

HB 2356 A STAFF MEASURE SUMMARY

House Committee On Business and Labor

Action Date: 04/14/17

Action: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)

Vote: 8-0-1-0

Yeas: 8 - Barreto, Bynum, Doherty, Evans, Fahey, Hack, Holvey, Kennemer

Exc: 1 - Heard

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Jan Nordlund, LPRO Analyst

WHAT THE MEASURE DOES:

Establishes required content of initial pleading provided by debt buyer or debt collector on behalf of debt buyer bringing legal action to collect debt. Establishes required content of affidavit debt buyer or debt collector on behalf of debt buyer must provide when seeking default or summary judgment. Prohibits court from entering judgment if debt buyer or debt collector on behalf of debt buyer does not comply with these requirements. Allows debt buyer or debt collector on behalf of debt buyer to obtain attorney fees only under specified circumstances. Requires debt buyer or debt collector acting on debt buyer's behalf to provide requested documents to debtor within 30 days. Modifies what constitutes an unlawful collection practice. Requires debt buyer to be licensed by Department of Consumer and Business Services. Requires debt buyer to maintain principal place of business in Oregon and registered agent in Oregon. Allows Department to investigate and initiate administrative proceedings regarding debt buyers. Requires Department to notify Attorney General when there is reason to believe person has conducted unlawful collection practice. Allows Department to take enforcement action if Attorney General or Department of Justice do not respond within 45 days of notification and allows these two agencies to cooperate in enforcement action. Specifies that other than for specified exceptions, Act applies to debts sold or resold before, on or after operative date of January 1, 2018.

ISSUES DISCUSSED:

- Number of complaints received at Department of Justice regarding debt collection
- Work group efforts
- Business model of debt buyers
- Impact of default judgments and garnishments
- Importance of requiring debt buyer to prove debt exists
- Recent improvements to professional standards made by Debt Buyers Association

EFFECT OF AMENDMENT:

Replaces original measure.

BACKGROUND:

Debt collection practices are governed by both federal and state regulations. In Oregon, the statutes defining unlawful collection practices apply only to debt collectors and not debt buyers. Unlike a debt collector who collects a debt on behalf of a creditor, the debt buyer owns the debt and is collecting on their own behalf. Collection practices are enforced by the Attorney General and the district attorneys. Anyone injured as a result of an unlawful collection practice may bring an action in court to enjoin the practice and to recover actual damages or \$200, whichever is

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greater. The court or the jury may award punitive damages, and the court may provide equitable relief and award attorney fees to the prevailing party.

House Bill 2356-A requires debt buyers to be licensed by the Department of Consumer and Business Services. The measure requires a debt buyer, or a debt collector acting on their behalf, who brings legal action to collect a debt to state, in a pleading, specified information that makes it clear to the debtor exactly what debt is being collected. If the debt buyer, or debt collector acting on their behalf, seeks a default or summary judgement, they must provide an affidavit which provides specified information. The measure also expands what constitutes an unlawful collection practice.