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NO FRESH START

HOW STATES LET DEBT COLLECTORS PUSH FAMILIES INTO POVERTY

EXECUTIVE SUMMARY

Every state has a set of exemption laws, intended to prevent creditors from pushing debtors and their families into destitution. Exemption laws preserve basic items of property from seizure by creditors, so that debtors can to continue to work productively and support themselves and their families. These laws are intended to protect at least subsistence wages and essential property from seizure by creditors.

States have good reason to be concerned about protecting their residents from overaggressive collection of judgments for consumer debts. The economic downturn has strained families to the breaking point and the growth of the debt buyer industry makes them increasingly vulnerable to seizure of essential wages and property.

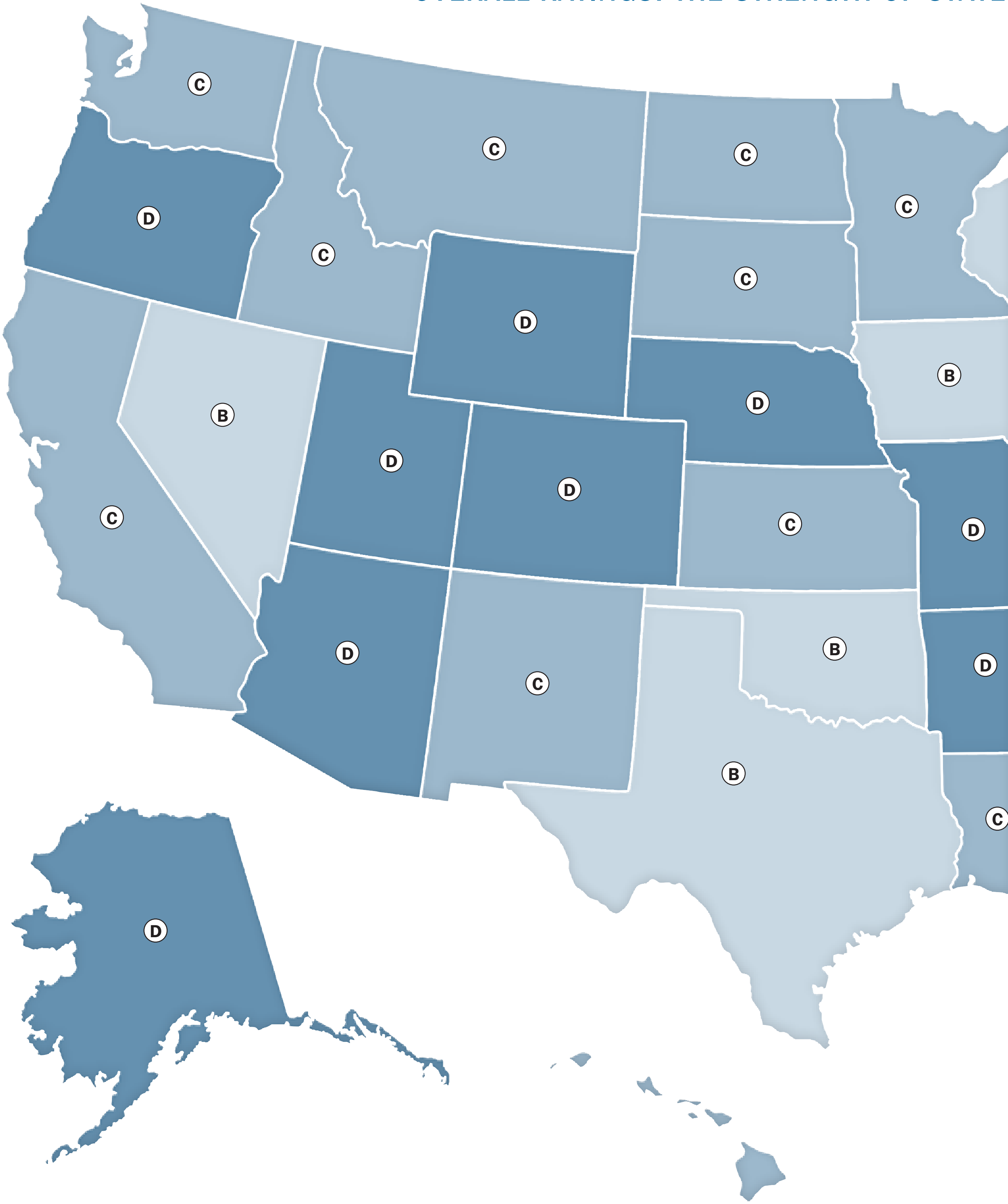
This report surveys the exemption laws of the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. Despite the importance of state exemption laws, this report finds that *not one* state meets five basic standards:

- Preventing debt collectors from seizing so much of the debtor's wages that the debtor is pushed below a living wage;
- Allowing the debtor to keep a used car of at least average value;
- Preserving the family's home—at least a median-value home;
- Preventing seizure and sale of the debtor's necessary household goods; and
- Preserving at least $1200 in a bank account so that the debtor has minimal funds to pay such essential costs as rent, utilities, and commuting expenses.

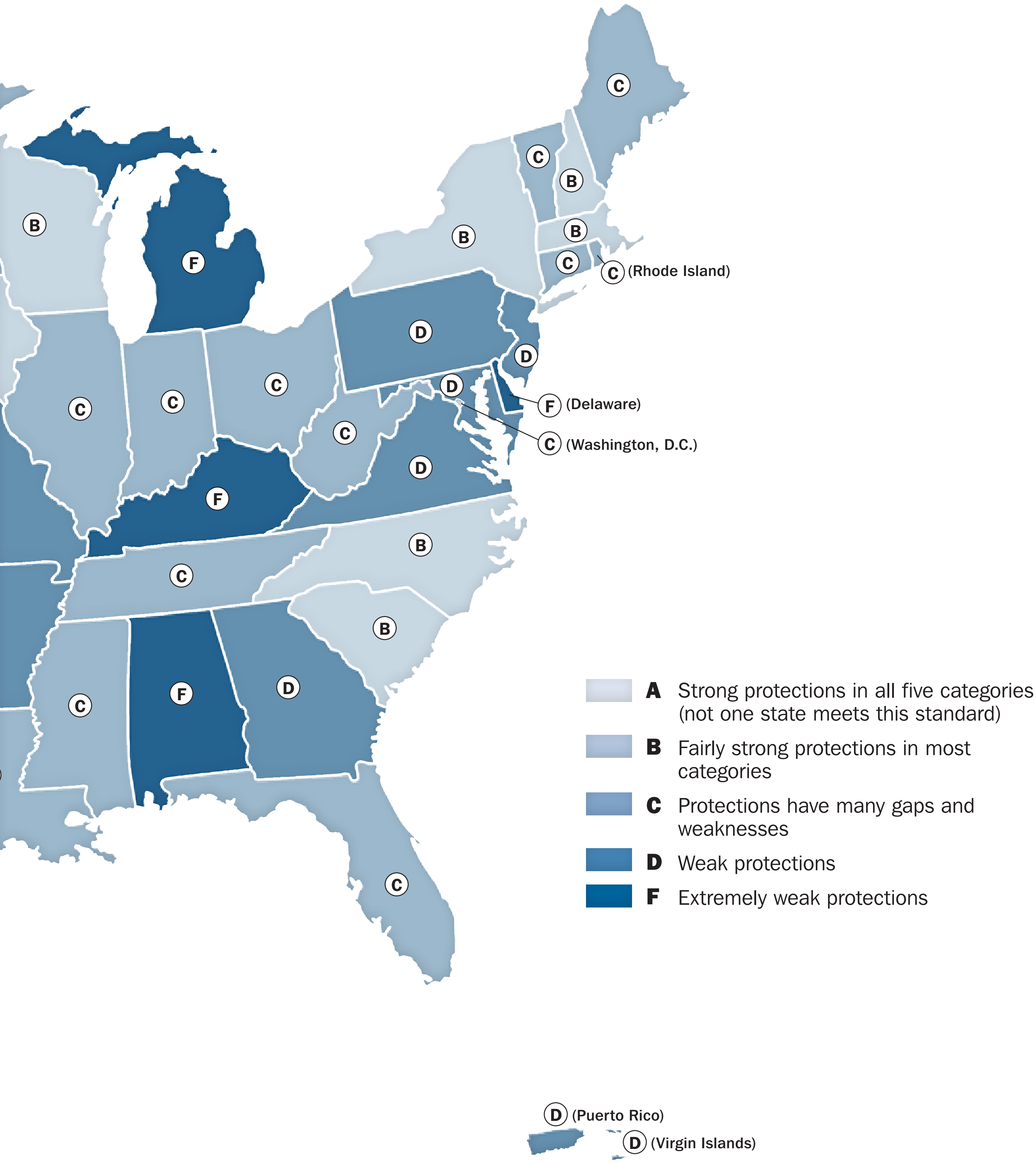
Best states: Massachusetts, which recently modernized its archaic exemption laws, and Iowa come closest to meeting these five basic standards, each rating a "B+" grade. Solid "B" states include Nevada, New York, North Carolina, Oklahoma, South Carolina, Texas, and Wisconsin. The District of Columbia and New Hampshire each rate "B–" grades.

Worst states: At the opposite end of the scale are several states whose exemption laws reflect indifference to struggling debtors. These states allow debt collectors to seize nearly everything a debtor owns, even the minimal items necessary for the debtor to continue working and providing for a family. Alabama, Delaware, Kentucky, and Michigan are the worst and rate an "F." Meanwhile, Arkansas, Georgia, New Jersey, Pennsylvania, Utah, and Wyoming are nearly as bad, rating a "D–."

OVERALL RATINGS: THE STRENGTH OF STATE



PROTECTIONS FOR FAMILY FINANCES



Key Recommendations for States

State exemption laws should:

- **Preserve the debtor's ability to work**, by protecting a working car, work tools and equipment, and money for commuting and other daily work expenses.
- **Protect the family's housing, necessary household goods, and means of transportation.**
- **Protect a living wage for working debtors**—a wage that can meet basic needs and maintain a safe, decent standard of living within the community.
- **Protect a reasonable amount of money on deposit** so that debtors can pay commuting costs and upcoming bills such as rent and utility bills.
- **Protect retirees from destitution** by restricting creditors' ability to seize retirement funds**.**
- **Be automatically updated for inflation.**
- **Close loopholes that enable some lenders to evade exemption laws.** For example, states that allow payday lending enable these lenders to evade state laws that protect wages and exempt benefits from creditors. States that allow lenders to take household goods as collateral enable these lenders to avoid state household good exemptions.
- **Be self-enforcing to the extent possible,** so that the debtor does not have to file complicated papers or attend court hearings.

Model language for states to achieve these goals is provided in the National Consumer Law Center's *Model Family Financial Protection Act*, available at **www.nclc.org/mffpa**. The model law also includes steps that states can take to reduce the pervasive abuse of the court system by debt buyers. Seizure of debtors' wages and property would not be such a problem if debt buyers did not churn out such an endless stream of judgments on old, poorly documented debts—many of them not even owed.

By updating their exemption laws, states can prevent debt buyers from reducing families to poverty. These protections also benefit society at large, by keeping workers in the work force, helping families stay together, and reducing the demand on funds for unemployment compensation and social services.