

Testimony of the Center for Responsible Lending

Before Vermont House Committee on Commerce & Economic Development

February 22, 2018

Chair Botzow, Vice Chair Marcotte, Ranking Member O’Sullivan, and members of the committee. Thank you for the opportunity to submit this testimony on H.482, An Act Relating to Consumer Protection.

My name is Lisa Stifler, and I am Deputy Director of State Policy with the Center for Responsible Lending, a non-profit, non-partisan policy and research organization dedicated to building family wealth through the elimination of predatory lending practices. We are affiliated with Self-Help Credit Union, a national community development financial institution that provides access to safe, affordable financial services to low-income communities and borrowers.

For more than five years now, the Center for Responsible Lending has been engaged in research and policy regarding debt collection practices. Vermont Legal Aid invited me to share CRL’s work with you as you consider H.482, a bill that will provide protections to Vermont consumers residents unscrupulous debt collection practices.

Unfair Debt Collection Practices Hinder Economic Opportunity

Although debt collection plays an important role in the functioning of the U.S. credit market, it may also expose American households to unnecessary abuses, harassment, and other illegal conduct. It is estimated that 22% of Vermont residents with a credit report have debt in collections, with a median amount in collections of \$1,336.¹ Debt collection is the leading cause for complaints to state and federal regulators, alike. The largest number of complaints come from consumers hounded over debts they do not owe. When people are forced to spend hard-earned money to defend or pay off a debt they may not even owe, they may be unable to meet other necessary expenses or build assets for the future, such as saving for a down payment on a house or car or starting a small business. Unfair debt collection practices also scar people’s credit scores, which then becomes a barrier to opportunities such as good jobs and affordable housing.

One particularly troubling aspect of the debt collection industry are debt buyers – collectors that purchase stale debt and then attempt to collect those debts using spreadsheets of summary information. Debt buyers frequently use state courts to collect debts, regardless of whether or not they are pursuing the right consumer or collecting the right amounts. Investigative reporting from the Boston Globe in 2006 uncovered many of the problems caused

¹ Urban Institute, Debt in America: An Interactive Map (December 6, 2017), <https://apps.urban.org/features/debt-interactive-map/>.

by debt buyers' use of Massachusetts courts to collect old debts.² Unfortunately, many of the abusive practices uncovered by those reports still persist today around the country. In fact, in 2015, the Consumer Financial Protection Bureau entered into settlement agreements with the two largest debt buyers in the country for deceptive practices in collecting debts through state courts. The CFPB described one company's activities as "scattershot litigation," while they quoted another as deliberately filing lawsuits against consumers to collect debts even though the debt buyer knew they could not substantiate the amounts owed or properly identify the person they were suing.³ Both debt buyers were also alleged to have collected on and filed lawsuits for time-barred debt, or debt beyond the statute of limitations for a collection lawsuit.⁴

These are lucrative practices for the debt buyers, but put consumers at significant risk. In 2015 the two biggest debt buyers – both publicly traded companies – earned more than \$2.1 billion in gross annual revenues.⁵ A successful lawsuit gives a debt buyer additional tools to collect on the judgment, including the ability to garnish wages, seize a bank account, or attach a lien to property.

How H.482 Addresses Unfair Debt Collection Practices

H.482 prevents these abuses in several ways. First, the bill prevents debt collectors from pursuing Vermont residents for debts that are past the statute of limitations, except in limited circumstances, and provides that an agreement to make a payment on a stale debt is void and unenforceable. This latter provision bill would stop the common practice of reviving or extending the statute of limitations by using a consumer's oral or written affirmation of a debt. The bill also requires actions on credit card debt to be filed within three years after the cause of action accrues. This provision would ensure that lawsuits on credit card debt, the most common type of debt purchased by debt buyers, are filed within a reasonable amount of time allowing Vermont residents the opportunity to move forward with their financial lives. Further, Vermont would join one-third of the states in this country in using a 3-year statute of limitations.⁶

Once a debt buyer obtains a judgment, which typically occurs by default, the debt buyer or other judgment creditor has extraordinary powers to collect money from Vermont residents, including wage garnishment, bank account levy, and property seizure. Garnishing wages or seizing a bank account can seriously hurt families who are already struggling to pay bills.

² Healy, Beth "Dignity Faces a Steamroller" Boston Globe (2006)

http://archive.boston.com/news/special/spotlight_debt/part2/page1.html.

³ Press Release, "CFPB Takes Action Against the Two Largest Debt Buyers for Using Deceptive Tactics to Collect Bad Debts" Consumer Financial Protection Bureau (2016) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-the-two-largest-debt-buyers-for-using-deceptive-tactics-to-collect-bad-debts/>.

⁴ Id.

⁵ CFPB Annual Report "Fair Debt Collection Practices Act" Consumer Financial Protection Bureau (2016) http://files.consumerfinance.gov/f/201603_cfpb-fair-debt-collection-practices-act.pdf.

⁶ National Consumer Law Center, Collection Actions, § 3.6.4.2 (3d ed. 2014).

Vermont, like other states around the country, needs to update the laws that protect residents' income and funds in bank accounts to allow them to continue to pay for necessities like food and shelter and ensure they do not fall into poverty at the hands of potentially unscrupulous debt collectors. H.482 would go a long way towards addressing these concerns by ensuring that those who earn up to the state's minimum wage will be safe from wage garnishment.

In the past few years, other states have strengthened their laws to protect against the pervasive debt collector buyer abuses and their lingering consequences on families' economic stability. For example, Maine passed two debt collection reform bills in 2015 and 2017. The first reforms extinguished a debt collector's right to commence a collection action after the statute of limitations had passed – regardless of whether the debtor has affirmed the existence of the debt or made a payment towards it.⁷ Last year, Maine passed additional reforms to protect Mainers against unsubstantiated debt collection lawsuits filed by debt buyers.⁸ Maryland and Connecticut both acted in 2016 to protect against lawsuits on and the revival of time-barred debt.⁹ In 2017, Colorado passed a package of reforms with bi-partisan support, that ensures people are not sued for debt they do not owe.¹⁰ The Center for Responsible Lending estimates Colorado's reforms will save its residents at least \$25 million.¹¹

As states seek to enact reforms to protect against debt collection abuses, debt collectors and debt buyers, in their effort to slow down these reforms, may claim that the law changes will restrict access to credit. Some of the studies used by collectors to support their arguments do not even discuss debt collection regulations and are simply broader discussions on financial market reforms at the federal, not state, level. Regardless, there is ample evidence that in fact, federal reforms, such as the Dodd-Frank Act and rules from the Consumer Financial Protection Bureau, do not hinder access to credit. Instead, access problems appear to be driven by voluntary over-corrections by lenders themselves.¹²

A careful examination of the one or two studies used by debt collectors that consider debt collection regulation are nonetheless problematic due to limitations in the research

⁷ 32 MRSA §11002, sub-§§1(A)- 1(C), 5(A), 7(A), 7(B) and 8(C).

⁸ 9(A) MRSA §5(105, sub-§1, ¶¶A and B.

⁹ MD SB 771 (2016); MD Code Ann., Courts and Judicial Proceedings §5-1202; and CT HB 5571 (2016), Sec. 53; Conn. Gen. Stat. §36a-814(b).

¹⁰ Bunch, Joey "Debt Collectors Have to Clean Up Their Act Under New Colorado Law" (2017) <http://gazette.com/debt-collectors-have-to-clean-up-their-acts-under-new-colorado-law/article/1604980>

¹¹ Harnick, Ellen, Lisa Stifler, and Safa Sajadi, "Debt Buyers Hound Coloradans in Court for Debts They May Not Owe," (2016), http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/colorado_debt_buying.pdf.

¹² Testimony of Michael D. Calhoun, "The State of Bank Lending in America" (March 28, 2017), http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_calhoun_hfsc_cfpb_testimony_mar2017.pdf.

methodology.¹³ Critically, none of the studies cited by debt collectors to support the claim that regulations decrease access to credit or increase the cost in fact looks at the kinds of reforms that are included in H.482. On the contrary, research on state-level reforms like those being considered today can both protect consumers and credit access. A 2016 analysis by Center for Responsible Lending comparing credit markets in two states, North Carolina and Maryland, that have enacted debt collection reforms, found that:

- Credit availability in North Carolina and Maryland appears to follow national trends rather than being impacted by regulatory changes.
- North Carolina and Maryland consumers seeking new credit cards generally fared better than consumers in peer states.
- Sub- and near-prime consumers in North Carolina and Maryland fared at least as well as those nationally and in peer states regardless of debt-buying reforms.¹⁴

Critically, in North Carolina, these trends held true even though the state's laws are similar to or stronger than the reforms in H.482. The state's statute of limitations is three years for all debts, not just credit card debt, as proposed in H.482.¹⁵ North Carolina's 2009 debt collection reforms not only extinguished debt buyers' right to sue on time-barred debt, but it also prohibits the collection of time-barred debt.¹⁶ Finally, wage garnishment to collect a court judgment is prohibited for most consumer debts.¹⁷

H.482 represents commonsense, consumer-friendly debt collection reforms that still allow a robust credit market place while protecting Vermont individuals. Thank you again for the opportunity to comment on this important legislation.

¹³ Sarah Wolff & Leslie Parrish, "CRL Review: 'Debt Collection Agencies and the Supply of Consumer Credit'" (December 2015), http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_fedaseyeu_dec2015.pdf (reviewing Philadelphia Federal Reserve Working Paper 15-23).

¹⁴ Parrish, Leslie, Bill Sermons and Lisa Stifler "Past Due: Debt-Collection Reforms That Protect Consumers Not Found to Restrict Credit Availability" Center for Responsible Lending (April 2016) http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_past_due_debt_apr2016.pdf.

¹⁵ N.C. Gen. Stat. § 1-51(1).

¹⁶ N.C. Gen. Stat. § 58-70-115(4) (prohibiting lawsuits, arbitration proceedings, and other attempts to collect on time-barred debt).

¹⁷ N.C. Gen. Stat. § 1-362 (prohibiting wage garnishment where the consumer's wages are necessary for family support, in whole or part).