

# Summary of H.482 Credit Card Debt Collection and Trustee Process As passed House Commerce 4/3/18– Draft 19.1

Prepared by Vermont Legal Aid

---

## Sec. 1 Legal Rates

Adds 9 V.S.A. § 41a(b)(10) – Post-judgment interest on credit card debt for personal, family, or household purposes (“credit card debt”) is 12% simple interest unless court suspends or reduces using the process in Sec. 2.

## Sec. 2. Judgments/Accrual of Post Judgment Interest

Adds 12 V.S.A. § 2903a – Provides court with process and standards by which it can suspend or reduce post-judgment interest on credit card debt.

- Court must find the debtor’s income and assets are exempt from collection or the debtor does not have more financial resources than what is reasonably necessary to support debtor and dependents.
- Debtor must request suspension or reduction with completed financial disclosure form.
- Court may require debtor to periodically provide financial disclosure form.
- Court may revise rate of based on substantial change in debtor’s income, assets, or expenses.

## Sec. 3 Consumer Protection Act, Subchapter 9 on Collection of Credit Card Debt

Adds 9 V.S.A. § 2491 – Defines “credit card debtor” and “debt collector”

- Latter is limited to collectors of credit card debt and tracks the Attorney General’s CP Rule 104.07(1) and adds debt buyers for clarity since US Supreme Court decision called that into question.

Adds 9 V.S.A. § 2491a – Violation of this subchapter is violation of Consumer Protection Act.

Adds 9 V.S.A. § 2491b – Requires:

- debt collector to send a pre-lawsuit notice advising debtor of intent to sue, providing specific information about the debt collector and the exemption form, and promising to review the exemption information before proceeding, and
- debt buyer who intends to enforce an acquired judgment to send debtor specific information, the exemption form, and promising to review the exemption information before proceeding.

Adds 9 V.S.A. § 2491c – Sets requirements for debt collectors proceeding after statute of limitations has expired:

- cannot file a lawsuit
- any payment does not revive debt
- must advise debtor of right to request that contact cease and that the debtor can’t be sued.

# Summary of H.482 Credit Card Debt Collection and Trustee Process As passed House Commerce 4/3/18– Draft 19.1

Prepared by Vermont Legal Aid

---

*Note: Sections 4-6 are not limited to collection of credit card debt*

Sec. 4 Writs of Execution -- Eliminated when seeking trustee process for goods held by a third party

Sec. 5 Trustee Process Against Earnings (wage assignment)

Updates exemption of minimum wage to make Vermont minimum wage (rather than federal minimum wage) exempt from collection.

Sec. 6 Trustee Process against Judgment Debtor's Bank Accounts

Creates a clear process for a judgment creditor to have a financial institution freeze a judgment debtor's bank account in order to collect on a judgment.

The process assures that:

- a debtor's exempt income in the account will not be frozen
- the debtor can request an expedited hearing
- the financial institution will advise the court of the monies in the account and the source of them, if known
- the court will provide clear instructions to the financial institution regarding what amounts of the debtor's money in the account goes to the judgment creditor and what amount to the judgment debtor, and
- the process will conclude in a relatively short time frame.

Sec. 7 Reports

Attorney General in consultation with Judiciary and stakeholders will address

(a) By 1/15/20, implementation of act and whether it should be expanded beyond credit card debt.

(b) By 1/15/19, costs and benefits of requiring court to acquire and review a debtor's credit report when considering whether to suspend or reduce post-judgment interest.

Sec. 8 Effective Date: October 1, 2018 (in order to give court time to create new forms and processes).