

THE CANNELLA LAW FIRM, LLC

1127 High Ridge Road, #221, Stamford, Connecticut 06905
203-231-4505cannellaw@gmail.com

Banks' Committee Public Hearing

February 25, 2014

RE: Opposition to Proposed Substitute Bill No. 225

AN ACT CONCERNING CONSUMER REMEDIES AGAINST DEBT BUYERS

**Testimony of Attorney Renée Cannella of the Cannella Law Firm,
Stamford, CT in Opposition to Proposed Substitute Bill No. 225**

Chairman Leone, Chairman Tong and Members of the Committee:

I am a solo practitioner in Stamford. I practice primarily in the area of debt collection. I am also a member of the Connecticut Creditor Bar Association.

I am opposed to the proposed bill for two reasons, (1) it attempts to carve out a definitional exception to specifically include debt buyers and (2) it creates strict liability in a statute which was not initially contemplated as a strict liability statute as evidenced by the language of the law.

Just last session the new licensing provision was passed requiring debt buyers to obtain licenses as collection agencies effective October 1, 2013 which places them under the Consumer Collection Agencies Act (§36a-800, et seq.). This recent change positions debt buyers under the watchful eye and regulatory ambit of the Department of Banking. By definition a collection agency is not a creditor. The proposed language seeks to carve out a definitional exception for debt buyers and make them liable under both the Consumer Collection Agencies Act as well as the Creditors Collection Practices Act. Before yet more laws are promulgated or revised it would seem to make sense to first allow some time to see how the licensing requirement effectively regulates the debt buyer population.

I am of course opposed to rogue, illegal practices of anyone engaging in collections activities as it is deplorable and also negatively affects the entire profession. But broadening laws is not the answer. There are already laws in place which address situations in which a collector uses "abusive, harassing, fraudulent, deceptive or misleading" practices in order to collect a debt. The federal Fair Debt Collection Practices Act provides remedies with strict liability for consumers so affected. Removing the language in section 36a-648(a) which states that a creditor is liable to "a person who is harmed by such conduct" and replacing it with the language "with respect to any person" in effect turns the statute into one of strict liability which is usually reserved for very circumscribed areas of the law. In fact, so far as I can tell, right now there are only five statutes¹ which provide for strict liability on the books in our state and the necessity to add another one should be very narrowly construed. In this case there is no such necessity as consumers already have such remedies under Federal law and if they can show actual harm they have a remedy under our existing state law.

Thank you for your consideration.

¹ (1) CGS §52-571f-anyone who sells, delivers or otherwise transfers a firearm to a person knowing that such other person is prohibited from possessing such a firearm is strictly liable for the injury or death of another person resulting from the use of the firearm; (2) CGS §52-571g-anyone whose act or omission constitutes a failure to securely store a loaded firearm is strictly liable for damages when a minor obtains a firearm and causes injury or death; (3) CGS §52-572-parents or guardians of a minor who willfully or maliciously cause damage to property or injury to any person, or take a motor vehicle without the owners permission, cause damage to the motor vehicle, are jointly and severally liable with the minor for the damage . . . (4) CGS §52-561a-owner or keeper of domestic fowl who allows them to trespass upon the premises of another person is liable to the owner or occupant for all damage caused by the fowl and (5) CGS §22-357- "dog bite statute"- owner or keeper of a dog is liable for damage done by the dog except when the damage was sustained by a person who was committing a trespass or other tort or was teasing, tormenting or abusing the dog.