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S.B. 1121 -- Post-judgment interest

Judiciary Committee public hearing -- April 1, 2013

Testimony of Raphael L. Podolsky

Recommended Committee action: REJECTION OF THE BILL

The purpose of this bill is to overturn the Connecticut Supreme Court's decision in Ballou v. Law Offices of Howard Lee Schiff, P.C., 304 Conn. 348 (2012). More specifically, the bill would require the award of 10% interest on all judgments paid in installments and would effectively override the long-established rule that the award of post-judgment interest is equitable in nature and therefore within the discretion of the Superior Court. The bill would give an undeserved bonus to credit card companies and similar debt collecting entities at the expense of hard-pressed consumers, including those who are paying on a judgment against them. We oppose this bill and believe that the Ballou decision should stand.

- The award of post-judgment interest is discretionary: This long-standing rule was confirmed in Ballou.
- The doctrine protects the ability of courts to assure fairness: While courts commonly award post-judgment interest, they sometimes deny such interest for unfairness, e.g., where the creditor itself has delayed collection of the debt or where the contract interest rate is exceptionally high.
- Judicial discretion should not be denied regarding installment payment orders when it is available for other judgments. Such discrimination makes little public policy sense, since installment orders, which are available only against individuals (not businesses), are usually intended to recognize the more limited ability of individuals to make lump-sum payments. If anything, it is more important that post-judgment interest not be automatic and not be set at the highest legal rate when it is an individual who is the defendant.
- The bill is in direct conflict with other statutes: The mandatory 10% interest rate imposed by this bill directly conflicts with the 5% rate for hospital bill judgments under C.G.S. 37-3a(b).
- In light of current interest rates, the imposition of a non-discretionary 10% interest rate on installment judgments is unfair and unreasonable. It is nearly 100 times the rate that the legislature requires homeowners and tenants be paid for escrow deposits held by lenders or landlords. See C.G.S. 49-2a(c) and 47a-21(i)(2), which are currently set at 0.11%. If the statutory post-judgment interest rate is to be modified, the rate itself should be set at no more than 3%, and any such award should continue to be discretionary.