayor’s Order 2020-45, 2020-46, declaring a public emergency and a public health emergency in the District due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of COVID-19. Additionally, Council has enacted many resident protections through legislation such as the Coronavirus Support Temporary Amendment Act of 2020 (D.C. Law 23-130).

(b) Under D.C. Law 23-130, creditors and debt collectors cannot file new collection lawsuits, garnish, seize or withhold property or wages, repossess vehicles, visit consumer households or places of employment, or initiate communications with a debtor via any written or electronic communication with limited exceptions. With the pending expiration of the public health emergency, these protections will lapse even as the effects of the pandemic continue to impact residents:

(1) According to the Census Bureau’s Household Pulse Survey, over 25% of households report using credit cards or loans to meet their routine spending needs in the last seven days.

(2) According to data from the New York Federal Reserve Bank Consumer Credit Panel/Equifax, auto loan delinquency in the District was at 10.35% as of the last quarter of 2020, the higher than any point during the Great Recession.

(3) Medical debt has exploded due to the pandemic. Nationally, Credit Karma estimates that consumers carried an additional $2.2 billion in overdue medical debt from January 2020 to March 2021, reaching $47 billion in total. A survey by Lending Tree found that nearly 10% of medical debt was for coronavirus-related hospital stays.

(c) Given the lingering impacts of the pandemic and the adverse impact that “normal” debt collection practices can have on residents, it is necessary to amend DC Code Section 28-3814 to provide consumers greater protections against certain methods and practices of debt collectors. These include:

(1) Expanding the definition of debt so it includes all consumer debt, including medical debt;

(2) Prohibiting excessive communications from debt collectors that constitute harassment, such as making more than three phone calls in a 7-day period;

(3) Prohibiting the use of deceptive behaviors by debt collectors, such as threatening action the debt collector cannot take, disclosing disputed information without disclosing that it is disputed, threatening to disclose false information, initiating causes of action where the statute of limitations has expired, seeking to collect funds exempted by state or federal law, or seeking to collect debts owed by deceased consumers from those with no legal obligation to pay them;

(4) Placing a reasonable cap on attorney’s fees paid by individual consumers so debt collection lawsuits do not drive consumers further into debt;

(5) Requiring debt collector plaintiffs to perform reasonable investigations to verify a defendant’s address for service of process, so consumers are more likely to receive said service;

(6) Providing procedural protections against arrest and imprisonment, including a prohibition against imprisoning, or jailing of debtors for failure to pay debts or failure to appear; and

(7) Requiring separate and additional procedures for debt buyers, including dismissal of the action if the debt buyer does not comply with law, and authorizing a private cause of action by consumers against debt buyers for violations.

Sec. 3. The Council of the District of Columbia determines that the circumstances in section 2 constitute emergency circumstances, making it necessary that the Coronavirus Support Congressional Review Emergency Amendment Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.