

April 16, 2013

To: All Members of the Oregon House of Representatives

Re: Strong Support for House Bill 2826

As attorneys who provide free legal services to students and/or low income Oregonians, we are writing to urge your yes vote on HB 2826 with the -2 amendments. This legislation provides important procedural and substantive protections for consumers who are sued by debt buyers on delinquent accounts that were purchased for pennies on the dollar.

The lack of evidence presented to the consumer and the court when a third party debt collector sues on old debt is alarming. When our clients – Oregon university students and low-income consumers – come to us for assistance, too often the complaint that has been filed against them lack basic information about the original creditor or an explanation of amount owed. Without this information the consumer is unable to determine if the debt is valid or if the debt buyer even has the right to sue. Sometimes with attorney assistance, the consumer can gain access to that information but far too often the debt buyer simply does not have information sufficient to verify the debt. Most consumers are not able to access attorney assistance in responding to these suits, and therefore struggle to resolve these issues on their own.

The scale and scope of the problem has grown substantially in the last decade, prompting the Federal Trade Commission to call for state-level reform. By implementing recommendations from the FTC report, HB 2826 would mend the broken system, ease the burden on state courts and most importantly protect consumers from being sued on debt they do not owe.

HB 2826 would add documentation requirements for debt buyers who decide to pursue legal action against consumers. Before initiating a lawsuit the debt buyer would send the consumer a 30-day notice providing basic information such as the name of the original creditor, the original creditor's account number, a breakdown of the amount allegedly owed and the date of the last payment. This information is necessary for the consumer to identify the origins and validity of the debt. Similar information would need to be provided to the court upon filing the complaint and before the court issues a judgment. Providing this information up front would lead to quicker resolution of meritorious cases, and would protect against frivolous claims.

HB 2826 would also addresses the “loser pays” attorney fee provision of Oregon’s Unlawful Debt Collection Practices Act (UDCPA) by restoring the state statute to its original attorney fee arrangement. The “loser pays” system incentivizes debt buyers to behave unlawfully in the first place.

Most third party debt lawsuits are for small amounts. Under the current attorney fee scheme, if a consumer sues a debt collector for violation of state law he or she assumes the risk of paying

thousands of dollars in attorney fees to the opposing party. This undermines the consumer protection policy of the law by punishing the consumer (often representing him or herself) who brings a reasonable case, but fails to convince the jury to rule in his or her favor. The result is a chilling effect on legitimate claims because low-income consumers simply cannot take the risk.

HB 2826 would level the playing field for consumers and guard against frivolous lawsuits by providing that prevailing plaintiffs may collect attorney's fees, and defendant companies may collect fees from the losing plaintiff if the lawsuit was filed in bad faith.

These are simple steps that Oregon can take to protect consumers and reduce the backlogs in our courts. Thank you for the opportunity to comment on this important issue.

Sincerely,



Lynn P. Clark

Student Legal Services

Portland State University



Chas Horner

Lane County Legal Aid and Advocacy Center