TO: Members of the House Consumer Protection and Government Effectiveness Committee
FR: Arthur Towers, Oregon Trial Lawyers Association
RE: Support for HB 2252
March 27, 2015

I am writing to express our organization's support for HB 2252 as written. I appreciated very much the committee's willingness to engage in such an informative hearing yesterday. The testimony was compelling and you have the opportunity to protect hundreds of thousands of Oregonians from bad actors in this field.

I appreciate very much the industry leaders who have come forward to engage in constructive conversations about this industry and how to protect consumer rights while still preserving the necessary functions of debt buyers and debt collectors. The committee has a unique opportunity to work with an industry leader to drive industry behavior for less responsible participants in this field.

The debt buyers' testimony made a compelling case for passage of HB 2252.

The first thing to recognize is the economic and power imbalance inherent under current state law. From Encore's filing with the Securities and Exchange Commission, they report that they have "invested approximately $1.4 billion to acquire 28.8 million consumer accounts with a face value of approximately $43.8 billion."

The scale, sophistication, and legal expertise of that operation is huge compared to the individual consumer they seek to collect from, several of whom you heard from yesterday.

Spend one more moment on the above figures: They spend 3 cents on the dollar to gather information on accounts that average about $1,520 each. At the scale they are operating, they could push the creditors from whom they buy the debt to provide more information.

We understood them to testify that they have 234,000 'consumers' in Oregon. **Assuming they are only pursuing debt from adults, that would mean that about 1 in 12 adult Oregonians are on their list. We are not sure if that was industry-wide, but we believe that is just one company.**

This business model and current law provide less scrupulous companies an incentive to churn through consumers, trolling for people who could be subject to summary judgement and garnishment, regardless of the evidence of the debt. **PLEASE SEE THE COMPLAINT THAT IS ALSO PART OF OUR TESTIMONY TO GET A SENSE OF HOW LITTLE INFORMATION IS NEEDED TO COLLECT A DEFAULT JUDGEMENT AGAINST AN UNWITTING CONSUMER.**

One goal of HB 2252 is to ensure that consumers get the information they need – in advance of litigation – to determine if they really owe the money. The law should be constructed so that those who actually owe should pay the amount they truly owe**.**

The second goal of 2252 is to give consumers the tools they need to protect themselves if they question the debt. It seems to make sense that to provide the information up front, before litigation,

would put consumers in a much better position to know whether or not this a legitimate collection effort.

We are concerned that many consumers view letters and phone calls they receive like this with skepticism and suspicion. The prevalence of identity theft makes consumers very wary of responding to notices like this in the mail. The requirement that more complete information be provided up front would make it so much easier for consumers to respond appropriately, find the cancelled check that proves payment, dispute illegitimate claims, or pay debts they actually owe.

If this information would be required in a contested court proceeding anyway, then why not require it up front too?

Our understanding of the business model is that much of the information required under 2252 is indeed available, but that it is more expensive to purchase.

We think there is additional value in requiring information up front. One of the industry witnesses testified that it is too difficult to calculate interest. Yet, under current law, they are completely allowed to collect on that interest that is too difficult to calculate.

The third goal of HB 2252 is to reduce the number of mistakes. When debt buyers are dealing in this volume, mistakes obviously occur. (We believe that there was a mis-statement on this point. The Unfair Debt Collection Practices Act is not a strict liability statute.) By requiring information up front, the onus will be more likely to fall on the debt buyer – the party who can better afford to do the double checking. Currently, the onus falls on the consumers who came before you yesterday. And today, those men and women have to make the difficult decision about whether or not fighting back against these inaccuracies is worth it when they could be paying the large legal fees of the industry if they cannot prove their case.

And that brings me to our final point: We are adamant that in order to balance the system, prevailing consumers should have the cost of their effort to right the wrong paid for by the wrongdoer. But to put the threat of the industry legal fees is way too much of a barrier for the little guy. Despite their best efforts, DCBS and DOJ are not completely equipped to handle these complaints or cases at the scale that is needed. If just 3% of the 234,000 Oregon consumers have a question or complaint, that is 7,000 calls generated. The prevailing plaintiff standard gives consumers a fairer shot at getting the representation they deserve. The contingency nature of these cases and State Bar sanctions provide a very strong disincentive for attorneys from taking long shot or questionable cases.

And really 2252 is all about creating the right incentives. There should be incentives for debt buyers to get accurate information the first time. There should be real penalties for bad actors who pursue consumers without any real proof that they owe a debt. And there should be incentives for consumers who owe debt to pay it.

HB 2252 is very good and important legislation that will impact positively impact hundreds of thousands of Oregonians.