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Testimony of Raphael L. Podolsky Banks Committee public hearing -- February 14, 2013

S.B. 11 -- Reordering of transactions to maximize overdraft fees SUPPORT

This bill would prevent banks from processing large checks before small checks in a way that maximizes the number of checks rejected for insufficient funds. This has become a significant national issue, as regulators have become more aware of the impact of so-called "high-to-low" check clearing practices. The National Consumer Law Center has characterized overdraft fees as "the most expensive form of predatory credit in existence" and has testified to the Board of Governors of the Federal Reserve System that the average overdraft is \$17 while the average overdraft fee is \$34. High-to-low clearance creates unnecessary overdraft fees. S.B. 11 represents an important protection for consumers and should be adopted.

H.B. 6173 -- Debt collection practices SUPPORT JF SUBSTITUTE

This bill requires that (1) collection agencies be regulated as creditors and (2) creditors be required to prove the existence of the debt. We believe that H.B. 6173 correctly identifies an important issue but does not produce the right solution. We urge the Committee to substitute the comprehensive "debt buyer" language being submitted to the Committee by the Connecticut Public Interest Research Group (ConnPIRG).

H.B. 6173 recognizes the problem of third parties, such as collection agencies, attempting to enforce and collect on debts owed to a creditor. Collection agencies cannot be regulated as creditors, however, because they do not own the debt. In recent years there has, however, been an upsurge in the debt buyer industry. Debt buyers are entities similar to collection agencies but, instead of collecting someone else's debt, they buy the debt at discounted prices -- sometimes at pennies on the dollar -- and sue on the debt in their own name. In fact, because their ownership of the debt makes them a creditor, they are already covered by the Connecticut Creditors' Collection Practices Act (36a-645 et seq.). The debts on which debt buyers sue tend to be old (sometimes beyond the statute of limitations), often with minimal information about the debt in the file and little documentation of the debt itself or of payment records. The industry commonly relies on the high default rate in collection cases, so that its claims are rarely challenged. In addition, debt buyers often engage in aggressive debt collection tactics, even when they know that the claim is stale or that they cannot properly prove it.

The ConnPIRG proposal would work within the framework of the Creditors' Collection Practice Act to establish clear proof requirements and sanctions in debt buyer litigation. We urge the Committee, if it drafts H.B. 6173, to use the language of the ConnPIRG proposal.