Press Releases

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MADIGAN: NEW LAWS BAN SENDING DEBTORS TO PRISON FOR DEBTS, PROTECT CONSUMERS FROM HIGH COSTS OF REFUND ANTICIPATION LOANS

Attorney General-Authored Bills Signed into Law Today

Springfield — Attorney General Lisa Madigan today commended Governor Pat Quinn's enactment of two consumer-protection measures that she authored and negotiated: The Debtors' Rights Act of 2012, which will prevent poor people from being jailed over unpaid debts, and an amendment to the Tax Refund Anticipation Loan Reform Act, a measure that will better protect consumers from the exceedingly high costs of refund anticipation loans and refund anticipation checks.

Madigan authored and negotiated the debtors' rights bill to effectively bar creditors from abusing the court system to put debtors in jail to collect on a debt they justifiably cannot pay. The Attorney General sought the measure after learning that residents in roughly a third of Illinois' counties commonly face incarceration when they fail to appear in court over a previously entered judgment to pay a debt. In many of these cases, notices of court hearings were mailed to addresses that were no longer valid, leaving many debtors unaware of the hearings. In spite of the failure to notify the debtors, courts have frequently issued warrants for their arrests.

Compounding the problem, according to the Attorney General's office, is that many victims of these practices are living solely on income that is legally protected from being used to pay outstanding judgment debts, including Social Security, unemployment insurance or veterans' benefits.

"It is outrageous to think in this day and age that creditors are manipulating the courts, even threatening jail time, to extract whatever they could from people who could least afford to pay—veterans, the unemployed, seniors who rely solely on their benefits to get by each month," Madigan said. "This law corrects that gross oversight and puts a stop to throwing people in jail for being poor while still allowing fair debt collection when people have the means to pay their debts."

The new law, which Gov. Pat Quinn signed today and becomes effective immediately, was sponsored by Rep. Ann Williams and Sen. William Haine. It also bans abusive and burdensome "pay or appear" orders that are routinely entered against debtors in some Illinois counties. These orders – which usually remain in effect for three years – require debtors to make a monthly payment or appear in court each month to explain why they are unable to pay, even if their financial circumstances have not improved. That means, if a debtor misses just one payment and court hearing, they can end up in jail. Debtors who have been victims of this practice typically owe outstanding medical bills, credit card debts or payday loans.

According to court documents obtained by Madigan's office, one Illinois court entered a "pay or appear" order against a mentally disabled man living on legally protected disability benefits that provided him with $690 a month. Even though the man informed the court of his circumstances, he was still ordered to either pay $100 a month or appear in court once a month for a three-year period.

By amending the Code of Civil Procedure, the new law codifies and clarifies practices followed by attorneys, creditors and courts across Illinois to ensure that courts make a finding of a consumer's ability to pay before entering a payment order, and it prohibits payment orders that rely on legally protected income and prevents arrest warrants from being issued unless the debtor was personally served with a hearing notice.

Stronger Protections for Refund Anticipation Loans

Madigan also applauded the Governor's enactment of a bill she wrote and negotiated to better protect consumers from the excessive costs of tax refund anticipation loans and refund anticipation checks. Sen. Jacqueline Collins and Rep. Michael Zalewski sponsored the legislation.

These products are billed as a faster way to receive a refund around tax time, but in fact, they're high-cost loans intended to siphon excessive fees from what taxpayers are actually owed based on their annual tax filings. The loans have interest rates running as high as 150 percent and can reduce a taxpayer's refund by as much as 20 percent before they receive it. Refund anticipation checks, which are similarly riddled with exorbitant transaction fees, often are offered to taxpayers who do not qualify for a loan and simply allow the taxpayer to cash a refund – using a check or a pre-loaded debit card – after the IRS deposits it in a temporary bank account.

"The only thing taxpayers should anticipate with these so-called 'refund' products is high fees and a smaller tax return," Madigan said. "This new law will limit a loan's excessive costs and better protect consumers in communities where these products are heavily marketed during tax season."

In addition to limiting the costs and fees of refund anticipation products, the new law also requires increased disclosure, including information about fees and other costs, and adds additional protections for consumers who obtain refund anticipation loans from non-bank lenders, including payday lenders. The law goes into effect on Jan. 1, 2013.

-30-

Return to July 2012 Press Releases

TOP

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