

OREGON LAW CENTER

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**TESTIMONY IN SUPPORT OF SB 396
Before the Senate Judiciary Committee
February 18th, 2013**

Chair Prozanski, Vice-Chair Close, and Members of the Committee:

Thank you for the opportunity to submit written testimony on behalf of the Oregon Law Center (OLC) regarding SB 396, and the Dash 1 and 2 amendments. This bill, with its amendments, would expand current protections for homeowners and families who are left with no choice in economic crisis but to file bankruptcy. I apologize that due to a conflict I was unable to attend the hearing in person.

As you may know, OLC is a statewide non-profit law firm whose mission is to provide access to justice for the low income communities of Oregon by providing a full range of the highest quality civil legal services. Our clients generally fall within 185% of the federal poverty level. Because we are not able to help all who qualify for our services, we prioritize the provision of assistance to the neediest Oregonians – those who are most vulnerable. We provide services in the area of administrative law (including public benefits), consumer law (including foreclosure prevention), housing law, civil rights, and family law.

The populations we serve are fighting a constant battle to maintain a basic minimum standard of living for themselves and their children. They are without the benefit of financial reserves or support to tide them over during unexpected hard times. In addition, formerly middle class Oregonians have suffered from long-term unemployment due to the recession, and the expiration of unemployment benefits and personal savings. Families in these straights can be thrown into escalating crisis by a single triggering event - divorce, the death of a spouse, medical costs. Senior citizens and families with young children are particularly vulnerable in these crises. More and more Oregonians have been faced with the necessity of bankruptcy proceedings in the face of in-surmountable debt without a safety-net.

The theory that certain minimum assets and resources ought to be protected against collection and bankruptcy dates back to colonial days. Originally, exemption laws protected a minimum value in such things as a homestead, horses, guns, and cows. Since then, state and federal laws have historically protected a minimum value in a homestead and in other assets needed to maintain self-sufficiency and employment. Without self-sufficiency, families are forced to rely on the state for support, individuals and children suffer harmful health, nutritional, educational, and psychological ramifications, and debtors have no hope of making payment on debts.

Oregon's current bankruptcy exemption laws have three critical gaps that particularly threaten the stability of our most vulnerable citizens.

- Our current homestead exemption is too low. Under current law, Oregonians can exempt up to \$40,000 value in a primary residence (\$50,000 for a married couple). Even in today's economy, the average value of a home in Oregon is just under \$200,000.¹ The benefit of a homestead exemption is to protect housing stability for struggling debtors and their families. This benefit is lost if the exemption does not cover the value of most homes. And if the sale of a home is forced, the exempt amount ought to be sufficient to move a family into a stable residence in the same school district. In recognition of this public policy, there are at least 34 states with homestead exemptions higher than Oregon's, many of them significantly.² The model policy promulgated by the National Consumer Law Center suggests that if the entire value of a homestead is not protected, the amount ought to be connected to a price index for median urban or rural value.
- Our current exemptions do not include the value of medical savings accounts. Protecting a consumer's medical savings account can prevent negative health consequences and can protect a debtor's ability to care for him or herself and continue to support the family. This asset helps debtors protect themselves against the medical crisis that often forces people into bankruptcy in the first place. The protection of this asset will help our communities stay stable and healthy. The bill and the Dash 2 amendment would address this issue.
- Our current state law does not allow the use of federal bankruptcy exemptions, which are more protective of basic ability to maintain self-sufficiency. The lack of access to federal exemptions under Oregon law, coupled with the federal jurisdictional requirements for bankruptcy filings, means that some Oregonians filing bankruptcy get more protection than others. Oregonians who previously recently lived in other states may file for bankruptcy in Oregon and obtain the protections applicable in their previous jurisdiction. Many other states allow debtors the federal exemptions. The Dash 1 amendment would address this issue.

It is in the best interests of vulnerable Oregonians, creditors, and our communities if we can protect a minimum level of assets required to maintain some basic stability for debtors and their families while they are paying their debts. Increasing the homestead and personal exemptions would allow more debtors to stay in their current homes, and will provide those that are displaced with a more reasonable allowance for future stability.

Thank you for the opportunity to testify this morning, and for your consideration. Sincerely,

Sybil Hebb

¹ http://www.zillow.com/local-info/OR-home-value/r_46/

² http://www.nclc.org/images/pdf/debt_collection/model_family_financial_protection_act.pdf (WI, WA, VT, TX, SD, SC, RI, OH, ND, NC, NY, NM, NH, NV, NE, MS, MN, ME, MA, KS, IA, ID, FL, DE, DC, CT, CO, CA, AR, AK, AZ all have higher exemptions. TX, SD, and DC all exempt the entire value of a homestead.)