SOLVING THE CONSUMER DEBT CRISIS

FOR FAMILIES, COMMUNITIES, & FUTURE GENERATIONS

THE CONSUMER DEBT CRISIS

Consumer debt is ubiquitous. Although at any given time some Americans are debt-free, most of us carry debt some or even all of the time. We borrow to go to school, to buy a home, to finance a car or furniture or appliances, to tide ourselves over in tough times. We are also increasingly likely to incur debt not from borrowing but from certain types of non-loan debt, including an out-of-pocket medical expense[1], or being hit with a fine from local government for everything from parking tickets to jaywalking to court fees.[2]

Consumer debt is a concern today because it has reached record levels[3] and because its rise comes as powerful trends—such as stagnating incomes, new forms of credit availability, and structural changes in medical and education markets—shape how debt is incurred and the consequences it has for financial security. Our definition includes all forms of non-mortgage debt such as student and auto loans, credit cards, and non-loan obligations including medical debt and money owed to local governments that have come to use such fines and fees as a key revenue source.

Consumer debt has significant consequences, especially for low- and moderate-income households and other financially vulnerable Americans.

- Debt payments reduce resources to both pay for basic needs and invest in opportunities to build security and wealth.
- The nature of a consumer's first debts influences later access to credit (for example, establishing a credit record through an unpaid medical bill can limit a consumer's future credit options to high-cost, riskier products).[4]
- Current debt levels and composition appear to be taking a toll on physical and mental health.[5]
- There also appears to be negative consequences for the economy as a whole, such as reduced rates of business formation[6] and homeownership.[7]

Consumer debt is a systemic problem, and there are systemic solutions.

There are four areas where local government possess tremendous potential to address a critical dimension of household financial insecurity:

1. Restricted Access to High-Quality Credit
2. Detrimental Delinquency, Default, and Collections Practices
3. Government Fines and Fees
4. Student Loan Burdens

Below is an at-a-glance view of these problems along with solutions and examples of cities that are working on solving them already. Read on to learn more about each problem and how local government can work towards solving these critical issues.

SOLUTIONS FOR LOCAL GOVERNMENTS

PROBLEM	GOAL	SOLUTIONS	GOVERNMENT INNOVATORS
Restricted access to high-quality credit	People of color receive and use credit on the same terms as similarly qualified white consumers	• Enforce laws that prohibit racial and gender disparities in access to and cost of credit	Miami, Philadelphia
Detrimental delinquency, default, and collections practices	People who become delinquent or default on debt payments are offered feasible opportunities to cure	• Government as a creditor can implement interventions in early-stage delinquency to help borrowers get back on track	St. Louis
	People with debt in collections enjoy full protection of their legal rights and suffer no loss of liberty due to inability to pay.	• Reduce the rate of default judgment against debtors	
		• Eliminate use of arrest, imprisonment, or violation of parole as a debt collection tool	Maryland
Government fines and fees	Government agencies and court systems impose fewer and smaller fines and fees	• Reform state and municipal laws and regulations that enable frivolous or unfair civil fines and fees	San Francisco
		• Explore alternative public funding models to reduce need to rely on fines and fees for revenue	San Francisco
		• Fines and fees are assessed at levels proportional to the seriousness of the offense and ability to repay	
	Collections processes for government fines and fees do not impede a debtor's livelihood or reduce ability to repay	• Implement new strategies for states and municipalities to collect fines and fees designed to meet consumers' needs	San Francisco
		• Offer non-financial repayment options such as community service or participation in financial counseling	
		• Eliminate imprisonment or violation of parole as a consequence of unpaid debt	California, Florida
		• Eliminate punishments that reduce ability to repay and impede people's livelihoods	Maryland
Student loan burdens	Post-secondary education is more affordable for students and more equitable in cost and benefit for people of color	• Offer tuition assistance as an employee benefit	
	Reduced financial burden and increased well-being for people with unaffordable student loan debt	• Offer student loan repayment benefits to employees	Memphis

RESTRICTED ACCESS TO HIGH-QUALITY CREDIT

The decades-long expansion of access to consumer credit had the benefit of making the positive potential of debt available to a wider population. However, broader access to credit has also fueled the growth in consumer debt. Today, numerous high-quality credit products are broadly available to most consumers who have good credit scores. Yet several groups tend to be locked out of access to the best products: African Americans and Latinos, "credit invisible" consumers, and those who formerly had access but lost it due to past financial troubles.[8] As a result, individual members of these groups are more likely only to have access to forms of credit that create more risk than opportunity.

What Local Government Can Do

Enforce laws that prohibit racial and gender disparities in access to and cost of credit.

Local governments can take legal measures against lenders whose discriminatory activities cause harm to the community. Municipalities can adapt the strategy Miami and Philadelphia have successfully pursued to address discriminatory mortgage lending.[9] The cities pointed to the financial burdens they incurred due to lenders' actions, including reduced property tax revenues and increased municipal costs.[10] Local governments can construct similar arguments related to discrimination in other forms of lending.

DETRIMENTAL DELINQUENCY, DEFAULT, AND COLLECTIONS PRACTICES

When consumers fall behind on repaying debt, it can result in a snowball effect of higher interest rates, penalty charges, and collection actions. Consumers who become delinquent or default on debt, or have bills in collections, frequently experience systematically disadvantageous processes that cause disproportionate financial and legal distress, particularly for people of color. One reason for high rates of default judgments is that consumers rarely have access to legal help when responding to debt collectors. This is indicative of a general lack of affordable civil legal assistance: Legal Aid organizations report 60 to 80% of eligible people's needs are unmet, and those who request help must be turned away about half the time due to lack of funding.[11] Analysis of five years of court judgments in three metropolitan areas showed that, even controlling for income, the rate of judgments was twice as high in mostly black neighborhoods than in mostly white neighborhoods.[12]

What Local Government Can Do

Government as a creditor can implement interventions in early-stage delinquency to help borrowers get back on track.

A significant amount of consumer debt is owed to governmental entities. In Missouri, as in many other states, unpaid parking tickets and traffic citations can lead to a suspended license. To help St. Louis residents keep their licenses, which are essential for access to jobs in the area, the city treasurer is developing a program of low-cost payment plans that help debtors avoid both collections and license suspension (to view City Treasurer Tishaura Jones discuss this, see www.aspenepic.org/get-involved/debt-streaming-event/).

Reduce the rate of default judgments against debtors.

A default judgment results when someone being sued does not mount a defense. The Center for Responsible Lending has recommended actions state officials can take to protect consumers from facing default judgments on debt they do not owe.[13] These include court rules to ensure that those filing suit to collect debts possess and provide complete and accurate information on those debts and their right to pursue payment. Once in court, the debt collector must establish proof of adequate notification to the debtor and meet tighter evidentiary requirements for obtaining a default or summary judgment. Another critical reform would be to reduce the statute of limitations prohibiting collections efforts on old debts; this would entail a three- to four-year limit after which the debt would be not merely uncollectable, but extinguished under the law. Both state and county court systems can take action on these recommendations.

Eliminate use of arrest, imprisonment, or violation of parole as a debt collection tool.

Debt collection lawsuits are typically civil actions rather than criminal prosecutions. The American Civil Liberties Union's recommendations for civil debt collection proceedings include prohibiting courts from issuing arrest warrants for failure to pay or to appear and precluding debt collectors from seeking arrest or jailing of alleged debtors in pursuit of payment.[14] Proposed legislation in Maryland would eliminate jail time for debt.[15]

BURDENSOME GOVERNMENT FINES AND FEES

State and local government fines and fees have been rising in both frequency and amount and have disproportionately affected people of color, and fines and fees that go unpaid become debt to a government that has broad powers to enforce collection.

State and local governments faced with the need to raise revenue have increased fees and fines, introduced new ones, and intensified collection efforts.[16] Aggressive collection measures available to state and local governments include suspending drivers' licenses[17] and excluding debtors from public employment.[18] These penalties can be counterproductive: faced with the choice between driving to work on a suspended license or losing their jobs, many choose to maintain employment; those who are caught may be arrested, often face jail time, and incur further costs from the judicial system, all making collection of the original debt less likely.[19] The California State Auditor found that numerous state and county programs there rely on traffic citation fees that often go unpaid and that administering and collecting fines and fees actually costs the government more money than it receives.[20]

Cities with large African-American populations are associated with levying large amounts of fines and fees.[21] Ferguson, Missouri became a prominent example in 2015 in the wake of Michael Brown's killing by a police officer; the Justice Department's investigation found the city imposed high fines and fees and consistently set maximizing revenue as a priority for law enforcement activity.[22] When Missouri subsequently limited municipal reliance on traffic offense revenue, some St. Louis County municipalities appeared to turn to nontraffic fines and fees (for transgressions such as having mismatched curtains or barbecuing in the yard).[23]

What Local Government Can Do

Reform state and municipal laws and regulations that enable frivolous or unfair civil fines and fees.

Governments should cease issuance of tickets for inconsequential transgressions such as walking on the wrong side of the crosswalk, leaving items outside, or having mismatched window blinds, and ideally take these laws off their books. San Francisco's Financial Justice Project has recommended eliminating fees for loitering, blocking sidewalks, and similar offenses and is working with other city agencies to implement its recommendations.[24]

Explore alternative public funding models to reduce need to rely on fines and fees for revenue.

NCLC and others have stressed the importance of addressing conflicts of interest that arise when those administering justice rely on revenue generated through fines and fees and court debt.[25] New research demonstrates that when cities and towns experience budget deficits, they increase arrest rates, especially in states where the municipality is allowed to keep any assets seized in the arrest.[26] Missouri now caps the permissible share of municipal budget revenue from traffic fines at 12.5%.[27] The California State Auditor has recommended eliminating use of penalty and fee revenue as funding sources for state and county programs.[28] The Conference of State Court Administrators calls on the judiciary to "moderate or staunch the legislative impulse (and sometimes its own) to add additional and higher fees."[29] The Fines & Fees Justice Center advocates eliminating judicial system use of fees to generate revenue,[30] and San Francisco has eliminated all local criminal justice administrative fees.[31]

Assess fines and fees at levels proportional to seriousness of the offense and ability to repay.

The schedules of punitive state and local fines and fees can be disconnected from the seriousness of violations, and the impact of their imposition can vary widely depending on the resources of the offender. The Fines & Fees Justice Center calls for making fines proportional to the offense and the individual's ability to pay.[32]

Implement new strategies for states and municipalities to collect fines and fees.

Governments as creditors can undertake a cost-benefit analysis of their debt collection strategies. San Francisco is auditing the revenue generated by fines and fees compared to cost of collections efforts.[33] Courts can stop issuing bench warrants for unpaid debt and eliminate use of private collection services. Less punitive collection strategies can realize net savings by reducing the large costs associated with incarceration. Missouri allows indigent defendants to pay fines with zero interest payment plans.[34] San Francisco is considering setting fines as a percentage of daily earnings, and it already deeply discounts tow and boot fees for people earning below 200% of the Federal Poverty Line.[35]

Offer non-financial repayment options.

Governments as creditors can provide opportunities for alternative satisfaction of debt obligations. The National Task Force on Fines, Fees and Bail Practices has established principles for developing "more fair, transparent, and efficient methods of judicial practice," including judicial discretion to impose non-monetary sanctions.[36] These can include community service, completion of a driving class, or participation in financial counseling.

Eliminate punishments that impede livelihood.

The consequences for non-payment of a fine or fee should not exacerbate the inability to pay. Harmful policies currently in use include driver's license suspensions, reporting unpaid fines and fees to consumer credit bureaus (impacting employment prospects), wage garnishment, bank account seizures, and imprisonment. In 2017, California banned the use of driver's license suspension for outstanding traffic fines, and it allows fines and fees to be dismissed for people who demonstrate severe financial hardship.[37] Proposed Florida legislation would end driver's license suspension for certain non-driving offenses.[38] The National Consumer Law Center has detailed recommendations for the limitation of wage garnishments, account seizures, and similar policies in its "No Fresh Start" report.[39]

Reduce or eliminate criminal justice system practices that can result in imprisonment solely for lack of ability to pay.

People charged with crimes who do not pose a risk for not appearing in court may nonetheless be jailed solely due to inability to post bond. New Jersey has largely replaced cash bail with an assessment process that has reduced pre-trial detention.[40] The National Task Force on Fines, Fees and Bail Practices principles include requiring a hearing that would assess ability to pay and suitability in the particular circumstances of alternatives to imprisonment prior to incarceration or revocation of probation for nonpayment of courtordered legal financial obligations.[41] In Maryland, efforts to prohibit body attachments (warrants requiring a person to appear in court) issued for people with debt in collections began in 2018 with S.B. 022; the legislation is on track to be reintroduced in the 2019 legislative session.[212]

REDUCED FINANCIAL BURDEN AND INCREASED WELLBEING FOR PEOPLE WITH UNAFFORDABLE STUDENT LOAN DEBT

The cost of post-secondary education has risen dramatically in recent decades. Tuition at public four-year institutions has increased faster than the rate of inflation every year since 1980.[43] Outstanding student debt can jeopardize financial stability in the short run and limit wealth accumulation over the long run.[44] More student debt is associated with greater difficulty staying current on other loan obligations, a higher probability of restricted access to credit, and a greater likelihood of declaring bankruptcy.[45] Student loan burdens appear to have contributed to a slowdown in household formation and a decline in homeownership.[46]

What Local Government Can Do

Offer tuition assistance as an employee benefit.

Tuition assistance (an employer helping out with paying for college courses) is less common than it once was, but it remains a valuable resource to help students avoid taking on debt. These benefits are frequently restricted to higher-skill workers pursuing graduate studies, but some large firms have larger programs. Starbucks, for example, partners with Arizona State University to offer all its part- and full-time benefits eligible US employees full tuition coverage for online coursework toward a bachelor's degree.[47] In the public sector, US Military active duty, National Guard, and Reserve service members can take advantage of the Military Tuition Assistance program that pays 100% of tuition expenses for post-secondary coursework (costing $250 or less per semester hour).[48]

Offer employees student loan repayment benefits.

Because of the link between high student loan burdens and low retirement savings, some employers have identified an innovative employee benefit opportunity: help for workers paying off student loans. Though just 4% of employers currently offer some sort of student loan repayment assistance, the numbers are growing.[49] Fidelity recently launched a Student Debt Employer Contribution benefit available both to its own employees and in employee benefit plans sold to client firms.[50] Other benefit providers have entered the market, including Vault and tuition.io. Large companies offering these benefits include Hewlett Packard, Staples, and LiveNation. Student loan repayment benefits can take several forms, which impact the tax status of the benefit. Federal agencies can make direct payments to lenders on the workers' behalf, up to $10,000 a year (with an overall cap of $60,000), as a recruitment or retention incentive for job candidates or current employees.[51] Memphis, Tennessee, recently became the first city to offer a student loan repayment benefit.[52] These benefits do not currently have the tax-exempt status of other employee benefits, but an alternative approach of providing the match as an employer contribution to the worker's retirement account could receive favorable tax treatment.

CONCLUSION

There are promising responses which deserve the leadership Aspen and others are committed to providing. As we at EPIC turn to our next phase of work to support the acceleration of solutions to the consumer debt crisis, we invite leaders across all sectors to reach out to our team and consider us a resource in your own efforts to lift the weight of consumer debt from families, communities, and future generations of Americans.

THE ASPEN INSTITUTE FINANCIAL SECURITY PROGRAM

ABOUT FSP

The Aspen Institute Financial Security Program's (FSP) mission is to illuminate and solve the most critical financial challenges facing American households and to make financial security for all a top national priority. We aim for nothing less than a more inclusive economy with reduced wealth inequality and shared prosperity.

We believe that transformational change requires innovation, trust, leadership, and entrepreneurial thinking. FSP galvanizes a diverse set of leaders across the public, private, and nonprofit sectors to solve the most critical financial challenges. We do this through deep, deliberate private and public dialogues and by elevating evidence-based research and solutions that will strengthen the financial health and security of financially vulnerable Americans.

THE ASPEN INSTITUTE epic EXPANDING PROSPERITY IMPACT COLLABORATIVE

ABOUT EPIC

The Aspen Institute's Expanding Prosperity Impact Collaborative (EPIC) is a first-of-its-kind initiative in the field of consumer finance, designed to harness the knowledge of a wide cross-section of experts working in applied, academic, government, and industry settings toward the goal of illuminating and solving critical dimensions of household financial insecurity.

As part of Aspen's Financial Security Program (FSP), EPIC deeply explores one issue at a time, focusing on challenges that are critical to Americans' financial security but are under-recognized or poorly understood. EPIC uses an interdisciplinary approach designed to uncover new, unconventional ways of understanding the issue and build consensus among decisionmakers and influencers representing a wide variety of sectors and industries. The ultimate goal of EPIC is to generate deeply informed analyses and forecasts that help stakeholders (1) understand and prioritize critical financial security issues, and (2) forge consensus and broad support to implement solutions that can improve the financial lives of millions of people. Our first issue was income volatility, followed by

To learn more, visit **AspenFSP.org**, **AspenEPIC.org**, or follow **@AspenFSP** on Twitter.

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