Please Oppose House Bill 2008

Chair Holvey, Vice-Chair Elmer, Vice-Chair Sosa and Members of the House Committee on Business and Labor, thank you for the opportunity to provide written testimony with respect to House Bill 2008. The Oregon Bankers Association represents the diverse FDIC banks and trust companies doing business in Oregon. The banking industry employs over 20,000 Oregonians at approximately 800 locations throughout our state. We are highly regulated and provide safe and trusted banking services to individuals, families, businesses, agriculture interests, and government entities. We lend billions of dollars annually, whether to a first-time homebuyer or a city infrastructure project. Our banks truly are the cornerstones of their communities.

We are concerned about a variety of provisions in House Bill 2008 and the negative impact adoption of the bill, as drafted, will likely have. Businesses, individuals, and governments, as well as banks and their customers, will all be harmed by passage of HB 2008 as the likelihood of recovery of unpaid obligations diminishes. For banks, House Bill 2008 will impact the cost of credit and its availability in Oregon. As the potential risk of not being able to collect on an unpaid loan increases, so will the cost of the loan. Banks will have to factor collection risk into the cost of a loan, making lending more expensive.

While OBA has many concerns with the bill, the following is a non-exhaustive list of issues that are particularly troublesome:

- Homestead Exemption (Section 4): The bill calls for a substantial increase in the amount of the homestead exemption. While Oregon's homestead exemption has not increased in several years and may need adjustment, the bill could have the effect in some circumstances of making 100 percent of a homestead exempt from collection. In addition to this unprecedented increase in the amount of the exemption, the bill also replaces a specific homestead exemption amount with an unwieldy formula based on undefined "valid and reputable" housing price sources.
- Financial Institution as Garnishee (Section 7): As a general matter, the bill should not modify the mechanics of existing garnishment law that a bank must comply with. Section 7 as drafted is confusing. The bill appears to create a $12,000 bank account garnishment exemption. There are concerns with how this minimum exemption would work, as well as concerns with identifying funds and the potential for multiple look backs at the account to properly identify funds. What if a debtor has multiple accounts? How would this new rule apply?
- Exemptions (Section 1): As noted above, the bill provides for considerable increases in the current levels of many exemptions. This could have the practical effect of making many debtors judgment proof, thus driving up lending costs. While we will not cite an exhaustive list of challenges with each exemption, one of the new exemptions created by the bill exempts

proceeds from SBA loans and other sources supporting small businesses (Section 1(1)(a)(N)). The new exemption is very broad and it is unclear why this exemption has been added.

- Wage Exemptions (Section 3): The wage exemption amounts in the bill are approximately three times the current level that were last updated in 2019. If an increase in the threshold is necessary it should be a cost-of-living adjustment, rather than a tripling of the current amount.
- Statute of Limitations and Debtor Claims (Section 13): This section increases the statute of limitations for unlawful collection practices from one year to six years, an unreasonably lengthy extension of the statute of limitations. The bill also permits class actions, increases the level of statutory damages, and provides for the recovery of punitive damages. Not only is there no safe harbor provision for good faith and inadvertent mistakes, but a prevailing creditor is unable to recover its attorney fees unless there is a finding by a court that there was no objectively reasonable basis for the debtor to bring the action. These provisions should be removed.

In addition to the above, passage of House Bill 2008 without amendments could lead to unintended consequences. There are no exceptions for judgments obtained because of actors who engage in fraud or elder abuse. For example, a person could steal $12,000 from an elder parent, put it in an account, and that amount would not be subject to garnishment if the elder parent obtains a judgment against the individual. Another issue is that the new exemption levels currently in the bill could attract debtors to Oregon seeking to shelter themselves from debt collection elsewhere. Finally, given the confusion with changes to existing and new provisions in the bill, it is likely some of these issues may be subject to judicial challenge.

While we are opposed to the bill as drafted, we stand ready to work with the Speaker, Senate President, and others in the legislature, as well as other stakeholders, to find common ground on this important issue.

<u>We Urge You to Oppose House Bill 2008 as Drafted</u>

If you have questions, please contact John Powell (503) 510-8758 or Tim Martinez (503) 510-9019.