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To: Senate Committee on Labor and Business
From: Sybil Hebb, Oregon Law Center
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Re: Support SB 1595, Family Financial Protection Act

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

On behalf of the Oregon Law Center, thank you for the opportunity to submit testimony in support of SB 1595, the Family Financial Protection Act. Improving Oregon's consumer protection and debt collection statutes through the modernization and expansion of existing laws, SB 1595 offers a practical route for families to recover from unforeseen financial challenges, avoiding the risk of being pushed deeper into a cycle of debt and poverty.

The bill comes before this Committee after significant work by many stakeholders over the interim, resulting in a pending amendment that crafts a balanced approach that will protect consumers from wrongful practices, protect low-income Oregonians from the financial devastation that can accompany garnishment, and ensure that businesses can proceed with reasonable collection practices. Thank you to Senator Gorsek and President Wagner and their staff for their work, and thank you to all of the stakeholders for their good faith participation in the negotiations.

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.

SB 1595 with the pending amendments is necessary legislation to protect the well-being of Oregon communities while allowing for reasonable business practices. In summary, the amended bill 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.**

I'd like to share two examples that illustrate the need for swift action to better protect against abusive practices and to update our current garnishment protection laws:

- 1) **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. Our client tried everything he could think of to get the hospital to stop trying to collect from him and to bill OHP for the covered medical expense. Despite this, the debt was sent to collections. Our client then repeatedly provided documentation to the collection agency that the debt was not his, and should instead have been billed to insurance. These efforts were also to no avail, and our client got a summons to go to court about the debt. English was



not his first language, and he did not understand the notices well. He sought our help. Only because we intervened, was our client 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 father 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. *Under the current Unlawful Debt Collection Practices Act, there is no means to hold either the hospital or the collection agency accountable for collection of a debt they each had documentation and reason to believe should not have existed. And in order to bring a UDCPA claim, the client would have to risk the threat of having to pay for the corporation's legal fees should he not prevail. If our client had not gotten help before a judgment was entered against him, his bank account and wages would have been garnished at extreme amounts, leaving him unable to care for his family or meet their basic needs.*

- 2) **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. *The current garnishment laws allowed all but \$254/week of our client's wages to be garnished. The purpose of protecting a minimum amount of wages in a debtor's paycheck is to encourage stability of employment and ability to maintain bare minimum needs. In today's economy, it is indisputable that \$254/week is insufficient to make ends meet.*

Sadly, these are just several of the many thousands of Oregonians who have faced or are facing similar circumstances. The abusive activity of one of the largest debt collectors in the nation presents a shocking example of how the current Oregon law does not provide adequate protections:

- The Consumer Financial Protection Bureau (CFPB) [took action recently](#) against Portfolio Recovery Associates for multiple violations: collecting on unsubstantiated debt, collecting on debt without providing required documentation and disclosures to consumers, suing or threatening legal action against consumers without offering or possessing required documentation, and suing to collect debt outside the statute of limitations.
- Oregon Judicial Department records show that Portfolio Recovery Associates is a frequent filer against Oregon consumers. A sampling from January 1, 2023 through March 24, 2023, revealed that Portfolio Recovery Associates filed at least **939** debt collection lawsuits against Oregon consumers in our state courts.
- A recent survey of Oregon consumers found that nearly three in ten (27%) had a debt collector attempt to collect payment for a debt that wasn't theirs. 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.

Collections 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.

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 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 Data shared with this committee earlier this year by the Urban Institute indicate that nearly 30 percent of households in communities of color in Oregon face debt in collections, compared with only 16 percent of those in majority-white communities. Jefferson County experiences the most significant racial disparities in the state with nearly half (49 percent) of residents in communities of color facing debt in collections, compared with 15 percent of those in majority-white communities.⁴

Our current laws also disproportionately impact rural Oregonians. The five counties with the highest share of debt in collections are Malheur, Klamath, Sherman, Lake, and Jefferson Counties. The share of households with debt in collections in these counties ranges from 31 to 23 percent. Malheur and Klamath Counties have the highest share of residents with medical debt in collections (21 and 13 percent, respectively).

SB 1595 as amended will provide solutions to these crises through the following key provisions:

Amendments to the Unlawful Debt Collection Practices Act:

Fix the current loophole that prevents consumers from challenging debt falsely attributed to them or for the wrong amount, when the collector knew or had reason to know that the debt was incorrect. 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. SB 1595 clarifies accountability for an unlawful collection practice if someone is taken to collections over debt that does not exist. The amended bill provides protection for consumers against abusive practices and also makes it clear that a debt collector may not be held liable if their action was due to a bona fide error.

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 [279488 \(oregonlegislature.gov\)](https://legislature.oregon.gov/bills/2023/279488)



Extend the time frame to seek justice. The bill will extend the statute of limitations to three years from the date of the incidence. 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 understand 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.

Remove 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.

Under SB 1595, consumers would be forced to pay corporate attorney fees only if their claim was frivolous. 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. 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.

Increase the minimum penalty for committing an unfair debt collection practice. 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.

Updates to our current economic protections from garnishment:

Protect a living wage. Under current law, workers can be left with only \$254 per week in take-home pay after wage garnishment. This is nowhere near enough to cover basic needs, and for a family living paycheck to paycheck garnishment 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. **SB 1595 as amended will phase-in increased wage protections so that by 2027, the amount exempted from wage garnishment will increase to the value of Oregon's standard minimum wage per week and be adjusted annually to keep up with inflation.** This protection will ensure that working Oregonians can make payments on their debts while still being able to meet basic minimum needs. 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



Oregon Law Center

WORKING TOGETHER TO ACHIEVE JUSTICE FOR LOW INCOME OREGONIANS

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debt collection, while recognizing that higher earners may be able to afford to have more wages seized.

Protect housing. The bill will update the current and outdated homestead exemption, which currently only allows the preservation of a home up to a value of \$40,000 for an individual and \$50,000 for a couple, to \$150,000 for an individual and \$300,000 for a couple. This prioritization of housing stability is appropriate in our housing crisis and is in keeping with better protections in many other states such as California, Massachusetts, Rhode Island, and Nevada which all protect a minimum of \$500k of value.

Protect savings in a bank account: The bill will help ensure that Oregonians can meet their basic needs while paying off legitimate debts, by protecting against the practice of wiping out someone's entire bank balance. The bill protects the first \$2,500 in a bank account, making it less likely that a consumer will be rendered destitute. With passage of this provision, Oregon will join many other states that have codified this sort of protection, including Delaware, Wisconsin, Arizona, and South Carolina.

In closing, the Family Financial Protection Act of Oregon will provide much needed safeguards for the economic well-being of Oregon consumers by protecting their ability to continue working, maintain housing, keep food on the table, and fight unfair debt proceedings.

We urge your support of SB 1595. Thank you for the opportunity to submit testimony and your service to Oregon communities.