

**NEBRASKA COLLECTORS ASSOCIATION BOARD OF DIRECTORS
RESPONSE TO PRO PUBLICA INQUIRY**

We would like to put your questions into some perspective. Typically by the time a debt has been assigned to a debt collector, many attempts have been made by the original creditor to collect the debt or to arrange a payment plan. Debt collectors also typically make many attempts to collect the debt and to set up a payment plan prior to filing suit. In the vast majority of cases, a consumer has had numerous opportunities to resolve the debt. By the time an account reaches the point of a lawsuit, the account is far into arrears or the consumer has opted to not speak to the debt collector and/or the original creditor. This is certainly the case in Nebraska as it is across the country.

In the vast majority of cases, a lawsuit would not be a logical or cost-effective first course of action. It simply would not make sense to collect debts that way. It would be much more efficient and cost-effective for the debt collector to simply contact the consumer to amicably resolve the debt. A lawsuit is a last resort.

Also, debt collectors work on behalf of their clients, who often determine when and how a debt is collected. As mentioned, in many cases where a lawsuit is involved, there have been months of attempts to collect the debt. We are not able to answer all of your questions because we simply do not have access to all of the data needed, but we offer answers to the following.

What attempts do collection agencies in Nebraska generally make to collect from a debtor prior to filing suit?

Typically, every reasonable effort to contact a consumer is made in an effort to collect a debt. In some cases those processes are defined by the client. It would not be in the collector's financial interest – nor in the consumer's – to rush into a lawsuit to collect a debt. Cooperatively working with the consumer is always the preferred approach to the collection process.

Do collection agencies in Nebraska generally accept payment plans? How do agencies generally treat cases where a debtor claims to only be able to afford small payments (e.g. \$25, \$50 per month)?

We do not collect data specific to Nebraska, but as a whole, yes, it is very typical for a debt collector to accept a payment plan. Debt collection is one of the most regulated industries in the United States. The vast majority of debt collectors are highly trained professionals who know how to work with consumers to resolve accounts. Any debt collector would want to resolve the account quickly and amicably, and a payment plan is one of the best ways to achieve that.

How do collection agencies assess whether a debtor has the ability to pay a debt?

Debt collectors primarily make determinations based on conversations with the consumers that owe the debt. They try to understand the consumer's current situation, sources of income, and future prospects, to come up with a mutually-acceptable resolution plan for the debt. That is why legislative and regulatory barriers to communication are so damaging – they prevent both parties from working together. Normally, there is no reason to continue to collect from someone that does not possess the ability to pay the debt. Unfortunately, sometimes the consumer makes the decision not to communicate with the agency at all, which hinders the collector's ability to determine if this consumer has the willingness and ability to pay their debt.

How do collection agencies assess whether to file a lawsuit against a consumer?

Initially, an agency looks at a number of regulatory and financial factors that may suggest that a lawsuit should NOT be filed. This is a more difficult task when the consumer is unwilling to communicate with the collector. However, after this initial review process has been completed, and if the agency has been unable to gain the consumer's assistance in establishing a voluntary payment plan, then an agency typically looks for the consumer's ability to pay the debt or the available assets sufficient to secure payment of the debt. Again, the decision to file a lawsuit is typically not the preferred course of action.

Do you disagree that there are far more suits filed in Nebraska than in other states? If so, can you point me to another state that has a similar number of filings (proportional to the state population)?

We do not have state-to-state comparisons.

It would not be comparing apples to apples as the debt collection industry is one of the most highly regulated segments and is subject to federal, state, and often local laws and regulations. What applies in Nebraska may not apply in another state, or even a county in another state.

LB1098 seeks to raise the filing fee from \$45 to \$46 in order to fund legal services. The Nebraska Collectors Association officially opposes the bill. Please explain why.

The NCA is NOT opposed to Legal Aid obtaining additional funding. It is the funding mechanism of LB 1098 that is of concern. Funding legal aid through court costs is not a stable funding mechanism; the sponsoring Senator himself said that the reason for the increase is because filing fees are down. The Automation Fund is a better source. The current filing fee is still funding the automation project, even though that project has been completed for 6 years. The automation fund currently has over \$2 million. A large portion of the funds were to be used to bring the Douglas County, District & Juvenile Courts on to the e-filing System. The fund currently has excess dollars that could be rerouted to Legal Aid without increasing Court Costs.

Increased filing fees ultimately result in increased monies owed on the debt/judgment. This is counterproductive to the debt collection process as it increases the front end burden on the debt collector and the back end burden on the consumers of Nebraska.