

**Comparison of H.482 Proposals – House Commerce (DR 19.1) and Sullivan/McCoy Amendment (DR 6.1)**

<u><b>H.482 – As Passed House Commerce Draft 19.1</b></u>	<u><b>H.482 – Amendment; As proposed by Reps. Sullivan and McCoy; Draft 6.1</b></u>	<u><b>Difference in Proposals</b></u>
<p>Sec. 1. 9 V.S.A. § 41a is amended to read:            § 41a. LEGAL RATES            (a) Except as specifically provided by law, the rate of interest or the sum allowed for forbearance or use of money shall be 12 percent per annum computed by the actuarial method.            (b) The rate of interest or the sum allowed:                * * *</p> <p>(10) Interest on a judgment against a debtor in default on credit card debt incurred for personal, family, or household purposes shall accrue at the rate of 12 percent per annum using simple interest, unless a court suspends or reduces the accrual of interest pursuant to 12 V.S.A. § 2903a.                * * *</p>	<p>Sec. 1. 9 V.S.A. § 41a is amended to read:            § 41a. LEGAL RATES            (a) Except as specifically provided by law, the rate of interest or the sum allowed for forbearance or use of money shall be 12 percent per annum computed by the actuarial method.            (b) The rate of interest or the sum allowed:                * * *</p> <p>(10) Interest on a judgment against a consumer credit card debtor, as defined in 12 V.S.A. § 2903a(a)(1), shall accrue at the rate of 12 percent per annum using simple interest unless a court suspends or reduces the accrual of interest pursuant to 12 V.S.A. § 2903a.                * * *</p>	<p>Reflects difference in scope of who is a “consumer” subject to provision; see below</p>
<p>Sec. 2. 12 V.S.A. chapter 113 is amended to read:            CHAPTER 113. <del>JUDGMENT LIEN</del> JUDGMENTS AND JUDGMENT LIENS                * * *</p> <p>§ 2903. DURATION AND EFFECTIVENESS                * * *</p> <p>(c) <del>Interest</del> Unless a court suspends or reduces the accrual of interest pursuant to section 2903a of this title, interest on a judgment lien shall accrue at the rate of 12 percent per annum using simple interest.            (d) If a judgment lien is not satisfied within 30 days of recording, it may be foreclosed and redeemed as provided in this title and <del>V.R.C.P. Rule 80.1 of the Vermont Rules of Civil Procedure</del>. Unless the court finds that as of the date of foreclosure the amount of the outstanding debt exceeds the value of the real property being foreclosed, section 4531 of this title shall apply to foreclosure of a judgment lien.</p>	<p>Sec. 2. 12 V.S.A. chapter 113 is amended to read:            CHAPTER 113. <del>JUDGMENT LIEN</del> JUDGMENTS AND JUDGMENT LIENS                * * *</p> <p>§ 2903. DURATION AND EFFECTIVENESS                * * *</p> <p>(c) <del>Interest</del> Unless a court suspends or reduces the accrual of interest pursuant to section 2903a of this title, interest on a judgment lien shall accrue at the rate of 12 percent per annum using simple interest.            (d) If a judgment lien is not satisfied within 30 days of recording, it may be foreclosed and redeemed as provided in this title and <del>V.R.C.P. Rule 80.1 of the Vermont Rules of Civil Procedure</del>. Unless the court finds that as of the date of foreclosure the amount of the outstanding debt exceeds the value of the real property being foreclosed, section 4531 of this title shall apply to foreclosure of a judgment lien.</p>	<p align="center"><b>Identical</b></p>

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<p><u>§ 2903a. ACCRUAL OF POSTJUDGMENT INTEREST ON CREDIT CARD DEBT; SUSPENSION; REDUCTION; REINSTATEMENT</u></p> <p>(a) Upon or after entering a judgment against a debtor in default on credit card debt incurred for personal, family, or household purposes, a court may suspend or reduce the accrual of interest on the judgment if it finds:</p> <p>(1) the judgment debtor's income and assets are exempt from collection; or</p> <p>(2) based on his or her current income, assets, and</p>	<p><u>§ 2903a. ACCRUAL OF POSTJUDGMENT INTEREST ON CREDIT CARD DEBT; SUSPENSION; REDUCTION; REINSTATEMENT</u></p> <p>(a) As used in this section:</p> <p>(1)(A) "Consumer credit card debtor" means a person who is in default on an unsecured consumer credit card debt and whose gross annual household income does not exceed 80 percent of the applicable county median income, as determined by the Department of Housing and Urban Development.</p> <p>(B) "Consumer credit card debtor" does not include a business entity, partnership, association, or limited liability company; an owner, member, officer, or authorized agent of a business entity, partnership, association, or limited liability company; or a self-employed person.</p> <p>(2) "Consumer debt collection business" means an entity or person who in the regular course of its or their business engages or assists in the collection of defaulted unsecured consumer credit card debt.</p> <p>(b) Upon or after entering a judgment against a consumer credit card debtor, a court may suspend or reduce the accrual of interest on the judgment if it finds:</p> <p>(1) the consumer credit card debtor's income and assets are exempt from collection; or</p> <p>(2) the consumer credit card debtor does not have</p>	<p><b>Amendment is narrower in scope</b></p> <p>Commerce version applies to a "debtor in default on credit card debt incurred for personal, family, or household purposes"</p> <p>Amendment version uses same definitions as it adds in Title 9 below:</p> <p>Applies to a "consumer credit card debtor":</p> <ul style="list-style-type: none"> <li>- means a "person" (which under Vermont law means individual, government entity, or business entity) but here excludes [business entities], owners, officers, or agents, and self-employed persons</li> <li>- applies to "unsecured consumer credit card debt"</li> <li>- tied to income of debtor</li> </ul> <p>"entity or person" ~ redundant</p> <p>Defaulted + unsecured + consumer [credit card debt]</p> <p><b>Amendment is narrower in scope; see above</b></p> <p><b>Different legal standard for altering interest</b></p>

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<p>expenses, the judgment debtor does not have more financial resources available than what is reasonably necessary to support the debtor and his or her dependents.</p> <p>(b) To request suspension or reduction of interest on a judgment, <u>the debtor shall</u> submit to the court a motion to suspend or reduce interest that includes:</p> <p>(1) a completed financial disclosure, on a form adopted by the Vermont Judiciary; and</p> <p>(2) any additional documentation the court prescribes.</p> <p>(c) If the court approves the request, it:</p> <p>(1) shall provide in its order that the suspension or reduction of interest is based on the <u>judgment debtor’s</u> current income, assets, and expenses; and</p> <p>(2) may require the <u>judgment debtor</u> periodically to provide the judgment creditor with an updated financial disclosure form.</p> <p>(d) The court may revise its order upon a motion by the judgment creditor or <u>judgment debtor</u> to reinstate, reduce further, or suspend the accrual of interest based on <u>a substantial change</u> in the judgment debtor’s income, assets, or expenses.</p> <p align="center">* * *</p>	<p><u>financial resources sufficient reasonably to support the debtor and his or her dependents.</u></p> <p>(c) To request suspension or reduction of interest on a judgment, <u>the consumer credit card debtor</u> shall submit to the court a motion to suspend or reduce interest that includes:</p> <p>(1) a completed financial disclosure, on a form adopted by the Vermont Judiciary; and</p> <p>(2) any additional documentation the court prescribes.</p> <p>(d) If the court approves the request, it:</p> <p>(1) shall provide in its order that the suspension or reduction of interest is based on the <u>consumer credit card debtor’s</u> current income, assets, and expenses; and</p> <p>(2) may require the <u>consumer credit card debtor</u> periodically to provide the judgment creditor with an updated financial disclosure form.</p> <p>(e) The court may revise its order upon a motion by the judgment creditor or <u>consumer credit card debtor</u> to reinstate, reduce further, or suspend the accrual of interest based on <u>a change</u> in the consumer credit card debtor’s income, assets, or expenses.</p>	<p>“Substantial change” vs “a change”</p>

**Comparison of H.482 Proposals – House Commerce (DR 19.1) and Sullivan/McCoy Amendment (DR 6.1)**

<u>H.482 – As Passed House Commerce Draft 19.1</u>	<u>H.482 – Amendment; As proposed by Reps. Sullivan and McCoy; Draft 6.1</u>	<u>Difference in Proposals</u>
	<p>(f) This section shall not apply to, or affect the substantive rights and obligations of parties in, federal bankruptcy proceedings, actions brought by any court-ordered receiver, arbitration proceedings, or actions initiated in courts outside of this State.</p> <p align="center">* * *</p>	<p>Amendment adds this to limit scope. Full range of impacts is unclear at this point. Vermont law should not affect federal bankruptcy proceedings; unclear what implications for receivers; would not apply to arbitration proceedings; could be different treatment for actions initiated outside Vermont.</p>
<p>Sec. 3. 9 V.S.A. chapter 63, subchapter 9 is added to read:  <u>Subchapter 9. Debt Collectors and Debt Collection</u></p> <p>§ 2491. DEFINITIONS  <u>As used in this subchapter:</u>                      (1) “Credit card debtor” means a consumer who is in default on credit card debt incurred for personal, family, or household purposes.</p>	<p>Sec. 3. 9 V.S.A. chapter 63, subchapter 9 is added to read:  <u>Subchapter 9. Consumer Debt Collection Business and Debt Collection</u></p> <p>§ 2491. DEFINITIONS  <u>As used in this subchapter:</u>                      (1)(A) “Consumer credit card debtor” means a person who is in default on an unsecured consumer credit card debt and whose gross annual household income does not exceed 80 percent of the applicable county median income, as determined by the Department of Housing and Urban Development.                      (B) “Consumer credit card debtor” does not include a business entity, partnership, association, or limited liability company; an owner, member, officer, or authorized agent of a business entity, partnership, association, or limited liability company; or a self-employed person.</p>	<p>Difference in scope of applicability.</p> <p>Amendment version applies to a “consumer credit card debtor”:</p> <ul style="list-style-type: none"> <li>- a “person” (which under Vermont law means individual, government entity, or business entity) but here excludes [business entities], owners, officers, or agents, and self-employed persons</li> <li>- applies to “unsecured consumer credit card debt”</li> <li>- tied to income of debtor</li> </ul>

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<p>(2) “Debt collector” means a person who engages, or directly or indirectly aids, in collecting a credit card debt incurred for personal, family, or household purposes, and includes a debt buyer.</p>	<p>(2) “Consumer debt collection business” means an entity or person who in the regular course of its or their business engages or assists in the collection of defaulted unsecured consumer credit card debt.</p>	<p>Difference in scope – applies throughout chapter</p> <p>Amendment version is narrower:                      Entity or person ~ redundant                      “regular course of business”                      “defaulted unsecured consumer credit card debt”                      - does not explicitly include “debt buyer” ~ recent court case says “debt buyer” collecting its own debt is not a “debt collector”</p>
<p><u>§ 2491a. ENFORCEMENT</u>                      A person who violates a provision of this subchapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.</p>	<p><u>§ 2491a. ENFORCEMENT</u>                      A person who violates a provision of this subchapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.</p>	<p align="center"><b>Identical</b></p>
<p><u>§ 2491b. CREDIT CARD DEBT COLLECTION; NOTICES TO CONSUMER</u>                      (a) Notice prior to initiating action. Prior to initiating an action to obtain a judgment against a credit card debtor, a debt collector shall deliver to the credit card debtor:</p> <p>(1) a claim of exemption form adopted by the Vermont Judiciary; and</p> <p>(2) a written notice that contains:</p> <p>(A) the amount of the debt;</p> <p>(B) the name of the person to whom the debt is owed;</p> <p>(C) the name of the original creditor, the last</p>	<p><u>§ 2491b. CREDIT CARD DEBT COLLECTION; NOTICES TO CONSUMER</u>                      (a) Notice prior to initiating an action to obtain a judgment against a consumer credit card debtor. Prior to initiating an action in the courts of this State to obtain a judgment against a consumer credit card debtor, a consumer debt collection business shall deliver to the consumer credit card debtor:</p> <p>(1) a claim of exemption from adopted by the Vermont Judiciary; and</p> <p>(2) a written notice that contains:</p> <p>(A) the amount of the debt;</p> <p>(B) the name of the person to whom the debt is owed;</p> <p>(C) the name of the original creditor, the last</p>	<p>Difference in scope based on defined terms</p>

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<p>four digits of the account, and the alleged date of the last payment if any;</p> <p>(D) a statement that, if the <b>credit card debtor</b> indicates in writing that his or her current income and assets are exempt from collection, the <b>debt collector</b> will review the information in deciding whether and how to proceed in collecting the debt.</p> <p>(b) Time for delivering notice prior to initiating action. A <b>debt collector</b> shall deliver the notice required in subsection (a) of this section not more than 90 days and not less than 30 days before initiating an action to obtain a judgment against a <b>credit card debtor</b>.</p> <p>(c) Notice by assignee prior to filing a motion to collect on a judgment against credit card debtor. Prior to filing a motion to collect on a judgment against a <b>credit card debtor</b>, an assignee of the judgment shall deliver to the judgment debtor:</p> <p>(1) a copy of the judgment against the <b>credit card debtor</b>;</p> <p>(2) the date and parties to each assignment of the judgment;</p> <p>(3) a claim of exemption form adopted by the Vermont Judiciary; and</p> <p>(4) a written statement that, if the <b>credit card debtor</b></p>	<p>four digits of the account, and the alleged date of the last payment if any;</p> <p>(D) a statement that, if the <b>consumer credit card debtor</b> indicates in writing that his or her current income and assets are exempt from collection, the <b>consumer debt collection business</b> will review the information in deciding whether and how to proceed in collecting the debt.</p> <p>(b) Time for delivering notice prior to initiating an action to obtain a judgment against a consumer credit card debtor. A <b>consumer debt collection business</b> shall deliver the notice required in subsection (a) of this section not more than 90 days and not less than 30 days before initiating an action pursuant to Vermont law to obtain a judgment against a <b>consumer credit card debtor</b>.</p> <p>(c) Notice by assignee prior to filing a motion to collect on a judgment against consumer credit card debtor. Prior to filing a motion to collect <b>on a judgment obtained in the courts of this State</b> against a <b>consumer credit card debtor</b>, an assignee of the judgment shall deliver to the judgment debtor:</p> <p>(1) a copy of the judgment against the <b>consumer credit card debtor</b>;</p> <p>(2) the date and parties to each assignment of the judgment;</p> <p>(3) a claim of exemption form adopted by the Vermont Judiciary; and</p> <p>(4) a written statement that, if the <b>consumer credit</b></p>	<p>“A judgment obtained in the courts of this State” would signal differential treatment when a creditor seeks to collect on a judgment, depending on where that judgment was issued</p>

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<p>indicates in writing that his or her current income and assets are exempt from collection, the assignee will review the information in deciding whether and how to proceed in collecting on the judgment.</p> <p>(d) Time for delivering notice by assignee prior to filing a motion to collect on a judgment against credit card debtor. The assignee of a judgment shall deliver the notice required in subsection (c) of this section not more than 90 days and not less than 30 days before filing a motion to collect on the judgment.</p>	<p><b>card debtor</b> indicates in writing that his or her current income and assets are exempt from collection, the assignee will review the information in deciding whether and how to proceed in collecting on the judgment.</p> <p>(d) Time for delivering notice by assignee prior to filing a motion to collect on a judgment against consumer credit card debtor. The assignee of a judgment shall deliver the notice required in subsection (c) of this section not more than 90 days and not less than 30 days before filing a motion to collect on the judgment <b>pursuant to Vermont law.</b></p>	
<p>§ 2491c. DEBT COLLECTION AFTER STATUTE OF LIMITATIONS EXPIRED; LIMITATIONS</p> <p>(a)(1) A <b>debt collector</b> shall not initiate <b>a civil action</b> to collect a debt from a <b>credit card debtor</b> when the <b>debt collector</b> knows or reasonably should know that <b>the statute of limitations provided in 12 V.S.A. § 511 has expired.</b></p> <p><b>(2) Notwithstanding any other provision of law, when the limitations period provided in 12 V.S.A. § 511 expires, any subsequent payment toward, written or oral affirmation of, or other activity on the debt does not revive or extend the limitations period.</b></p>	<p>§ 2491c. DEBT COLLECTION AFTER STATUTE OF LIMITATIONS EXPIRED; LIMITATIONS</p> <p>(a) A <b>consumer debt collection business</b> shall not initiate <b>an action</b> to collect debt from a <b>consumer credit card debtor</b> when the <b>consumer debt collection business</b> knows or reasonably should know that <b>the applicable statute of limitations has expired.</b></p>	<p><b>Commerce version forbids revival of a time-barred debt. Amendment version eliminates this subdivision (2).</b></p>

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<p>(b) After the statute of limitations <b>provided in 12 V.S.A. § 511 has expired</b>, a <b>debt collector</b> may only communicate with a <b>credit card debtor</b> concerning the debt after providing written or verbal notice that the <b>credit card debtor</b> has the right to request that the <b>debt collector</b> cease all communications with the <b>credit card debtor</b> concerning the debt and providing one of the following disclosures:</p> <p>(1) If the debt is not past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):  <u>“The law limits how long you can be sued on a debt. Because of the age of your debt, we cannot sue you for it. However, if you do not pay the debt, [creditor or debt collector name] may [continue to] report it to the credit reporting agencies as unpaid for as long as the law permits this reporting.”</u></p> <p>(2) If the debt is past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):  <u>“The law limits how long you can be sued on a debt. Because of the age of your debt, [creditor or debt collector name] cannot sue you for it and will not report it to any credit reporting agency.”</u></p>	<p>(b) After the statute of limitations to <b>initiate an action to collect debt from a consumer credit card debtor has expired</b>, a <b>consumer debt collection business</b> may only communicate with a <b>consumer credit card debtor</b> concerning the debt after providing written or verbal notice that the <b>consumer credit card debtor</b> has the right to request that the <b>consumer debt collection business</b> cease all communications with the <b>consumer credit card debtor</b> concerning the debt and providing one of the following disclosures:</p> <p>(1) If the debt is not past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):  <u>“The law limits how long you can be sued on a debt. Because of the age of your debt, we cannot sue you for it. However, if you do not pay the debt, [creditor or consumer debt collection business name] may [continue to] report it to the credit reporting agencies as unpaid for as long as the law permits this reporting.”</u></p> <p>(2) If the debt is past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):  <u>“The law limits how long you can be sued on a debt. Because of the age of your debt, [creditor or consumer debt collection business name] cannot sue you for it and will not report it to any credit reporting agency.”</u></p>	



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	<p><b>§ 2491d. LIMITATION OF SCOPE</b>  <u>This subchapter shall not apply to, or affect the substantive rights and obligations of parties in, federal bankruptcy proceedings, actions brought by any court-ordered receiver, arbitration proceedings, or actions initiated in courts outside of this State.</u></p>	<p><b>Amendment adds this to limit scope.</b> Full range of impacts is unclear at this point. Vermont law should not affect federal bankruptcy proceedings; unclear what implications for receivers; would not apply to arbitration proceedings; could be different treatment for actions initiated outside Vermont.</p>
<p>Sec. 4. 12 V.S.A. § 2732 is amended to read:</p>	<p>Sec. 4. 12 V.S.A. § 2732 is amended to read:</p>	<p>Sec. 4 (writ of execution for trustee process)  <b>Identical</b></p>
<p>Sec. 5. 12 V.S.A. § 3170 is amended to read:</p>	<p>Sec. 5. 12 V.S.A. § 3170 is amended to read:</p>	<p>Sec. 5 (federal/Vermont minimum wage standard)  <b>Identical</b></p>
<p>Sec. 6. 12 V.S.A. § 3173 is added to read:  <u>§ 3173. TRUSTEE PROCESS AGAINST JUDGMENT DEBTOR’S BANK ACCOUNTS; PROCEDURE</u></p>	<p>Sec. 6. 12 V.S.A. § 3173 is added to read:  <u>§ 3173. TRUSTEE PROCESS AGAINST JUDGMENT DEBTOR’S BANK ACCOUNTS; PROCEDURE</u></p>	<p>Sec. 6 (Trustee Process)  <b>Identical</b></p>
<p>Sec. 7. IMPLEMENTATION; REPORT  <u>(a) On or before January 15, 2020, the Attorney General, in consultation with the Judicial Branch, representatives of creditors and debtors, and national nonprofit organizations representing the receivables industry, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that addresses:</u></p>	<p>Sec. 7. IMPLEMENTATION; REPORT  <u>On or before January 15, 2020, the Attorney General, in consultation with the Judicial Branch, representatives of creditors and debtors, and national nonprofit organizations representing the receivables industry, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that:</u></p>	<p><b>Reports – Commerce requires two reports</b>  Amendment requires one report, different in scope</p>

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<p>(1) the implementation, outcomes, and effectiveness of this act;</p> <p>(2) whether to expand the applicability of the provisions of this act beyond credit card debt; and</p> <p>(3) any recommendations for further legislative action related to this act.</p> <p>(b) On or before January 15, 2019, the Attorney General, in consultation with the Judicial Branch and representatives of creditors and debtors, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that addresses the potential costs and benefits of requiring a court to acquire and review a debtor’s credit report when considering a request to reduce or suspend the accrual of postjudgment interest, who should be responsible for producing the credit report, and how to ensure consumer privacy if a credit report is used for those purposes in a court action.</p>	<p>(1) addresses the implementation and outcomes of this act; and</p> <p>(2) specifies the number of cases affected by this act involving low income Vermonters.</p>	
<p>Sec. 8. EFFECTIVE DATE</p> <p><u>This act shall take effect on October 1, 2018.</u></p> <p>and that after passage the title of the bill be amended to read: “An act relating to consumer protection, credit card debt, and trustee process”</p>	<p>Sec. 8. EFFECTIVE DATE</p> <p><u>This act shall take effect on October 1, 2018.</u></p> <p>and that after passage the title of the bill be amended to read: “An act relating to consumer protection, credit card debt, and trustee process”</p>	<p align="center"><b>Identical</b></p>