

To: Vermont House Committee on Commerce and Economic Development

From: Jean Murray, Vermont Legal Aid

Re: H. 482/ S. 136 sec. 14

Date: April 6, 2017

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Credit card debt collection is a huge industry in Vermont. <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-considers-proposal-overhaul-debt-collection-market/>

Debt collection is an industry where it is easy to behave badly; the issuing bank is done with the account, and the abuses are mostly unwitnessed because they occur between the collector and the consumer. There have been state and federal laws against debt collection abuses since the 1970s. But the enforcement mechanism is consumer complaints, and debtors are not in a position to complain and be taken credibly. The path to improvements of the federal law by the Consumer Protection Financial Bureau have been blocked by the current administration. There is reason to question whether the current federal law will stay intact.

The national debt collection industry uses Vermont's judicial system to get payments on long closed credit card accounts originally issued by national banks. The third party debt collectors (debt buyers) and credit card servicing companies are not Vermont businesses. The lawyers hired by these plaintiffs by and large are not Vermont law firms.

They successfully use Vermont's judicial system, exploiting it to their advantage. Our judicial system is fair, but fairness depends on several things: it is an adversarial system, meaning, it finds the truth when both parties participate and demonstrate their point of view. It depends on the good faith of the parties, and the full attention of the attorneys to each case. Credit card debt collection, in Vermont, like everywhere, is a volume business. <https://www.hrw.org/report/2016/01/20/rubber-stamp-justice/us-courts-debt-buying-corporations-and-poor>

National credit card collectors give little individual attention to each court case filed in Vermont, rather, pleadings are generated by computer programs, and documents are signed by functionaries with little connection to the information in the documents. In 2012, the Federal Trade Commission brought a Complaint against a debt-buyer company; the complaint describes the process and the flaws in the court collection process. <https://www.ftc.gov/sites/default/files/documents/cases/2012/01/120130assetcmpt.pdf> The FTC found that as many as one in five lawsuits brought were flawed: the wrong person was sued, the statute of limitations had passed, the information about the debt was wrong. Additionally, the complaint describes how little evidence is possessed by the plaintiff that are suing: plaintiff could not establish that it owned the debt; often it is not clear whether the defendant was actually notified of the lawsuit.

But defendants in debt collection lawsuits do not know how to spot the flaws. They do not know that "exemption" laws all the way back to the common law, protect their subsistence income. They feel powerless, confused, and disbelieving, and they do not come to court. National credit card debt collector's business model depends on a percentage of defendants to not come to court, and for those that do, to not know their rights. Vermont's judicial system is flooded with lawsuits, that unopposed, often do not get a second glance.

Vermont's Judiciary passed rules in 2013 and 2015 requiring Credit card collectors to give information and evidence in all cases. These rules have been routinely ignored by plaintiffs, and not all judges apply the rules to cases where the defendant has not appeared.

The proposal before you is a way to move forward to protect Vermonters brought into court by debt collectors. It is a step toward ensuring fairness and accuracy in debt collection, and to apply the exemption laws to protect the most vulnerable Vermonters from giving up subsistence income to this industry.

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4/6/2017

