

## Consumer Issues

The following email indicates issues raised by Carolyn Carter, Director of Advocacy for the National Consumer Law Center. Carolyn has been added to the committee roster as an observer but is unable to attend the Tucson meeting in person. She will join us by phone at 1:00 Friday afternoon.

Bill,

This afternoon, I had a very good conversation with Carolyn Carter from the National Consumer Law Center. At the end of that conversation, I told Carolyn that I would send you an email listing the issues she raised. I also told her that we would discuss these issues at our next meeting in December. I told her that if she cannot attend the meeting, that we could try to arrange a telephone connection for her to participate on these issues at least, or maybe during the whole meeting. Finally, I told her that I would copy her on this email so she could comment on what I've reported, and correct my errors.

So here are the issues she raised:

1. She is worried about Section 7:
  - a. She worries that including the federal minimum standards in the brackets (e.g., "[30] times the federal minimum wage") will open the door for states which currently have more generous protections to ratchet them back. Not putting the number in the bracket would be a solution to this narrow problem.
  - b. She worries that the special protections in many state statutes will be eliminated as part of this process, for example, extra protections for heads of households that are present in a number of states. As you know, Bill, this is one thing we attended to in the comments. Our basic position was that it would be good to do away with the special categories in the interest of uniformity, while suggesting that States who want greater protections provide them by making the general protections more generous. Carolyn was worried that States would accept the invitation to do away with the special protections, while failing to increase the general protections.
  - c. She wonders if Section 7 is necessary at all. Her suggestion was that the Act could be conceptualized as a uniform **procedural** statute. If conceptualized in that way, the substantive protections would be extraneous.
2. She liked the wage inflation alternative of Section 7 (Alternative B), but worries about implementation. Who is to do the calculation? How are the amounts to be publicized? She also suggests that doing the calculation every three years rather than every year would simplify implementation.

3. She pointed to the Employee Information Form and worried about the amounts to be entered that specify how much the employer is to withhold from each paycheck. Her worry was that employee paychecks vary, so whatever amount is on that form for this week may well not be appropriate for next week. What needs to be done to account for varying paychecks?
4. She noted that some states require creditors to seek amounts from debtor/employees before they approach employers. This can be quite important if employers can discharge employees for multiple garnishments. But even if our provision for no discharges for garnishments regardless of the number is made a part of the Act, she thinks it would make some sense to give the employee an option for paying up before any kind of notice goes to the employer. Employers have many options for mild retaliation short of discharge.
5. She would prefer a broader definition of employee, at least broad enough to encompass independent contractors. She rightly noted that it is increasingly common for employers to attempt to classify workers as independent contractors, and she would like to see the protections of the Act extend to at least that category of worker.
6. She worries about wages paid out (a) onto payroll (debit) cards and (b) into bank accounts. We talked about this some, as you know, but she would like to see some protections for wages even after they leave the employer's direct control. One option she suggested for banks was simply to have a flat limit under which bank accounts were not subject to garnishment (e.g., no garnishments that will take a bank account below \$X,000).

Again, Bill, this was a very good, productive conversation. As I told Carolyn, it makes me worry because many of these issues will be difficult to resolve. But it was very good to hear them at this early stage so we can do our best to address them.

Steve