Buckles: Debt collection bills will undermine civil litigation

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The Pew Charitable Trusts, with offices around the world, is engaged in a misguided lobbying effort in Lansing, where it claims to be modernizing our civil litigation system.

A $6.7 billion behemoth with an agenda that goes beyond altruism, Pew is pushing policy that would turn our credit-based economy on its head, with Michigan's small businesses and families footing the bill.

Although on the surface Pew's goal appears to be a well-meant attempt to help low-income debtors, Senate Bill 408 and House Bill 4900 would stop legitimate debt collection on behalf of Michigan's plumbers, accountants and more.

This would harm citizens and small businesses by reducing access to credit, increasing borrowing costs, and keeping small businesses from being paid for goods and services. All while trapping those it claims to help in debt, perhaps forever.

Repayment of debt is vital to Michigan's credit-based economy. Economic research by George Mason University and the Federal Reserve Bank of New York found that the cost of credit rises when debt collection is limited by government, which especially impacts lower income borrowers.

And, the federal Consumer Financial Protection Bureau (CFPB) says that "…a decrease in the amount garnishable reduces credit card limits on open credit card accounts…Lenders who can collect less…may be less willing to lend, reducing access to credit."

Yet Pew's legislative efforts mirror efforts by the National Consumer Law Center's Model Family Financial Protection Act, both of which create a class of "judgment proof" debtors.

These proposals are designed to shield a consumer's assets from legitimate debt collection, such as income garnishment and the sale of assets, in the name of protecting those "down on their luck." Under such plans, even debtors with as much as $60,000 of annual income or $17,000 in the bank would be exempt from repaying debts.

As an attorney representing creditors since 1976, I can tell you that both proposals would have the opposite effect of their alleged purpose.

Instead of helping lower income debtors, these plans create a financial web of debt from which these consumers will never escape.

Meanwhile, consumers who communicate and create plans to pay their debts, even after encountering financial difficulties, will be financing the non-payer defaults while facing more expensive and less available lending options.

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There are better alternatives.

First, debt cases resulting in default judgments and garnishments can be avoided if the courts encouraged communication between debtors and creditors to make repayment arrangements before they get to court.

Second, there already exists a viable solution for insolvent debtors that eliminates debt and helps consumers regain credit worthiness. It’s called bankruptcy, which not only discharges debt liability with a “fresh start,” but benefits the economy at large. The consumer gets to rejoin the credit-based economy, buy goods and services, work “over the table” without concern of garnishment and pay taxes.

Third, Pew would better serve Michigan families by contributing some of its multi-billion-dollar wealth to Legal Aid Services, which helps debtors navigate debt collection lawsuits. In fact, the Michigan Justice for All Commission found that when a consumer has an attorney, a debt collection lawsuit is ten times more likely to be dismissed.

If SB 408 and HB 4900 are passed, hard-working Michiganians will be stuck with the bill due for this legislative misadventure.

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