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To: House Committee on Business and Labor
From: Sybil Hebb, Oregon Law Center
Date: March 8th, 2023
Re: Support HB 2008, Family Financial Preservation Act

Dear Chair Holvey, Vice-Chairs Elmer and Sosa, and Members of the Committee:

On behalf of the Oregon Law Center, thank you for the opportunity to submit testimony in support of HB 2008, the Family Financial Preservation Act. This bill will improve our state's unlawful debt collection practices act and modernize and update our garnishment protection statutes. The bill will protect against abusive debt collection practices and will ensure a realistic pathway for families to recover following unexpected financial hardship. Thank you to Speaker Rayfield, President Wagner, and all of the sponsors for bringing this bill forward, and to the Committee for your work.

The Oregon Law Center is a non-profit law firm whose mission is to achieve justice for low-income communities of Oregon by providing a full range of the highest quality civil legal services. Our clients are low-income individuals who fall within 125% of the federal poverty level. Our clients work hard to provide the basic necessities for themselves and their families. As the cost of living has continued to rise in our state, and as the housing crisis has deepened, more and more of our clients are struggling and have incurred debt to cover the cost of essentials, like medical care, school, rent and food.

I am submitting this amended testimony to include 2 examples of client stories illustrating the need for swift action to better reign in abusive practices and to update our current exemption laws:

Our client had medical debt from taking his child to the emergency room when she was having a severe asthma attack. The debt was an illegal debt to begin with. It should have been billed to Medicaid but wasn't, and the Dad tried everything he could think of to get the hospital to stop collecting from him and to bill OHP, but was unsuccessful. The debt was sent to collections, and the Dad got a summons to go to court about the debt. English was not his first language, he did not understand the notices well. He sought our help. Only because we intervened, was he able to avoid a default judgment against him. His daughter knew that he got a court summons because of debt from her visit to the hospital, and she was so afraid she was the cause of her Dad getting in trouble that she didn't ever want to get medical care again, for fear she would cause the family more debt and harm.

Another client was a single mother of four young children and the sole income earner for her family. She was working for about \$14/hour at a fast-food restaurant in a mall, when her wages were garnished. She struggled to make ends meet for her family before garnishment; suffering garnishment of a significant % of her take-home pay left the family going to food pantries and unable to make ends meet. The garnishment plunged the family deeper into poverty, with a significant negative impact on our client and her children, making it more likely she would need to take on additional debt and less likely she could keep up with her expenses moving forward.

HB 2008 is necessary legislation to protect the well-being of Oregon communities while allowing for reasonable business practices. In summary, HB 2008 will:

- **Ensure that Oregonians have adequate protection against unlawful debt collection; and**
- **When debt collection is lawful, provide updated and modernized garnishment protections to ensure that consumers can continue to meet basic needs for themselves and their families while paying off their obligations.**

As more consumers have been forced to take on debt to cover basic needs, debt collection actions have also surged. A [recent study](#) conducted by national non-profit Dollar For showed that in 2022, there were 27,133 consumer debt collection or debt buyer cases filed in Oregon’s Small Claims court. More than half of this debt was likely medical debt.¹ In as many as 25,116 cases, judgments were awarded by default, meaning that debtors never had a chance to defend themselves and may not have even have known about the suits against them. And in 5,390 of the consumer debt or debt buyer cases, the collector sought to withhold funds from the debtor’s bank account or wages.²

Race contributes to whether households have debt, and our current lack of consumer protections contribute to the economic and racial inequality in our state.³ In Oregon, communities of color across the state experience [double the rate of debt in collections](#) (35%) than white communities (16%).⁴ Due to redlining, discrimination, and other systematic lack of access to opportunities for owning and maintaining assets (such as a home that can appreciate over time and build equity), communities of color tend to have higher rates of consumer debt than white communities.⁵ And borrowers of color are disproportionately pursued by creditors. Creditors call borrowers of color nearly twice as frequently as they call White borrowers, despite similar rates of default and late payments.⁶

Our current laws also disproportionately impact rural Oregonians. In 2022, Malheur (31%) and Klamath (26%) Counties had the two highest share of households in debt collection actions, followed closely by Sherman (25%), Lake (24%), Jefferson (23%), Baker (21%), and Umatilla (21%).⁷

The practice of debt collection impacts a growing number of Oregonians and we must ensure adequate protection against unlawful collection practices. HB 2008 proposes a long-overdue improvement to our Unlawful Debt Collection Practices Act (UDCPA). Some of HB 2008’s key provisions improving the UDCPA include:

Fixing a current loophole that prevents consumers from challenging debt falsely attributed to them or for the wrong amount. Existing case law is contradictory and makes it hard for consumers to hold collectors accountable for pursuing them for debts that do not exist or that are for more than they are owed. Section 12(1)(s) of the bill clarifies accountability for an unlawful collection practice if someone is taken to collections over debt that does not exist. Collections

¹ https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf

² https://dollarfor.org/wp-content/uploads/2023/02/PointlessDebt- OregonReport_DollarFor.pdf

³ <https://www.urban.org/urban-wire/past-due-medical-debt-problem-especially-black-americans>

⁴ <https://apps.urban.org/features/debt-interactive-map/?type=overall&variable=totcoll&state=41>

⁵ <https://www.americanprogress.org/article/eliminating-black-white-wealth-gap-generational-challenge/>

⁶ https://www.aspeninstitute.org/wp-content/uploads/2021/09/ASP-FSP_DebtCollectionsPaper_092221.pdf

⁷ <https://apps.urban.org/features/debt-interactive-map/?type=overall&variable=totcoll&state=41&county=41045>

and garnishment can have a devastating impact on a person's ability to access housing, employment, or credit – these cases ought not to be taken lightly and collectors should be accountable if they pursue the wrong person or more than they are owed.

Over the past five years, Oregonians have filed [more than 1,300 complaints](#) with the federal Consumer Financial Protection Bureau related to unfair debt collection practices. More than half of these complaints related to creditors attempting to collect debt that was not owed or to collect the wrong amount. However, right now, Oregon law doesn't offer consumers a clear path to resolve these debts that are not owed.

Extending the timeframe to seek justice. Section 13 of HB 2008 extends the statute of limitations to six-years after discovery of the violation. This extension ensures that consumers who were pursued for an incorrect amount, or were sued for a debt they did not owe, have time to discover their claims and find a remedy. The significant number of default judgments cited above indicates that many consumers may not initially know of the cases pursued against them, and this is more likely when the case was for an incorrect amount or was filed against the wrong person.

Removing barriers to justice by ending consumer liability for pushing back against unlawful debt collections. The current law puts consumers at extreme financial risk for trying to defend themselves against unlawful debt collection practices, and is thus an access to justice issue. Any consumer who has suffered an unlawful practice must decide whether the violation is worth the risk and inconvenience of pursuing justice. Under current law, a consumer must also factor in whether they can afford to pay the cost of the business or corporation's attorney fees if the case is decided against the consumer. With corporate lawyers charging hundreds of dollars an hour, these costs can quickly reach or exceed triple digits. A consumer who was unlawfully pursued for perhaps several hundred dollars must weigh the risks and benefits of pursuing justice, and most cannot afford to take the risk. While a few hundred dollars unlawfully pursued in collection can have a major impact on whether or not a family can make rent or buy groceries, few can afford the risk of trying to reclaim their money, because the cost of a potential loss would be too great.

The bill would update our UDCPA statute to be consistent with other consumer protection statutes that ensure consumers can bring good faith cases without extreme risk. Under HB 2008 Section 13, consumers would be forced to pay corporate attorney fees only if their claim was objectively unreasonable. This is sound public policy and would increase access to justice for low-income Oregonians for whom violations, under current law, go unpunished. Without this change in the law, small violations can impact thousands of people a year, and bad actors can accrue profits based on violations without accountability.

Increasing the minimum penalty for committing an unfair debt collection practice. Section 13 of the bill increases the minimum penalty for a violation from \$200 to \$1,000. The purpose of a minimum penalty is to act as a deterrent to bad actors, and to encourage compliance. The current minimum penalty is so small that it fails to act as a deterrent and has not been updated in decades.



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We must also ensure that when lawful debts are collected, those collections can proceed while also ensuring a realistic pathway for families to recover after an unexpected financial hardship. Long-standing statutes in Oregon and across the nation have recognized the need for a balanced garnishment protection structure. Oregon's statutes on this topic are outdated and the National Consumer Law Center recently assigned Oregon a D rating, lagging behind Colorado, Florida, and Texas, among other states. Amendments and updates to our garnishment protection statutes are needed, to protect consumers' ability to pay their debts while continuing to work, maintain their housing, and keep food on the family table, without being pushed further into a cycle of debt and poverty.

Key garnishment protection provisions of HB 2008 will:

Protect a living wage. Under current law, workers can have 15% of their take-home pay garnished, with financial hardship protections only for people who earn less than \$300 per week. Taking 15% of the pay from a family living paycheck to paycheck can mean eviction, hunger, or inability to pay for an essential medication or a pair of shoes for a growing child. Garnishing to this extent can leave households destitute, and is not only damaging but counter-productive. Section 3 of HB 2008 raises the protected amount to \$1,000 per week. This amounts to leaving a family of three with enough money to exist at approximately 200% of the federal poverty level. Higher wage earners will have more of their disposable earnings garnished. The bill's approach ensures lower income families aren't pushed into crisis or even homelessness by debt collection, while recognizing that higher earners may be able to afford to have more wages seized.

Protect the ability to work, get to school, and take care of the family. HB 2008 ensures that a working car, work tools, and work equipment are better shielded from debt collection seizures. This protection ensures that families can keep food on the table, take care of their families, and continue to earn a living, helping to maintain stability while also protecting the ability to keep paying on lawful debts owed.

Protect housing. The bill will update the current and outdated homestead exemption from \$40k (single) to the median home value in the county where the home is located. It is contrary to the public interest to allow debts to displace people from housing, especially at the height of the housing crisis when vacancies and alternate housing availability are virtually impossible to find and extremely expensive. Our current protection values are well out-dated, and HB 2008 would bring Oregon into line with many other states such as California, which protects \$300k or the median price with a cap at \$600k, and Massachusetts, Rhode Island, and Nevada which all protect a minimum of \$500k of value.

In summary, the Family Financial Protect Act of Oregon will provide much needed safeguards for the economic well-being of Oregonian consumers by protecting their ability to continue working, maintain housing, keep food on the table, and fight unfair debt proceedings. We have participated in several outreach conversations with interested parties, including state agencies, and have appreciated the helpful input we have received. We look forward to continued conversations to move this bill forward, and urge the Committee's support.

Thank you for the opportunity to submit testimony and for your service to Oregon communities.