

From: Richard Slottee
Date: February 7th, 2024
Re: Support SB 1595, Family Financial Protection Act

Chair Taylor, Vice Chair Bonham, and Members of the Committee:

My name is Richard Slottee. I am an attorney recently retired from Portland State University Student Legal Services. I was previously a Legal Aid Services attorney, and then Director of a teaching clinic for Lewis and Clark Law School. I am testifying, however, on behalf of myself. I have been representing low income Oregonians in consumer issues for more than 50 years.

The power dynamics between low income Oregon consumers and the debt collection/consumer credit industry, have always significantly favored the latter. Oregon enacted the Unlawful Debt Collection Practices Act in 1977 with the goal of protecting consumers from abusive collection practices. Wrongful collection actions can have significant negative impact on consumers – damaging credit, creating financial burden, and causing stress and embarrassment. Over the years since passage of the Act, it has become clear that there are several loopholes that prevent the Act from accomplishing its purpose, leaving consumers in Oregon vulnerable to abusive practices. Senate Bill 1595 with the pending amendments will address these loopholes, providing better protection for consumers.

- 1) Wrongful debt: One of the provisions in the original law was intended to prevent the inequity and unfairness that occurs from a debt collector filing a lawsuit when the collector knew or should have known that the consumer was not liable. Unfortunately, the Oregon appellate courts have interpreted the language of the current statute narrowly to exclude protection against this type of conduct, thereby frustrating one of the goals of the UDCPA. The current bill revising certain language in the UDCPA will make it clear

that a debt collector cannot file a legal action if they had reason to know the debt did not exist or was for the wrong amount.

- 2) Access to Justice: The Unlawful Trade Practices Act, the primary consumer protection statute in Oregon, relies in large part on consumers to be responsible for their own protection by seeking court assistance in the event of a violation. It does this by providing for the recovery of attorney fees by the plaintiff. If a consumer were at risk at being liable for attorney fees to the opposing party, even if a lawsuit was filed in good faith, the chilling factor would create a significant barrier to consumers exercising their rights under the statute. This would make it easy for abusive practices to go unchecked, undermining the very purpose of the law. The Unlawful Trade Practices Act addresses this issue by providing that a consumer will be required to pay attorney fees for the prevailing defendant only if the court finds there was not an objectively reasonable basis for bringing the action. This standard provides the right balance and removes a significant barrier to accessing justice.

The public policy principles also apply to Oregon's Unlawful Debt Collection Practices Act. However, the UDCPA does not currently contain a similar provision, but rather authorizes the award of attorney fees to the prevailing party, whomever that might be. The current law creates a significant barrier to justice and encourages abusive practices. This bill would remove the chilling effect of the current law by modifying the UDCPA's attorney fee provision to mirror that of the UTPA.

Thank you for considering my testimony.