



Memorandum in Opposition HB 482 (working draft 2.1)

The Receivables Management Association (RMA) respectfully opposes working draft 2.1 of HB 482. While the proposed legislation contains many positive elements that RMA most certainly supports, the bill as drafted would cause great harm to the consumer population while at the same time imposing extreme and unreasonable requirements on the business community. By way of example, this bill:

- **Encourages Litigation Against Consumers** - By lowering the Statute of Limitations (i.e. time period allowed for judicial remedy) from 6 to 3 years (a 50 percent loss in the available time horizon), this bill will result in less communication between the consumer and creditor to find mutually agreeable repayment options in favor of an early litigation strategy to preserve contractual rights. Increased litigation against consumers should not be the preferred public policy outcome of this legislation. Litigation is often the least favored option by the business community due to its associated costs and reputational impact. Most businesses would prefer a mutually agreed solution that comes through dialogue.
- **Eliminates the Benefits of Flexible Payment Plans** – Current law favors compromise and mutual resolution between contracting parties and does not penalize creditors willing to work with consumers outside of court. This bill would overturn this practice, essentially requiring consumers to pay their account in full within the new three-year time period. By reducing the statute of limitations to three years and extinguishing debts after that period has run, the bill encourages creditors to obtain judgments in circumstances where, under current law, they would have accepted extended and flexible payment arrangements from a consumer.
- **Reduces the Availability of Consumer Credit** – The Philadelphia Federal Reserve Bank found in a June 2015 working paper that each additional restriction on debt collection activity will lower the number of new revolving lines of credit by 2.2 percent. A May 2017 staff report, by researchers at Princeton University and the Federal Reserve Bank of New York, also found that strict state restrictions on debt collection result in reduced access to credit for consumers, increased delinquencies, and reduced credit scores. While they found these results held true for consumers across the spectrum, those consumers with low credit scores felt the greatest effect. They conclude that the “results have important implications at the borrower level and suggest a wide-spread deleterious effect of changes in debt collection legislation on individuals who retain access to credit.”

- **Eliminates Contractual Obligations** – This bill will eliminate contractual obligations that are not litigated because it incorrectly ties the contractual right to the legal remedy. The time period to seek judicial relief (i.e. the “legal remedy”) is a procedural rule governing access to courts whereas a party’s right to receive the benefit owed from a mutually bargained agreement (i.e. the “legal right”) falls under contract principles of law. Under current law, the expiration of the limitations period merely creates a defense to a judgment, but the right to receive the benefit of the contract does not expire. This allows the owner of the obligation to continue to communicate with the party owing the obligation to request payment, provided it complies with state and federal laws regulating the collection of debt.
- **Creates Inequitable Penalty Provisions** – This bill would allow individuals to benefit financially by bringing legal actions against businesses for technical and inadvertent errors when there has been no consumer harm.

The business community stands ready to work with the bill sponsor, Vermont Legal Aid, and any other interested parties on reasonable amendments to the bill that will enhance consumer protections without the unintended harm to consumers while at the same time avoiding unnecessary burdens being placed on the business community. For all the reasons mentioned above, RMA respectfully opposes the current working draft of HB 482. For additional information, please contact David Reid, RMA’s Director of Government Affairs & Policy, at (916) 482-2462 or dreid@rmassociation.org.

About the Receivables Management Association International – The Receivables Management Association International (RMA) is the nonprofit trade association that represents the interests of more than 500 companies within the receivables management industry, including creditors, third party collection agencies, collection law firms, and secondary market debt buying companies. RMA’s [Receivables Management Certification Program](#) and its [Code of Ethics](#) set the “gold standard” within the receivables industry due to its rigorous uniform industry standards of best practice which focus on the protection of the consumer.