



## Testimony in Support of HB 2356

Submitted by Shamus Lynsky,  
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Chair Holvey and Members of the House Committee on Business and Labor,

I am writing today on behalf of Oregon consumers to encourage you to vote yes on HB 2356 to protect Oregon consumers from negligent debt buyer/collector practices.

### **The problem:**

The whole business model of the debt buyer industry is to buy delinquent and/or charged-off debt from a creditor or lender for a small fraction of the value of that debt and then, in turn, try to collect as much of that debt as possible to maximize profit. The problem occurs when the debt buyers hastily file lawsuits without ensuring the person they are suing is the right person or actually owes the debt. Unfortunately, this leads to too many Oregonians improperly having their wages garnished or liens put on their property.

This issue is widespread enough that a couple of years ago the Consumer Financial Protection Bureau (CFPB) stepped in on behalf of consumers to reign in a couple of the larger nation debt buying companies. The CFPB found that Encore Capital Group and Portfolio Recovery Associates “bought debts that were potentially inaccurate, lacking documentation, or unenforceable.” And then, “without verifying the debt, the companies collected payments by pressuring consumers with false statements and churning out lawsuits using robo-signed court documents.”<sup>1</sup>

Richard Cordray, the CFPB's director stated, “Encore [Capital Group] and PRA [Portfolio Recovery Associates] collected debt by suing large numbers of consumers in state courts across the country, knowing that they would win the vast majority of the lawsuits by default when consumers failed to defend themselves. For many of these lawsuits, the companies had no intention to prove the debt was valid if consumers contested it, and they made little or no effort to obtain the documents to back up their claims.”<sup>2</sup>

### **HB 2356 is a step in the right direction to fix this:**

HB 2356, with the -1 amendments, will require debt buyers to file an affidavit with the court before receiving a default judgement stating they have “personal knowledge” of the documents that prove the person they are suing is the correct person and the debt is theirs.

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<sup>1</sup> “CFPB Takes Action Against the Two Largest Debt Buyers for Using Deceptive Tactics to Collect Bad Debts”, [consumerfinance.gov](http://consumerfinance.gov), 2015, September 9.

<sup>2</sup> Bater, Jeff & Bruce, Chris. “CFPB Cracks Down on Debt Collectors in \$79 Million Settlement”. *Bloomberg BNA*. 2015 September 10

This is a step in the right direction, in that currently there is no requirement for debt buyers to state they are certain the person they are suing is the right person and that that person owes the debt. However, the Oregon Consumer League is concerned that the amendments to HB 2356 do not require the underlying documentation for the debts be provided at any stage of the lawsuit, as is the recommended practice of the CFPB.

HB 2356 also makes it an unlawful debt collection collection practice (ORS 759.720) if the debt buyer or debt collector acting on behalf of a debt buyer tries to collect a debt without the proper documentation stating that the debt is collectable and the defendant is the actual person who owes the debt. We appreciate that HB 2356 and the -1 amendments give Department of Consumer and Business Services and Attorney General's office the mechanism to enforce adherence to the regulations set forth in the bill.

The Oregon Consumer League will continue to work with stakeholders and be watching the progress of the bill to ensure the final bill strengthens consumer protections.

Please vote **YES on HB 2356** to protect Oregon consumers.