



Joint Committee on Financial Services
S. 120/H. 2811, *The Debt Collection Fairness Act*
September 25, 2017
Testimony of Max Weinstein, Chief, Consumer Protection Division
Office of the Attorney General

Chairman Eldridge, Chairman Michlewitz, members of the Committee, thank you for the opportunity to testify today. My name is Max Weinstein, and I am Chief of the Consumer Protection Division in the Office of Attorney General Maura Healey. I am here today to express the Attorney General's support for the Debt Collection Fairness Act, filed by Chairman Eldridge and Representative Brodeur.

The Attorney General has made protecting the economic security of Massachusetts families a central strategic priority of her office. Addressing unlawful and unscrupulous debt collection practices is an essential component of that effort. Our recent enforcement actions include a \$1-million-dollar consent judgment against the largest debt collection law firm in the Commonwealth, as well as \$1.4 and \$2.4 million dollar settlements against a mortgage loan servicer and a student loan servicer for violations of the Attorney General's debt collection regulations. Ongoing matters include a case against a Lowell attorney who has been preliminarily enjoined from threatening debt collection defendants with arrest and jail-time for failure to pay ambulance bills.

Based on our experience enforcing the Commonwealth's consumer protection laws, the Attorney General's Office has identified a number of troubling patterns within the debt collection industry. First, thousands of debt collection cases filed in Massachusetts are based on hopelessly insufficient documentation. Second, debt collectors routinely abuse the judicial process to intimidate and coerce consumers into paying debts they have no legal obligation to pay. The Debt Collection Fairness Act addresses both issues directly.

Debts that are in collection are typically very old. Debt buyers frequently pursue consumers years, and sometimes even decades, after the consumer actually obtained credit in the first place. By this time, debt buyers frequently lack any records or documentation that would establish the existence and accuracy of their claims. Debt buyers often purchase enormous portfolios of distressed debts cataloged on simple spreadsheets and process thousands of consumer accounts for collection and litigation in a single day. These records are often inaccurate, unverified, or incomplete. As a result, debt collectors pursue consumers for debts they do not owe, seek to collect more than a

consumer actually owes, or seek to collect on debts that are so old that they are barred by the statute of limitations.

The Debt Collection Fairness Act would prevent such stale and inaccurate claims from being filed in our court system by requiring that collection lawsuits be brought within four years of a debt being charged off by the original creditor. Additionally, the Act would prohibit collectors from extending the life of old debts by coercing consumers into making small, nominal payments. By placing a definite limit on the length of time available to debt collectors to bring their case to court, the Act would reduce the number cases brought with incorrect or inadequate documentation.

The Act would also curb unscrupulous debt collectors that use the judicial process and the threat of civil arrest or “capias” warrants as a way to intimidate and harass consumers into making payments on debts that they have no legal obligation to pay. Consumers whose only source of income is social security, unemployment insurance, or other types of income that are legally exempt from court-ordered payment are none-the-less so terrified by the prospect of a civil arrest warrant that they pay money to creditors that they actually need for food or medicine.

Our office has spoken with hundreds of predominantly elderly, poor and disabled consumers who were terrified by the prospect of a civil arrest warrant. Consumers who have to confront a debt collection lawyer face-to-face without the benefit of representation are often confused about what a capias warrant is and what the judicial process entails. Many will agree to pay anything simply to stave off what they perceive to be the threat of jail.

The Debt Collection Fairness Act would prevent abuse of the judicial process by limiting the circumstances in which debt collectors may seek a capias warrant for civil arrest, which frequently serve only to confuse and strike fear in vulnerable consumers. The Act would give consumers the option of providing an updated financial affidavit in lieu of appearing in court for a payment review hearing and only those consumers who have a clear ability to pay their debts from non-exempt income would be forced to appear in court by way of a capias warrant.

Finally, the Act would provide desperately needed relief to the poorest and most vulnerable Massachusetts citizens. Presently, our law exempts wages \$550 or less per week from garnishment by debt collectors. Wage garnishment is an extraordinarily powerful legal remedy that Massachusetts provides to creditors and debt collectors, but many states do not allow for wage garnishment at all. This powerful tool should be balanced against the needs of low income and poor families and available only in circumstances where it doesn't threaten to take food off the table or cause housing instability.

The Act would raise the amount of wages exempt from collection to \$990 per week. For the sake of comparison, according to the U.S. Department of Housing and

Urban Development, the fair market rent for a two-bedroom apartment in the Boston metro area is \$1,549 per month.

Passing the Debt Collection Fairness Act will save the judiciary time and money by keeping stale cases out of our courts, curb the abuse of the judicial process, and provide needed relief to the state's poorest residents. We urge the Committee to report the bill out favorably. Thank you again for the opportunity to testify before you today. As always, the Attorney General's Office is ready and available to work with you and your staff on this important legislation and to answer any questions that you may have.