



**Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St.,
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MEMORANDUM

DATE: March 7, 2014

TO: The Honorable Members of the Delaware General Assembly

**FROM: Terri Hancharick, Chairperson
GACEC**

RE: House Bill No. 230 (Family Financial Protection Act)

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill No. 230 which establishes many protections applicable to consumer contracts and debt collection. The GACEC **endorses the concept** of the legislation.

The bill is based on model legislation authored by the National Consumer Law Center ("NCLC"). It is extremely comprehensive and features a number of characteristics favoring consumers. "Consumer debt is defined as a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes (lines 21-23). The following features would benefit individuals with disabilities.

First, individuals can incur a disability, including Traumatic Brain Injury (TBI), through defective products or services. Suppliers have an incentive to include contract provisions designed to prevent any recourse for injuries or harm. The bill disallows such provisions (lines 53-54). This benefits not only the aggrieved consumer but Delaware public assistance programs as well. If a consumer is severely injured, the consumer often loses employment and joins the Medicaid rolls if there is no source of compensation from the entity responsible for the injury.

Second, the bill requires a seller of consumer debt to provide certain information to the buyer or assignee, including the following: a) any illness or disability claimed by the consumer or known to the seller; b) whether the consumer has a disability; and c) whether the consumer is known to receive income (e.g. Social Security Disability; SSI) exempt from garnishment or attachment (lines 115-120). This may deter assignees of debt from claiming ignorance of the disability status of a consumer and pursuing protected income and benefits. Debt collector garnishment and attachment of Social Security and SSI benefits has been a significant historical problem.

Third, the scope of consumer property exempt from execution is expanded. One obvious rationale for the additional protections is to permit individuals to compile resources to meet “medical needs” (line 358). Other justifications include prevention of homelessness and reduction of the “burden upon society of supporting impoverished debtors and their families” (lines 360-361). Property exempt from execution includes the following: a) personal health aids (lines 410-411); b) medications (line 411); c) necessary provisions, i.e., those “reasonably essential for everyday living, including any special needs by reason of health or physical or mental infirmity” (lines 379-380, 409); d) motor vehicles adapted for special use because of disability up to \$25,000 (lines 416-417); e) all public assistance benefits and disability benefits (lines 428-429); and f) health insurance, disability insurance, long-term care insurance policies and medical expense accounts (lines 430-431).

Council notes that the legislation may result in some inconsistencies with other Code provisions and would suggest further analysis by the sponsors. There are also a few references that merit amendment:

A. Line 68 contains the following incomplete reference: “[cite to state usury cap]”. Council is not aware of a usury cap in Delaware.

B. Line 530 refers to “mount’ rather than “amount”.

C. Line 695 refers to “Title”. The reference should apparently be to “chapter”.

Thank you for your time and consideration of our observations and endorsement of the concept of this proposed legislation. Please feel free to contact me or Wendy Strauss should you have questions or concerns.