



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: April 27, 2023

TO: Chair Fahey, Vice-Chairs Breese-Iverson and Kropf, and
Members of the House Committee on Rules

FROM: Kate Denison, Deputy Legislative Director
Oregon Department of Justice

SUBJECT: HB 2008 – Oregon Family Financial Protection Act

The Department of Justice supports measures that create equity and fairness in Oregon laws related to the collection of consumer debt and that provide greater financial stability for Oregon families. At the same time, it is important that the legislature carefully consider the impact of legislation on state agencies and the people they serve.

Support for Sections 12-15 of HB 2008

The Attorney General enforces the Oregon Unfair Debt Collection Practices Act (UDCPA) and supports long overdue changes reflected in Sections 12-15 of HB 2008 to strengthen that law, and to encourage private enforcement to address unfair debt collection practices. These updates align statutory damage awards with the amounts found in the federal Fair Debt Collection Practices Act. The updates also correct a lopsided statute of limitations provision so debtors will have the same amount of time to bring a claim as debt collectors (6 years). The bill also updates and aligns attorney fee provisions in the UDCPA with most state and federal consumer protection statutes.

These changes will provide consumers with the ability to assert their rights related to debt collectors' unlawful collection of "phantom debt" (debt that has been discharged, is time-barred or does not exist), and will encourage better overall enforcement of the statute. This is an area of law where consumers hold little power, and we strongly support empowering consumers with the ability to assert their rights. Underenforcement of consumer laws encourages bad actors to engage in profitable but illegal conduct.

Sections 1-10 of HB 2008

DOJ's Civil Recovery Section supports the work of the Oregon Child Support Program, other state agencies, and Oregon crime victims by assisting with the collection of restitution, child support, civil penalties, and other debts owed to the State of Oregon. Sections 1-10 of HB 2008 will impact this work. Note that our understanding is the proponents do not intend to impact collection of child support

or restitution for crime victims, so we are working with them to craft amendments to carve out child support and restitution from the changes in this bill.

While the dollar amount and facts of each case vary, the Civil Recovery Section handles a wide variety of cases where the state has obtained an order and the defendant refuses to pay. This includes civil penalties for environmental damage, discrimination, wildfires, taxes, fraud, breaches of contract and damage to state property. The changes in sections 1-10 of HB 2008 will limit the state's ability to recover in all types of cases, which in the past have included:

- Cases involving defendants who discriminated against members of a protected class, or committed wage theft;
- Environmental cases involving water, air, or other pollution where a person was found liable after litigation with the state or had civil penalties imposed by a state agency;
- Securities fraud where a defendant stole from her clients and used the stolen money to purchase real estate;
- Collecting against arsonists and others who caused wildfires; and
- Financial fraud cases where a person/business knowingly took advantage of a vulnerable consumer and the Attorney General held them accountable under the Unlawful Trade Practice Act.

DOJ fully supports the intent and spirit of this bill, which is to protect low-income Oregonians and provide greater financial stability for all. At the same time, we believe the legislature should be aware of potential unintended consequences, such as limiting the state's ability to collect its debts, including from bad actors.

DOJ has provided feedback to the proponents of HB 2008 regarding the impact of this legislation on our work. We are grateful for their willingness to respond to most of our concerns, particularly their commitment to limiting the measure's impact on our ability to collect child support and crime victim restitution.

The proponents are working on an amendment to HB 2008 that will include both technical and substantive feedback provided by DOJ. For that reason, we are neutral on Sections 1-10 of this bill.

Contact:

Kate Denison, Deputy Legislative Director, 971-599-9851, kate.e.denison@doj.state.or.us

Kimberly McCullough, Legislative Director, 503-931-0418, kimberly.mccullough@doj.state.or.us