RECEIVABLES MANAGEMENT ASSOCIATION
TESTIMONY OF DAVID REID
FEBRUARY 22, 2018

Good morning, Chairman and respected members of the House Commerce and Economic Development Committee. My name is David Reid and I am Director of Government Affairs & Policy for the Receivables Management Association, also known as RMA. RMA is a national nonprofit trade association representing over 500 companies that purchase or support the purchase, sale, and collection of performing and nonperforming receivables on the secondary market. Our membership includes banks, debt buying companies, collection agencies, and collection law firms.

I am here to testify on the working draft of HB 482. I want to start off by thanking Chairman Botzow and Vermont Legal Aid for their efforts in bringing the issue of consumer debt collection to the forefront with the introduction of HB 482. RMA is a strong proponent of enhanced consumer protections in the area of debt collection. RMA has zero tolerance for the actions of bad actors and criminals who take advantage of anyone but especially those who are most vulnerable.

RMA launched the Receivables Management Certification Program in 2013 with the stated mission that the program would "provide enhanced consumer protections through rigorous and uniform industry standards of best practice." The program certifies collection agencies, debt buying companies, collection law firms, and brokers in the United States and, as of March 1st, in Canada.

The certification program was founded on the belief that the industry needed to play a significant role in driving bad actors out of the industry as bad actors are not only harming consumers but they are also harming all of the legitimate and compliant businesses that perform collections. Both the federal Consumer Financial Protection Bureau (CFPB) and the Federal Trade Commission (FTC) were immensely supportive of this initiative and provided feedback along the way which has been incorporated in the program.

I'm proud to say that today, RMA has the single most comprehensive program in the nation that not only ensures its member companies are compliant with state and federal laws and regulations but that they exceed those requirements. As a result, over 50 percent of RMA certified companies have never had a single complaint on the CFPB consumer complaint portal and approximately 90 percent of RMA certified companies have a statistical zero percent complaint rate. In fact, for calendar year 2017, there was only one single complaint from Vermont on the CFPB complaint portal against an RMA certified company.

So why am I telling you this? I want you to appreciate that RMA takes consumer protection seriously, that the Vermont legislature and Vermont Legal Aid has a willing partner in RMA who is willing to work with you to pass a bill this year, but we need some changes to the working draft to address several concerns that the business community has prior to being able to support the bill and is why we are currently taking an opposing stance. At a high level, the following are our concerns with the working draft:

(1) It forces businesses into an unnecessarily adversarial role with consumers that businesses do not want to be forced into. By lowering the time horizon on the statute of limitations by 50 percent from 6 to 3 years, it 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 any legislation. Despite what some may think, litigation is often the least favored option by the business community due to its associated costs and reputational impact. Bottom line is most businesses would prefer a mutually agreeable solution that comes through dialogue with the consumer.

(2) It discourages communication between the business and the consumer who holds the debt. Communication is not a bad thing – it is what is needed throughout the credit life cycle to resolve problems as they arise and to avoid more deleterious options such as litigation. There is a reason why Canada has significantly less collection related litigation than that which exists in the United States – it's because they have not adopted artificial barriers to communicating with the consumer. Canadian businesses can communicate with the consumer using modern forms of technology that consumers actually prefer such as emails, cell phones, and texting. This bill draft goes in the opposite direction by further restricting communications with the consumer. Ultimately, if businesses cannot get in touch with the consumer, their only option is that of litigation.

(3) It will eliminate flexible payment plans that allow consumers to get back on their feet. By telling the business community that they must bring a lawsuit within three years after the cause of action accrues, you are telling the business community that once a debt has defaulted they have a 36 month time horizon to get paid. No longer will there be 48 or 60 month payment plans to accommodate financial circumstances. Instead, the consumer will be faced with higher payments over a shorter time horizon.

(4) It will reduce the availability of consumer credit – although this could be seen as both a positive and a negative depending on your point of view. 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 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.

If I may take the liberty and get to the essence of what I think this bill wants to achieve – it wants to provide the consumer with finality on their debt. RMA agrees 100 percent with that goal. In fact, it is already required of RMA certified companies. Standard #12 states that once a debt is beyond the statute of limitations, a certified company cannot bring suit . . . but it goes one step further by prohibiting any voluntary payment on the contractual obligation from reviving the statute of limitations which is currently allowed in the vast majority of the 50 states. It creates the same finality that this bill is seeking but in a manner that does not interfere with the contractual agreement. This best practice was first adopted by Maine in 2015 and Connecticut and Maryland in 2016. The CFPB has strongly supported this approach and has even referenced its support on several occasions.

In conclusion, RMA supports the intent of HB 482 and many of its provisions. We are simply asking for several changes focused around how the statute of limitations is addressed and several other minor items that are highlighted in our redline of the bill draft. RMA would very much like to sit down with all parties to work this out but until we have an agreement, we must oppose the bill.

Thank you for your time. I would be happy to answer any questions.