

Legal Assistance Resource Center

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S.B. 225 -- Creditors' Collection Practices Act

Banks Committee public hearing – February 25, 2014

Testimony of Raphael L. Podolsky

Recommended Committee action: APPROVAL WITH ADDITIONAL SECTION

This bill, as drafted, amends C.G.S. 36a-648 to conform the standard of proof under the Connecticut Creditors' Collection Practices Act (CCPA) to the equivalent language in the federal Fair Debt Collection Practices Act.** This would make clear that what the victim of unfair or abusive debt collection practices must prove is violation of the act, not the monetary value of the harm caused. The federal act clearly recognizes the difficulty of proving a specific dollar value for harm from abusive debt collection practices, especially if the debtor is not fired from a job or does not require medical treatment (e.g., for stress or anxiety). Violating the act, by definition, causes harm.

It is my understanding that the draft of this bill erroneously omitted a second section to amend the definition of "creditor" in C.G.S. 36a-645 so as to preserve consumer remedies against "debt buyers" under the CCPA. We ask the Banks Committee to add that section back into the bill. This change is incorporated into LCO #1616, which I believe is available at today's hearing. Debt buyers, unlike traditional collection agencies that collect debts for others, are creditors that buy up old uncollected debts, often at pennies on the dollar, and sue in their own name. They are thus both collection agencies and creditors. Because they are creditors, they were under the CCPA and thus subject to C.G.S. 36a-648, which gives the victim of abusive creditor collection practices the right to sue and allows the court to award minimum damages of up to \$1,000, plus attorney's fees. Traditional collection agencies have always been exempt from the CCPA because they are not creditors. Last year, the General Assembly adopted S.B. 911 (P.A. 13-253), which requires debt buyers to be licensed as collection agencies. Unfortunately, because of the wording of C.G.S. 36a-645, a collateral effect was to remove them from the CCPA, even though they are also creditors. The victims of their abusive practices thus lost their statutory right of action.

The proposed substitute bill would restore that cause of action to victims of improper debt buyer collection practices by limiting the exemption from the CCPA to traditional collection agencies, i.e., those that collect debts for a third party and not for themselves. It would not change the new licensing requirement for debt buyers. We urge the Banks Committee to make this provision part of the bill.

*** The equivalent federal language in 15 USC 1692k(a) provides that "...any debt collector who fails to comply with any provision of this title with respect to any person is liable to such person..." S.B. 225 places that wording into the state act.*