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S.B. 911 -- Banking Department regulation of licensees

Banks Committee public hearing -- March 7, 2013

Testimony of Raphael L. Podolsky

Recommended Committee action: SUPPORT WITH AMENDMENT

This bill strengthens the Banking Commissioner's ability to regulate various entities that deal with consumers, including mortgage servicers and debt buyers. We support the licensing of mortgage servicers in Sections 20 through 37 of the bill and the licensing of debt buyers in Sections 44 through 49 of the bill. In regard to debt buyers, we urge the Committee also to adopt H.B. 6173, which significantly strengthens the substantive rules that are required of debt buyers and gives a greater level of protection to consumers facing collection lawsuits brought by debt buyers.

The debt buyer provisions of S.B. 911 should be viewed as an addition to, not a substitute for, H.B. 6173. The proper approach is to adopt both S.B. 911 and H.B. 6173 and to make certain that their provisions are integrated with each other. Because a debt buyer purchases the debt, it becomes its owner and is thus a creditor who is collecting its own debt. Because it did not originate the debt, however, it is also much like a collection agency. Under existing law, debt buyers are already subject to the Connecticut Creditors' Collection Practices Act (CCPA), a regulatory statute that has no licensing provision. They should remain subject to that act. It makes sense to impose special consumer protection requirements on them, as is done by H.B. 6173, because they have no direct knowledge of the original debt and their right to sue on someone else's debt must be properly proven. In addition, it is very desirable for the Banking Commissioner to have both regulatory power over their practices as creditors and also licensing power, which allows the Commissioner to use license suspension or revocation as an enforcement mechanism. The Consumer Collection Agency Act (CCAA) is an appropriate statute under which they can be licensed.

As a result, we urge the Committee to approve both S.B. 911 and H B. 6173, making clear that debt buyers are subject to licensure under CCAA and regulation under both CCAA and CCPA.