



<http://www.baltimoresun.com/business/bal-bz.checks03may03,0,4799058.story>

From the Baltimore Sun

Bad check bill faulted

Collectors would be exempt from law

By Eileen Ambrose
Sun reporter

May 3, 2006

For years, local prosecutors have been turning to private companies to help collect on bad checks. But now consumer advocates worry that these companies will be exempt from federal consumer protection laws if legislation is approved by Congress.

Public Citizen and National Consumer Law Center warned at a news conference in Washington yesterday that consumers who accidentally bounce a check for even small amounts could be subject to excessive fees and deceptive practices from for-profit debt collectors.

Legislation under consideration tomorrow in the Senate Banking, Housing and Urban Affairs Committee would exempt these companies from the Fair Debt Collection Practices Act, a decades-old law that protects consumers from abusive collection practices. Similar legislation passed the House earlier this year.

Under these so-called check-diversion programs, local prosecutors say they contract with a company to secure restitution from consumers who have bounced checks and not responded to notices. The practice, they say, allows prosecutors to devote their attention to other crimes. Merchants get their money and consumers, by making restitution and in some cases attending a financial management class, avoid criminal prosecution.

The check-diversion companies write to consumers on behalf of the district attorney's office that has hired them. The companies may charge consumers a fee for the collection as well as for the financial management class.

Those fees may be split with the prosecutor's office. But it's the fees and practices of some of these companies that have consumer advocates alarmed.

Consumers shared their experiences with check-diversion companies at the news conference. Among them was Simona Picket, a 35-year-old contract specialist with the Justice Department. The Baltimore County resident said she bounced a \$21 check at a grocery store last year, her first since college. Picket said she had made changes to her savings account, but her overdraft protection didn't kick in as it should have. When she noticed the check hadn't cleared, she contacted the grocer.

But she said it was too late. A letter from a check-diversion company - but appearing to be from the district attorney's office - threatened to criminally prosecute her if she didn't pay about \$181 and take a financial management class, she said. Afraid, Picket said, she paid the fee rather than fight it.

"There is no reason to feel threatened and afraid in that way and intimidated," Picket said yesterday.

Deepak Gupta, staff attorney with Public Citizen, said these private companies are not pursuing criminals but are hounding consumers who "merely make a mistake balancing their checkbooks."

But officials with American Corrective Counseling Services, a California check-diversion company that serves 150 counties, including six in Maryland, say all their work is approved by the district attorneys who hire them. The company said it has a process for consumers to file disputes.

Prosecutors say the consumer groups are distorting the programs. Frederick County State's Attorney Scott Rolle said his office hired a check-diversion company in 2001 after the number of bad-check cases swelled.

"It was breaking the backs of small businesses in Frederick," Rolle said. Back then, bad checks also accounted for up to 25 percent of District Court criminal cases, he said.

"I'd rather focus on domestic violence and drunk driving than be stuck with all these bad-check cases," he said.

The program eliminated the county's bad-check caseload, Rolle said.

Under Maryland law, Rolle said, merchants must first contact consumers about a bounced check and give them 10 days to make good on it. After that, the checks in Frederick can be turned over to a check-diversion company.

Rolle said his office receives about \$500 each month from the program.

The money has been used to buy equipment, such as a courtroom projector.

The National District Attorneys Association supports excluding the check-diversion programs from the Fair Debt Collection Practices Act to protect prosecutors and check-diversion companies from lawsuits, said Paul Logli, the association's president.

eileen.ambrose@baltsun.com



Subscribe to Eileen Ambrose's podcast

Copyright © 2006, [The Baltimore Sun](#) | [Get Sun home delivery](#)

> [Get news on your mobile device at www.baltimoresun.com](#)