

## Oregon

March 28, 2013

### House Consumer Protection and Government Efficiency Committee

**Re: House Bill 2826**

**Establishes requirements under which debt buyer may bring legal action to collect debt.**

Representing NFIB's 7,500 small business members in the state of Oregon, we have concerns regarding HB 2826. We appreciate the intent but feel the bill would create an added layer of difficulty to our small business members in their attempt to collect legitimate sums owed to them. This bill is being considered at a time when many small businesses are financially challenged and this bill adds significant burden and liability to their necessary action of collecting debt.

Issues:

- Page 4, line 3 – the definition of “Debt Collector” is very encompassing and would include any small business owner that took any action to attempt to collect a debt.
- This is a very inclusive and intricate law with many technical elements that would affect a small business owner acting on his own behalf to collect a debt. Any violation would expose the business owner to an unlawful collection practice suit, including actual damages or \$1,000 whichever is greater.
- The Oregon Supreme Court has defined “willful” as “no more than proof of ordinary negligence by a defendant in not knowing, when it should have known” State ex rel Redden v. Discount Fabrics, Inc., 289 Or. 375, 615, P.2d 1034, 1039 (1980). Standard ordinary negligence would apply to this act and small business owners who violate this act by not knowing something would be liable.

The federal act provides for strict liability on the part of a covered debt collector, but also provides a “bonafide error” defense.

- Section 1 would prohibit a debt collector from even asking for a payment on a debt in which the statute of limitations has expired.

NFIB believes this bill is excessive and overreaching causing significant liability exposure to any small business owner taking action to collect a bonafide debt.