Chapter 7, infra, looks at special rights that the Servicemembers Civil Relief Act (SCRA) provides for active duty military personnel in defending collection actions. The SCRA limits the ability of a creditor to take a default judgment and also gives the servicemember the right to stay a creditor’s action. Military service tolls statutes of limitations, reduces the interest rate to 6% on obligations incurred before active duty, and restricts a creditor’s right to self-help repossession, foreclosure, and lien enforcement for obligations incurred before active duty. Other special rights for active duty personnel relate to automobile and residential leases and cell phone contracts. The SCRA provides consumer remedies for violations.

Chapter 8, infra, looks at criminal and civil proceedings against consumers concerning dishonored checks, including limitations on criminal prosecutions for a consumer presenting a check with insufficient funds. The chapter also looks at the operation of civil dishonored check laws and details the consumer’s remedies for a creditor’s abuse of dishonored check laws.

Chapter 9, infra, is a thorough analysis of consumer law claims and defenses involving medical debt. It provides an overview of special issues raised by medical debt cases, including discriminatory or chargemaster pricing, availability of charity care, overbilling, and billing errors. The chapter also examines a number of federal and state statutes—such as the Affordable Care Act—that specifically address medical debt or can be used to protect medical debtors. It also analyzes statutory and common law defenses to medical collection actions. The chapter considers the applicability of family necessaries statutes that may impose liability on other family members and statutes that allow hospitals to place liens on the tort recoveries of consumers.

Chapter 10, infra, examines federal collections, including the non-litigation collection methods of administrative offset, wage garnishment, tax refund intercepts, and other remedies under the Claims Collection Act. The chapter also considers government prejudgment and postjudgment remedies under the Federal Debt Collection Procedures Act. It includes a detailed analysis of private remedies for illegal collection of debts owed to federal agencies. A more thorough discussion of collection of one type of government debt—federal student loans—is found in NCLC’s Student Loan Law [5].

Chapter 11, infra, reviews a topic of increasing interest—federal and state courts’ practice of assessing various costs and fines to criminal defendants, including user fees, indigent defense fees, and surcharges upon fees and fines. Nonpayment of such costs and fines can result in incarceration, activation of a suspended sentence, suspension of a driving license, and other unusual collection remedies. The chapter considers tactics to minimize imposition of criminal justice debt, defenses and exemptions to collection of the debt, the impact of the debtor’s bankruptcy on the debt, constitutional protections for the defendant, and related topics.

Footnotes


Source URL: https://library.nclc.org/ca/010203-0

Links