Witness Signup List

Registered	Bill Number	First Name	Last Name	Position on Bill	Representing	Status	Testifying	Text of Testimony
6/2/2020 9:43	SB20-207	Morgan	Royal	For	New Era Colorado	Open	file	
6/2/2020 9:33	SB20-211	Adela	Flores-Brennan	For	Colorado Consumer Health Initiative	Open	Uploaded file	
6/2/2020 9:11	SB20-211	Daniel	Vedra	For	Self	Open	file	
6/2/2020 9:25	SB20-211	Jefferey	Riester	For	Department of Law	Open	Uploaded file	

Witness Signup List

6/2/2020 9:49	SB20-211	Jerome	Peer	Against	Professional Finar	Open	Submitted text	I am reaching out to you on behalf of Professional Finance Company, Inc., a collection agency located in Greeley, Colorado. We employ 150 Coloradans and we pride ourselves on servicing accounts for small local Colorado facilities. It is noteworthy that if someone is not working or does not make the minimum amount, they can't have their wages garnished and unemployment in almost every circumstance can't be garnished. Further, the collection industry has taken real, effective, and impactful steps to ensure that consumers are being treated fairly and compassionately during this crisis as follows: •A COVID-19 Hardship Program •Releasing garnishments •Suspension or deletion of credit reporting Cessation, waiver, or suspension of interest accrual •90-day renewable hold on all collection activity upon consumer request related to COVID-19, no questions asked. •Ceased issuing bank garnishments indefinitely •Directed collectors to cancel or amend payment arrangements as directed by consumers •Instructed our collection team to be sympathetic, empathetic, compassionate, and understanding of the COVID-19 pandemic's impact on all consumers. S This bill is counter intuitive to the revitalization of the Colorado economy and detrimental to the already strained unemployment rolls.
6/2/2020 9:24	SB20-211	Jodie	Quint	Against	ALLEGIANT Re	Open	Uploaded file	
6/2/2020 9:10	SB20-211	Morgan	Royal	For	New Era Color	Open	Uploaded file	
6/2/2020 9:32	SB20-211	Nicholas	Prola	Against	Professional Fi	Open	Submitted text	
6/2/2020 10:21	SB20-211	T. A.	Taylor-Hunt	For	National Assoc	Open	Uploaded file	
6/2/2020 10:33	SB20-211	T. A.	Taylor-Hunt	For	National Assoc	Open	Uploaded file	

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1444 Blake Street
Denver, CO 80202

June 2, 2020

Sen. Julie Gonzales
Colorado General Assembly
200 East Colfax Avenue, Room 357
Denver, Colorado 80203

Re: SB20-211

Dear Sen. Gonzales:

I am an attorney in private practice who primarily represents consumers who have been sued in debt collection lawsuits or have been the subject of abusive debt collection practices. The people I represent are good people who have fallen on hard economic times, have been left out of the economy, have health issues that interfere with their ability to earn a decent income, or have encountered medical debt beyond their ability to repay. My clients are good people want to pay their debts—they just can't.

During the Covid-19 shutdown, I have been contacted by consumers facing all manner of collection efforts. I submit my testimony with three clients in mind: a woman not much older than me who was sued on Mother's Day for a three year old credit card that she could not afford to pay after she lost her income and was confined to her home due to health issues; a disabled man in his forties whose home is going to be foreclosed after the debt collector obtained a writ of execution on a nearly ten year old credit card judgment; and a hardworking professional who was sued on Memorial Day for a medical bill that the radiologist forgot to send to her insurance. These are just some of the people affected by debt collection during Covid-19 even when the courts are effectively closed to new collections cases. And I am just one attorney working three days a week during the shutdown. There are many more just like my clients.

I write in support of SB20-211, which seeks to prohibit extraordinary collection actions by debt collectors during what will surely being the most significant economic downturn in our state's history. This bill seeks to limit the effects of statutorily created and court enforced efforts to disable the earnings and property of consumers. The bill is by no means an attempt to stop debt collection. The bill is a measured and considered approach to limit the effects of extraordinary collection actions when debtors have little ability to meet their obligations.

Background on County Court Debt Collection

Every year, debt collectors file tens of thousands of collection lawsuits in Colorado county courts. Last year, there were 412,806 total cases filed in Colorado county courts. 35% of these cases, or approximately 144,482 cases, were classified as "money cases". The vast majority of

these cases are debt collection cases filed by debt collectors for all manner of consumer debts. The collection of such debts is done by a small number of sophisticated debt collectors and their attorneys using technology to automate and systematize the practice of law into the mass filing of lawsuits against thousands of Coloradoans. A high percentage of these lawsuits are decided by default judgments where the consumer does not appear to defend. Those who do appear to defend are rarely represented by an attorney. It is common for one court to enter judgments against hundreds of people a day.

It is anticipated that the unfolding economic crisis is going to burden further the already overwhelmed courts. There have effectively been little or no debt collection filings for the last fourteen weeks. Accordingly, there is a backlog of cases to be filed or heard in the coming weeks. Judging from the case filing statistics for 2019, this could be as many as 33,000 cases. In effect, courts handling 12,000 cases per month could be asked to address nearly 45,000 in the near future. This backlog will not simply go away with time as more and more consumers default on payment obligations due to the economic crisis. Indeed, 144,482 cases were filed when unemployment was under 4%. It is anyone's guess how many debt collection cases will be filed when unemployment is nearly four times higher. Even if unemployment swiftly decreases, there will be a significant number of uncured defaults that occurred when people were struggling to make ends meet during the shutdown.

Once judgment enters, the judgment creditor is permitted to use legislatively created tools to take the judgment debtor's assets. The most frequently used tool to take assets of a judgment debtor is garnishment. SB20-211 ameliorates the negative consequences of these drastic measures that involuntarily disable the income and assets of a person facing financial difficulty.

Wage Garnishment

Wage garnishment allows a judgment creditor to seize a working person's wages before they are received. After receiving a judgment, the judgment creditor applies to the court to issue a writ of garnishment. The writ is issued by the clerk, and the judgment creditor serves the writ of garnishment on the judgment debtor's employer. The employer is then required to withhold any non-exempt income and pay it to the judgment creditor.

Beginning in October 1, 2020, the employer is required to pay to the creditor up to twenty percent (20%) of the employee's wages after mandatory deductions from the employee's wage. Current law exempts all income after deductions up to the minimum wage. To the extent that a person's net income does not exceed the minimum wage, the person cannot be garnished. To illustrate the paucity of these this protection, a single mother of one earning $27,500.00 per year would be subject to wage garnishment. Prior to October 1, 2020, the exemptions for wages are lower and less forgiving.

It is not difficult to imagine how a wage garnishment can negatively affect a single mother earning slightly above the poverty level. For someone earning $27,500.00 and supporting one dependent, any decrease in income is likely to result in a negative outcome and the person being unable to meet another financial obligation such as paying the rent, a mortgage, or a car loan. Wage garnishments are frequently the last straw before bankruptcy, eviction, foreclosure, or repossession.

Last year, this legislature increased the protections available to hard working people who are unfortunate enough to have unpaid debts. In addition to increasing the minimum amount of income exempt for garnishment, and decreasing the amount that may be garnished during any particular pay period, the legislature created a hardship exemption to allow a court to consider the person's individual circumstances and whether the exemptions are adequate. This hardship exemption has yet to be tested in practice, is not effective for four more months, and the Colorado Supreme Court has yet to approve rules and forms to effect this new protection. Moreover, it remains to be seen whether individuals seeking to invoke this protection will be able to do so effectively without being able to afford an attorney. Further, the hardship exemption requires the court to conduct a hearing, which may be exceedingly difficult given that county court dockets are anticipated to be crowded given the de facto moratoriums on case filings.

SB20-211 helps alleviate the problems of wage garnishment. First, SB20-211 halts new wage garnishments for 180 days after its enactment. This is a critical protection for those who are fortunate enough to be employed but may be working reduced hours for reduced pay. SB211 enables someone who is living paycheck to paycheck to continue living while the economy and incomes return to normal. Second, SB20-211 raises the floor for wage garnishment. Under the expanded exemptions, a single mother of one earning less than $47,500.00 would not have her wages garnished for an old debt. Third, SB20-211 decreases the overall amount that may be withheld from someone's paycheck who earns more than the minimum exemption amount. Rather than having twenty percent (20%) of net income subject to garnishment, only ten percent (10%) would be subject to garnishment. This enables the garnished persons more ability to manage their finances without suffering the consequences of bankruptcy, eviction, foreclosure, repossession, or all of the above. Even if these exemptions are expanded only temporarily, they will smooth the transition for consumers back into a normal economy.

Bank Garnishment

Like wage garnishment, bank garnishment lacks significant protections for Coloradoans. After a judgment enters, and the judgment creditor locates the judgment debtor's bank accounts through a credit report or otherwise, the judgment creditor may obtain a writ of garnishment ordering the bank to turn over the judgment debtor's deposits to the judgment creditor. Once the bank is served with the writ, the bank "freezes" the account, and holds the funds awaiting further court order. If the funds in the account are exempt from execution, because they are wages or another exempt asset, the debtor must request a court hearing and prove that the creditor may not take the funds for execution.

The most common exempt asset in a bank account are wages, which is the most complicated exemption to prove. The judgment debtor must undergo a complicated tracing analysis that most attorneys, even those familiar with wage garnishment, would prefer to avoid. The judgment creditor must prove the amount of exempt assets accounting for multiple deposits over an indeterminate amount of time and prove that those exempt assets remained exempt throughout the period. And even if the judgment debtor decides to object to the bank garnishment and prove up the exemption, the court may not be able to hear the claim of exemption for weeks. When a person has only ten days to cure a default in the payment of rent, a two week delay to be heard is likely to result in an eviction for non-payment of rent.

SB20-211 addresses both the substantive and administrative deficiencies in bank garnishment. SB20-211 creates an automatic exemption for funds held in a depository account. At present, unlike many other states, Colorado has no exemption for funds held in a bank account, and the only means to protect depository assets is to prove that they are exempt through a complicated tracing analysis. The exemption must be proven through a court hearing that may not occur until after it's too late or not soon enough to cause the financial institution to "unfreeze" the account and permit access to funds to pay for basic necessities like food and housing. This automatic exemption also avoids the need for a person to miss work to prove an exemption.

Anticipated Objections to SB20-211

Having spent significant time interacting with debt collectors and creditors both in and out of the courtroom, I am familiar with the objections to limiting the tools they use to force payment on debts. By and large, debt collectors are not mal-intentioned. Though they have significant tools to assess a consumer's intention to pay, they cannot assess the harm that garnishment causes without first causing the harm.

For example, a debt collector executing a bank garnishment will not know how much money is in a bank account prior to garnishment. The debt collector will also not know the source of funds in a bank account. Since a bank garnishment automatically freezes the account upon service, the harm is done once the writ is served even if a court later orders the funds released.as exempt. This is not the debt collector's fault—it is simply the result of a blunt tool. But just because the tool is blunt does not mean that the debtor has to be the one bludgeoned with it. That is why the federal government has required depository institutions to trace and automatically exempt social security from garnishment. SB20-211 does the same thing by creating an automatic exemption for funds in a bank account.

Wage garnishment is similarly not a precision tool. When a debt collector executes a wage garnishment, the debt collector often knows only the name of the employer but none of the financial circumstances of the employee. Unless the debtor can prove a demonstrated financial hardship, the wage garnishment will take one-fifth of the debtor's disposable income. When basic necessities such housing approach or exceed one-half of net-income, an order taking one-fifth of income is likely to be catastrophic. Even more so when incomes are decreased by decreased hours and rates of pay.

I also understand that the collection industry has made its own efforts to avoid significantly impacting the lives of those it attempts to collect from. This restraint is an acknowledgment of the tentative times we are currently living in. It is also a reflection of the courts' efforts to push back on debt collection when the state is effectively closed. While this restraint is welcomed, it is not universal and it is not mandatory. Once the industry determines to get back to business as usual, the business as usual will still suffer from the same lack of information that causes significant disruption in individuals' financial lives.

Last, I understand that creditors and financial institutions believe that creating increased protections for consumers will harm and hamper their ability to make new loans. There is simply no data to support this assertion. There are states that prohibit wage garnishment (North Carolina,

South Carolina, Pennsylvania, and Texas). There are states that completely exempt a home from execution (Arkansas, District of Columbia, Florida, Iowa, Kansas, Oklahoma, Puerto Rico, South Dakota, and Texas). Financial institutions still lend in these states, and there are no consumer groups asking to roll back these protections to increase the availability of credit.

Conclusion

We don't know when or how the economy is going to recover, but we do know that people will earn less money when they are working fewer hours and for less per hour. When paychecks are already being stretched, garnishment will cause them to break. Protecting ordinary people from extraordinary collection actions while we work hard to help the economy recover will prevent further harm and help us to recover more quickly. Doing nothing is not an option.

Sincerely,

VEDRA LAW LLC

By: /s/ Daniel J. Vedra
Daniel J. Vedra

PHIL WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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Office of the Attorney General

June 2, 2020

M E M O R A N D U M

TO: Members of the Senate Finance Committee

FROM: Jefferey Riester, Director of Legislative Affairs and Assistant Attorney General

RE: Testimony in Support of SB 20-211: Limitations On Extraordinary Collection Actions

Since the start of the COVID-19 pandemic, many states adopted emergency measures to temporarily suspend wage and bank account garnishments. However, such measures are not in place in Colorado. Senate Bill 20-211 (SB 20-211) recognizes the economic reality that Coloradans are in and provides additional protections to help our citizens from falling further behind.

Since March 2020, unemployment numbers increased dramatically. Over 400,000 Coloradans filed unemployment claims in just the first two months of the COVID-19 crisis. Even with federal financial support for families, the reduction in income has made it difficult for families to make ends meet. The protections offered in SB 20-211 will help Colorado weather this emergency as a state by helping protect existing savings for essential needs. These changes are a direct and reasonable approach that provides relief for impacted consumers.

Twenty-six percent of all Coloradans have been in debt collections, that number is nearly double for persons of color. Most of this debt is student loan and medical debt. Given the depth and breadth of the economic impacts of the disaster emergency, it is essential that we create temporary, emergency rules to protect Coloradans from extraordinary collections, to help ensure the resources they have go to basic needs before unpaid debts. While our courts are currently limited, there will be a large backlog of extraordinary collection filings facing consumers as soon as they return to normal operations.

SB 20-211 also strengthens our consumer protections specific to debt collection practices. In November 2019, the National Consumer Law Center rated Colorado a "D" in this area due to how few resources are exempt from extraordinary collections in Colorado law. SB 20-211 provides greater financial stability for families by updating the quantity of assets subject to collections.

For these reasons, the Department of Law supports SB 20-211. Should you have questions, please contact me at Jefferey.Riester@coag.gov. Thank you for your consideration.

PHIL WEISER
Attorney General

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Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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STATE OF COLORADO
DEPARTMENT OF LAW

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INTRO: T. A. Taylor-Hunt, submitting written testimony in support of SB 20-211. I am a 25 ½ year Air Force veteran; and for 20 years I have been an advocate for those in need of support and assistance, primarily working in the areas of consumer protection and elder care issues. I am also the state chair for the National Association of Consumer Advocates, an organization working to protect the rights of consumers, particularly those of modest means.

Specific concerns:

1. In the midst of the global coronavirus pandemic and the accompanying economic crisis of unemployment Coloradoans must look to their local elected officials with the political will to provide support during these challenging times. While the federal government created the Coronavirus Aid, Relief, and Economic Security (CARES) Act to provide specific protections for federally backed home mortgages and student loans, the CARES Act did not address garnishment of wages.

2. Coloradoans expectation is that their elected officials will provide the necessary support to help them through this crisis. Preventing extraordinary collection actions by debt collectors during the depressed economic circumstances of the coronavirus pandemic is vital to the recovery of Colorado consumers and meets the expectation that Colorado takes care of Coloradans.

3. Accepting that there is a need for businesses to collect lawfully owing debts the process should be fair to the consumer and the business. Right now, in the midst of the extreme change in the virtually eliminated economic viability of many Coloradoans, that is not the case. The argument that prohibiting extraordinary collection actions for a designated period of time, critically harms business is faulty at best and inaccurate at its worse.

    a. Garnishment actions filed with banks against consumers do not give the consumer information in advance of the filing.
        i. Many consumers become aware of the garnishment when they attempt to access their funds to meet necessary obligations, including rent, food and medical needs.

ii. Garnishments are happening for a variety of reasons, and those reasons continue to exist. Businesses are not denied their right to collect lawfully owed obligations. They are simply being asked to consider the once in a century circumstances facing Colorado consumers.

iii. Most people in Colorado do not have sufficient savings to provide for emergencies. Those that do have emergency funds, likely saw those funds depleted during the past three months when Colorado was under statewide stay at home orders, which effectively resulted in hundreds of thousands of people trying to maintain themselves and their families without continued income.

iv. The short-term nature of the prohibition on extraordinary collection actions by debt collectors ensures that businesses are able to resume their activity without further action by another governmental entity.

1. The prohibition ensures that consumers will have certainty that as they reenter the workforce, either part-time of full-time, they will be able to focus on reestablishing financial security without fear of having their funds garnished.
2. The prohibition recognizes that many consumers will be faced with the need to pay arrearages on mortgages, rents, and utilities at the end of the statewide collective action to hold those account payments in abeyance.

b. Without these prohibitions, garnishments will lead to more difficulties for the consumer as the economic fragility of the labor and residential rental market will result in increased evictions at a time when being housed is a necessary component to maintain the health, wellness and safety of individuals and communities, struggling in the midst of COVID-19.

4. These protections are especially needed for low income families and seniors who rely on the limited funds they receive for basic economic survival.

a. Seniors –While many seniors receive social security and other federal payments that cannot be garnished by debt collectors, many also rely on small pensions, which may be subject to garnishment. Clearly, this is not the time to place those seniors at increased of being evicted when they are the most at-risk group for significant medical problems during COVID-19. As a group, seniors are generally committed to meeting their financial obligations. A woman 74 years of age agreed to payment arrangements for a Visa credit card debt she did not remember opening, with those payment arrangements made possible because of her exempt income.

b. Military – Garnishment of a household member where there is a joint account is problematic as the garnishment may occur without knowledge of the active duty service member. Although there may be someone on the military installation who could help the spouse determine the legality of the garnishment, reluctance to ask for help is a significant barrier due to the potential ramifications to the military member's career. Should the garnishment begin, even if proper procedures were not followed by the debt collector the process is difficult to unwind and the adverse impact impossible to undo.

The requirements of this bill are not onerous for the debt collector as they retain the right to collect and utilize garnishments for lawfully owed debts. Prohibiting extraordinary collection actions by debt collectors during these economic conditions not seen before, in the lifetimes of most Coloradoans, is the right thing to do. It is also good business practice for debt collectors to support all efforts to ensure the consumer regains employment and reestablishes their financial footing. As the state moves through the recovery process, debt collectors will again be able to use legal mechanisms to collect lawfully owing debts.

Without the prohibition against extraordinary collection actions by debt collectors, Colorado consumers will be placed in a weak and uncertain position as they work towards economic recovery. Continuing these collection actions in the midst of the present public health and economic crisis is a fundamentally flawed effort. It will not work, even at the most basic level and is not in the best interest of economic recovery for the state of Colorado and the consumer.

Thank you for your time. On behalf of Colorado consumers, I strongly recommend support for the passage of SB20-211.

Thank you Madam. Chair and to the committee for hearing my testimony today in support of Senate Bill 20-211. My name is Morgan Royal and I am the Campaigns Director at New Era Colorado. We are a local nonpartisan, nonprofit organization that works to mobilize and empower a new generation to participate in our democracy and make Colorado a better place for everyone.

Young people are facing heightened financial insecurity right now. This insecurity is even greater at the intersection of race and class. Senate Bill 20-211, is a step that our state can take to mitigate the financial stress borrowers are experiencing right now and will experience in the future, by giving authority to allow for the suspension of debt collection and garnishment in a moment like this one. This bill would create a 180-day prohibition on any new extraordinary debt collection actions, allowing borrowers the time to financially recover from the economic crisis and avoid falling further into debt, which would have lasting effects on their life and the state economy. Extreme conditions shouldn't set borrowers back even further and the debt collection and garnishment process will have long term negative impacts on borrowers who are trying to recover from this pandemic and the resulting economic crisis.

SB 20-211 also provides expanded protections for those facing extraordinary collections which are key during our troubled economy. This legislation will allow individuals to keep slightly more money that is exempt from wage garnishment. This is especially key as Coloradans struggle to pay rent. This can protect a slightly higher amount of money allowing coloradans to continue paying their bills and hopefully avoid falling into further financial hardship.

In our state, more than 761,000 people are working to pay back over $27.7 billion in student loan debt, and this burden is especially high for rural Coloradans and communities of color. Before the pandemic, this debt was holding our generation back from starting businesses, buying homes, starting families, building savings, and contributing to the economy. Now, young people are facing even more uncertainty over how they are going to recover financially and it's extremely unclear what the future will hold for an entire generation of people who will feel the compounded weight of this economic crisis for years to come.

Before the federal CARES Act protections came together, at the beginning of this public health crisis, many borrowers were struggling to navigate how they were going to make monthly payments. And yet, as we've learned from research and policy experts, the CARES Act leaves out many borrowers that do not qualify for the federal package. These borrowers are still trying to juggle their student loans payments and respond to a global pandemic without the support they need.

This public health crisis is going to have lasting impacts on our state and our economy, and we've heard story after story about how young people are struggling to make monthly payments, keep themselves afloat, getting laid off, and filing for unemployment at high rates. In a crisis like this one, debt collection and garnishment should be suspended so that borrowers and consumers can recover and so that as a state we can mitigate further long-term harm during our economic recovery. We already know that economic recovery will take longer in Colorado, this bill can assist Coloradans as they fight for their economic futures. Right now is a time to provide people with the support they need for the long-term economic health of Coloradans and the state.

The impacts of this crisis are going to extend beyond the measures that are currently in place and we need to take action in order to provide these protections. I strongly urge you to vote yes on Senate Bill 20-211. Thank you so much for your time and for being here today.

Senate Bill 211
Memorandum in Opposition

The Receivables Management Association International, also known as RMAI, is a national nonprofit trade association representing over 550 companies that purchase or support the purchase, sale, and collection of performing and nonperforming receivables on the secondary market. Our membership includes banks, nonbank lenders, debt buying companies, collection agencies, and collection law firms.

While RMAI has been supportive of similar legislation and executive orders in other states as it relates to the COVID-19 pandemic, RMAI respectfully opposes SB 211 in its current form due to the overwhelming breadth of its scope. RMAI believes strongly that, during this national crisis, consumers who are suffering health or financial distress as a result of COVID-19 need immediate protection that allows them time to recover. In fact, protecting consumers during natural disasters and states of emergencies is one of the core standards of RMAI's national certification program. RMAI's certification program has been recognized by the Consumer Financial Protection Bureau and the Federal Trade Commission as well as other state and federal regulators for its best practices.

RMAI's position on protecting consumers during a state of emergency and that of section 2 of SB 211 are highly consistent. We would only ask that section 2 of the bill be amended to require that actual hardship be communicated either orally or in writing before the protections take effect. Currently, section 2 of the bill would apply a universal halt to all garnishments for every Colorado citizen regardless if the individual actually suffered any adverse financial or health consequences related to COVID-19. RMAI believes we should protect those who need protecting, but a one-sized broad-brush approach that declares that every one of Colorado's 5.7 million citizens needs protecting is not only unnecessary but ultimately harmful not only to Colorado lenders and businesses but also to the majority of Colorado consumers.

As for sections 3, 4, and 5 of SB 211, RMAI would respectfully ask that these sections be deleted for the following reasons:

- The legislative intent states that the bill was introduced to deal with a temporary crisis associated with the COVID-19 pandemic but then proceeds to permanently and drastically amend statutory provisions that have no relation to the COVID-19 pandemic.

- The proposed bill would automatically exempt individuals making a net salary less than $50,000 from any responsibility for repaying an outstanding debt. This increase would be on top of the 33 percent increase in this very same exemption that was negotiated and passed into law in 2019.

- For those individuals making a net salary over $50,000, this bill would reduce the amount of garnishment on disposable earnings from 20 percent to 10 percent. This decrease would be on

top of a 20 percent decrease in this very same provision that was negotiated and passed into law in 2019.

- The proposal proposes a $7,000 automatic, no-questions-asked bank levy exemption which will effectively permanently ban bank levies for all consumers, no matter their financial situation. Most bank levy amounts are under $1,000, significantly below the proposed exemption, which means creditors will not be able to recover even a single dollar from a bank levy on an outstanding debt. It is important to note that no other state in the nation has such a high automatic exemption for bank levies. Many states require that the consumer file a claim of exemption showing their financial disposition in order to receive the exemption on bank levies.

- These permanent changes within the Colorado code will cause significant and prolonged harm to all Colorado consumers. Lenders seek stability and certainty when lending to consumers and by their very nature are risk adverse. Most lenders want to only make loans and extend credit where there is a high degree of certainty of being paid. A bill of this nature, if enacted, will cause many lenders to assess if they want to leave the Colorado market or scale back lending to only those with the highest of credit ratings. Less availability of credit will disproportionally harm those very consumers this bill purports to want to help – those individuals in the lower socio-economic classes.

For the forgoing reasons, RMAI respectfully opposes SB 211 in its current form. However, if the bill is refocused on COVID-19 related protections similar to section 2 of the bill, RMAI would be pleased to switch our position to one of support.

For additional information, please contact David Reid, RMAI's Director of Government Affairs & Policy at dreid@rmaintl.org or 916-779-2492.

June 2, 2020

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Attorney

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1444 Blake Street
Denver, CO 80202

June 2, 2020

Sen. Julie Gonzales
Colorado General Assembly
200 East Colfax Avenue, Room 357
Denver, Colorado 80203

Re: SB20-211

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I write in support of SB20-211, which seeks to prohibit extraordinary collection actions by debt collectors during what will surely being the most significant economic downturn in our state's history. This bill seeks to limit the effects of statutorily created and court enforced efforts to disable the earnings and property of consumers. The bill is by no means an attempt to stop debt collection. The bill is a measured and considered approach to limit the effects of extraordinary collection actions when debtors have little ability to meet their obligations.

Background on County Court Debt Collection

Every year, debt collectors file tens of thousands of collection lawsuits in Colorado county courts. Last year, there were 412,806 total cases filed in Colorado county courts. 35% of these cases, or approximately 144,482 cases, were classified as "money cases". The vast majority of

these cases are debt collection cases filed by debt collectors for all manner of consumer debts. The collection of such debts is done by a small number of sophisticated debt collectors and their attorneys using technology to automate and systematize the practice of law into the mass filing of lawsuits against thousands of Coloradoans. A high percentage of these lawsuits are decided by default judgments where the consumer does not appear to defend. Those who do appear to defend are rarely represented by an attorney. It is common for one court to enter judgments against hundreds of people a day.

It is anticipated that the unfolding economic crisis is going to burden further the already overwhelmed courts. There have effectively been little or no debt collection filings for the last fourteen weeks. Accordingly, there is a backlog of cases to be filed or heard in the coming weeks. Judging from the case filing statistics for 2019, this could be as many as 33,000 cases. In effect, courts handling 12,000 cases per month could be asked to address nearly 45,000 in the near future. This backlog will not simply go away with time as more and more consumers default on payment obligations due to the economic crisis. Indeed, 144,482 cases were filed when unemployment was under 4%. It is anyone's guess how many debt collection cases will be filed when unemployment is nearly four times higher. Even if unemployment swiftly decreases, there will be a significant number of uncured defaults that occurred when people were struggling to make ends meet during the shutdown.

Once judgment enters, the judgment creditor is permitted to use legislatively created tools to take the judgment debtor's assets. The most frequently used tool to take assets of a judgment debtor is garnishment. SB20-211 ameliorates the negative consequences of these drastic measures that involuntarily disable the income and assets of a person facing financial difficulty.

Wage Garnishment

Wage garnishment allows a judgment creditor to seize a working person's wages before they are received. After receiving a judgment, the judgment creditor applies to the court to issue a writ of garnishment. The writ is issued by the clerk, and the judgment creditor serves the writ of garnishment on the judgment debtor's employer. The employer is then required to withhold any non-exempt income and pay it to the judgment creditor.

Beginning in October 1, 2020, the employer is required to pay to the creditor up to twenty percent (20%) of the employee's wages after mandatory deductions from the employee's wage. Current law exempts all income after deductions up to the minimum wage. To the extent that a person's net income does not exceed the minimum wage, the person cannot be garnished. To illustrate the paucity of these this protection, a single mother of one earning $27,500.00 per year would be subject to wage garnishment. Prior to October 1, 2020, the exemptions for wages are lower and less forgiving.

It is not difficult to imagine how a wage garnishment can negatively affect a single mother earning slightly above the poverty level. For someone earning $27,500.00 and supporting one dependent, any decrease in income is likely to result in a negative outcome and the person being unable to meet another financial obligation such as paying the rent, a mortgage, or a car loan. Wage garnishments are frequently the last straw before bankruptcy, eviction, foreclosure, or repossession.

Last year, this legislature increased the protections available to hard working people who are unfortunate enough to have unpaid debts. In addition to increasing the minimum amount of income exempt for garnishment, and decreasing the amount that may be garnished during any particular pay period, the legislature created a hardship exemption to allow a court to consider the person's individual circumstances and whether the exemptions are adequate. This hardship exemption has yet to be tested in practice, is not effective for four more months, and the Colorado Supreme Court has yet to approve rules and forms to effect this new protection. Moreover, it remains to be seen whether individuals seeking to invoke this protection will be able to do so effectively without being able to afford an attorney. Further, the hardship exemption requires the court to conduct a hearing, which may be exceedingly difficult given that county court dockets are anticipated to be crowded given the de facto moratoriums on case filings.

SB20-211 helps alleviate the problems of wage garnishment. First, SB20-211 halts new wage garnishments for 180 days after its enactment. This is a critical protection for those who are fortunate enough to be employed but may be working reduced hours for reduced pay. SB211 enables someone who is living paycheck to paycheck to continue living while the economy and incomes return to normal. Second, SB20-211 raises the floor for wage garnishment. Under the expanded exemptions, a single mother of one earning less than $47,500.00 would not have her wages garnished for an old debt. Third, SB20-211 decreases the overall amount that may be withheld from someone's paycheck who earns more than the minimum exemption amount. Rather than having twenty percent (20%) of net income subject to garnishment, only ten percent (10%) would be subject to garnishment. This enables the garnished persons more ability to manage their finances without suffering the consequences of bankruptcy, eviction, foreclosure, repossession, or all of the above. Even if these exemptions are expanded only temporarily, they will smooth the transition for consumers back into a normal economy.

Bank Garnishment

Like wage garnishment, bank garnishment lacks significant protections for Coloradoans. After a judgment enters, and the judgment creditor locates the judgment debtor's bank accounts through a credit report or otherwise, the judgment creditor may obtain a writ of garnishment ordering the bank to turn over the judgment debtor's deposits to the judgment creditor. Once the bank is served with the writ, the bank "freezes" the account, and holds the funds awaiting further court order. If the funds in the account are exempt from execution, because they are wages or another exempt asset, the debtor must request a court hearing and prove that the creditor may not take the funds for execution.

The most common exempt asset in a bank account are wages, which is the most complicated exemption to prove. The judgment debtor must undergo a complicated tracing analysis that most attorneys, even those familiar with wage garnishment, would prefer to avoid. The judgment creditor must prove the amount of exempt assets accounting for multiple deposits over an indeterminate amount of time and prove that those exempt assets remained exempt throughout the period. And even if the judgment debtor decides to object to the bank garnishment and prove up the exemption, the court may not be able to hear the claim of exemption for weeks. When a person has only ten days to cure a default in the payment of rent, a two week delay to be heard is likely to result in an eviction for non-payment of rent.

SB20-211 addresses both the substantive and administrative deficiencies in bank garnishment. SB20-211 creates an automatic exemption for funds held in a depository account. At present, unlike many other states, Colorado has no exemption for funds held in a bank account, and the only means to protect depository assets is to prove that they are exempt through a complicated tracing analysis. The exemption must be proven through a court hearing that may not occur until after it's too late or not soon enough to cause the financial institution to "unfreeze" the account and permit access to funds to pay for basic necessities like food and housing. This automatic exemption also avoids the need for a person to miss work to prove an exemption.

Anticipated Objections to SB20-211

Having spent significant time interacting with debt collectors and creditors both in and out of the courtroom, I am familiar with the objections to limiting the tools they use to force payment on debts. By and large, debt collectors are not mal-intentioned. Though they have significant tools to assess a consumer's intention to pay, they cannot assess the harm that garnishment causes without first causing the harm.

For example, a debt collector executing a bank garnishment will not know how much money is in a bank account prior to garnishment. The debt collector will also not know the source of funds in a bank account. Since a bank garnishment automatically freezes the account upon service, the harm is done once the writ is served even if a court later orders the funds released.as exempt. This is not the debt collector's fault—it is simply the result of a blunt tool. But just because the tool is blunt does not mean that the debtor has to be the one bludgeoned with it. That is why the federal government has required depository institutions to trace and automatically exempt social security from garnishment. SB20-211 does the same thing by creating an automatic exemption for funds in a bank account.

Wage garnishment is similarly not a precision tool. When a debt collector executes a wage garnishment, the debt collector often knows only the name of the employer but none of the financial circumstances of the employee. Unless the debtor can prove a demonstrated financial hardship, the wage garnishment will take one-fifth of the debtor's disposable income. When basic necessities such housing approach or exceed one-half of net-income, an order taking one-fifth of income is likely to be catastrophic. Even more so when incomes are decreased by decreased hours and rates of pay.

I also understand that the collection industry has made its own efforts to avoid significantly impacting the lives of those it attempts to collect from. This restraint is an acknowledgment of the tentative times we are currently living in. It is also a reflection of the courts' efforts to push back on debt collection when the state is effectively closed. While this restraint is welcomed, it is not universal and it is not mandatory. Once the industry determines to get back to business as usual, the business as usual will still suffer from the same lack of information that causes significant disruption in individuals' financial lives.

Last, I understand that creditors and financial institutions believe that creating increased protections for consumers will harm and hamper their ability to make new loans. There is simply no data to support this assertion. There are states that prohibit wage garnishment (North Carolina,

South Carolina, Pennsylvania, and Texas). There are states that completely exempt a home from execution (Arkansas, District of Columbia, Florida, Iowa, Kansas, Oklahoma, Puerto Rico, South Dakota, and Texas). Financial institutions still lend in these states, and there are no consumer groups asking to roll back these protections to increase the availability of credit.

Conclusion

We don't know when or how the economy is going to recover, but we do know that people will earn less money when they are working fewer hours and for less per hour. When paychecks are already being stretched, garnishment will cause them to break. Protecting ordinary people from extraordinary collection actions while we work hard to help the economy recover will prevent further harm and help us to recover more quickly. Doing nothing is not an option.

Sincerely,

VEDRA LAW LLC

By: /s/ Daniel J. Vedra
Daniel J. Vedra

06/2/2020

Dear Members of the Senate Finance Committee,

My name is Jodie Quint and I am the co-owner and Chief Operating Officer of ALLEGIANT Receivable Solutions/Alpine Credit, a third-party collection agency located in Arvada. I employ 16 Coloradans and have been in operation since 1991. My company represents numerous medical clients, dental offices, individual landlords, towing companies, veterinary clinics, plumbing and HVAC companies, automotive businesses, day care and afterschool programs and numerous others, many of which are small businesses that rely on our collection of their delinquent accounts.

I am writing to you today in opposition to SB20-211: Suspension of Extraordinary Dent Collection by Senator Winter and Senator Gonzales. The bill limits debt collection in the state for 180 days and provides the unelected administrator of the Uniform Consumer Credit Code the ability to extend the suspension for another 180 days. The bill however does not just tackle the immediate COVID crisis. It also further limits a creditor's ability to garnish a debtor's wages and other income from this date forward. This bill comes not even a year after our professional association, the Associated Collections Agencies of Colorado negotiated a compromise to this very provision last year through HB19-1189: Wage Garnishment Reform, sponsored by Senator Bridges. The bill as drafted presumes the need to protect consumers impacted by the COVID crisis, however existing laws, rules, and regulations already protect consumers who are experiencing financial difficulty. If someone is not working or does not make the minimum amount decide by the Colorado Legislature just last year, they can't have their wages garnished and unemployment income can't be garnished. My firm and the industry as a whole have taken real, effective, and impactful steps to ensure that consumers are being treated fairly and compassionately during this crisis.

Since the COVID crisis began, and beginning in mid-March, ALLEGIANT Receivable Solutions/Alpine Credit has taken proactive steps to help consumers:

- A COVID-19 Hardship Program
    - Releasing garnishments for those impacted by the pandemic and instead taking minimal or delayed payment arrangements until the consumer's circumstances change
    - Suspension or deletion of credit reporting due to identified hardship
    - Cessation, waiver, or suspension of interest accrual (where applicable) upon identified hardship
- 90-day renewable hold on all collection activity upon consumer request related to COVID-19.
- Ceased issuing bank garnishments indefinitely
- Directed collectors to cancel or amend payment arrangements as directed by consumers and have reiterated this policy in the context of the current COVID-19 pandemic
- Instructed our collection team to be sympathetic, empathetic, compassionate, and understanding of the COVID-19 pandemic's impact on all consumers. Such instruction included flexibility in the terms of payment arrangements, agreements to release employment garnishments, and consumer-friendly stipulations, where applicable

We believe these measures have been effective. We have also seen many of the debtors we work with proactively pay off their accounts with the stimulus money they have received.

The collections industry in Colorado employs over 5,000 Coloradans which represents $309 million in payroll. If collections were suspended in the state, I would have to lay off employees as a result and I know some of my clients that are already facing financial hardship would have to follow suit. As a direct impact of this bill there would be thousands more added to our already stressed unemployment system, including

process servers and law firm staffs. Collection agencies file the vast majority of civil cases in County Court, over 85% of all cases filed. If this bill passes that number would drop drastically and would most likely require numerous Court personal to be furloughed or laid off, further increasing unemployment. This bill will also apply to State owed debts currently assigned to Central Collections and subsequently assigned to private collection agencies.

The passage of this bill will change the way business is done in Colorado, will create a credit nightmare for consumers, limit loans and credit, and will threaten my future livelihood. Thank you for your consideration and please don't hesitate to reach out if you have any questions.

Sincerely,

Jodie Quint
Chief Operating Officer
ALLEGIANT Receivable Solutions/Alpine Credit
12191 W. 64th Ave, Suite 210
Arvada, CO 80004
303-239-9100

Colorado Consumer Health Initiative

June 2, 2020

Dear Members of the Senate Finance Committee:

I am writing on behalf of the Colorado Consumer Health Initiative (CCHI) to request your vote in favor of SB20-211 Limitations on Extraordinary Collections Actions.

CCHI is a consumer-oriented, member-based health care advocacy organization working so that all Coloradans have equitable access to affordable, high-quality health care. In June 2018 CCHI established a Consumer Assistance Program to help consumers throughout Colorado navigate health care access and medical billing, debt and claims issues. In two years we have helped over 700 people in 40 Colorado counties and saved $1.5 million. Through our clients, we see daily the health and financial distress that medical debt can have on Colorado families. With so many stressors now added by the pandemic, we ask for your support of the relief granted by SB20-211.

One constant theme in our work has been the troubling number of people who are being sent to collections after receiving medical care. These individuals required urgent or emergency care, or were quoted costs for services that are hundreds or thousands of dollars below what they are ultimately charged. One woman we assisted was quoted $137 for her 20-week ultrasound and then billed $1,300. Her $800 obligation after insurance was financially out of reach and her bills were sent to collections while she was in the process of applying for financial assistance with the hospital. Another client received an $11,000 bill for a 2-hour ER visit for dehydration. He was uninsured and even the reduced $6,000 “self-pay discount” was completely unaffordable.

Many Coloradans are uninsured or underinsured, exposing them to greater out of pocket costs that are beyond their reach. Frequently, the system fails them and, despite being eligible for support, no financial assistance or payment plans are offered until after the bill has gone to collections. Often the bills go to collections before there is an opportunity to negotiate with the hospital or provider.

These practices have an enormous impact on people’s health and economic security. Right now, they are compounded as we deal with this unprecedented public health and economic crisis. Coloradans are simultaneously losing the ability to pay their bills due to massive unemployment, experiencing disruptions in their health coverage, and still in need of health care services--especially if they contract COVID-19. 26% of all Coloradans have debt in collections, that number is nearly double (44%) for people of color. The highest percentage of

debt in collections--15% overall and 25% for people of color--is medical debt and these numbers are likely to increase as unemployment and the health implications of COVID-19 continue.

Senate Bill 20-211 recognizes the economic reality that Coloradans are facing and provides additional protections to help our community members from falling further behind. We respectfully request a yes vote.

Sincerely,

Adela Flores-Brennan
Executive Director
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Memorandum in Opposition, State of Colorado Bill S 211

June 1, 2020

On behalf of PRA Group, Inc. and its wholly-owned subsidiaries (collectively, "PRA"), I'm writing to express concerns on Colorado Senate Bill 211. PRA Group, Inc., applauds and supports efforts to protect the well-being of Colorado residents, especially during these uncertain times. PRA has voluntarily implemented a number of policies and procedures to ensure sensitivity to the plight of our customers during the COVID-19 pandemic, including:

- Temporarily suspending all collection activities when a consumer says that he or she is experiencing a financial hardship due to job loss or medical issues related to COVID-19, including initiation of new collection lawsuits;

- Reviewing available information, both publicly available and from our own data, to determine geographic areas that have been disproportionately impacted by COVID-19 and ceasing collections efforts in those areas;

- Ceasing certain collection techniques such as imposing liens and garnishments, which may place undue burdens on consumers.

While PRA does support similar measures to those included in CO S 211 when applied to consumers who have been impacted by COVID-19, PRA has concerns with applying such relief to all consumers regardless of whether or not they have been impacted by COVID-19.

Credit is extended with the understanding that it will be paid back. CO S 211 will make valid judgments - the final resort for collecting on outstanding debt - completely unenforceable by banning the methods used for post-judgment collections for up to 360 days. A moratorium on all garnishment actions, as is contemplated in CO S 211, is a one-size fits all approach. Instead, PRA favors a more balanced approach that would provide immediate relief to consumers impacted by the pandemic by prohibiting garnishments **against a debtor who indicates orally or in writing to the debt collector that they have been financially impacted by the public health emergency.** This approach provides relief to impacted consumers, yet also allows protects creditors with valid judgments against consumers who have not been financially impacted by the public health emergency.

PRA is concerned that, as drafted, CO S 211 would have unintended consequences far beyond what is stated in the bill's summary. The bill prohibits the initiation of "extraordinary collection actions" and states that the **use** of such actions constitutes an unfair and unconscionable means of collecting a debt. However, CO S 211 doesn't contemplate logistically how to handle existing garnishments. Throughout

the state, there are pending garnishment actions against consumers not impacted by COVID-19. Once enacted, creditors who are not able to instantaneously dismiss pending garnishment actions are arguably participating in the "use of an extraordinary collection action." The result will be a wave of lawsuits filed by predatory plaintiff's attorneys under the guise of the Fair Debt Collection Practices Act, a strict liability statute, against creditors who are unable to instantaneously release lawful and properly filed garnishment actions before the bill's effective date.

CO S 211 also increases the garnishment exemption from 40x to 80x minimum wage and reduces the percent of an individual's disposable earnings that can be garnished from 20 to 10 percent. It is critical to maintain a reasonable level of wage garnishment so that creditors who have extended money and have not been repaid are able to recoup the outstanding debt owed to them. Substantial changes in exemption amounts that dramatically increase the amount of a consumer's wages that would be exempt from garnishment impact a judgment creditor's ability to obtain payment via the garnishment process. While limiting garnishments may at first blush seem to protect consumers, in reality that is not the case. Uncertainty about the ability to collect will force creditors to cease lending to the riskiest borrowers, including out-of-work or low-income consumers. Given the uncertainty about the length and severity of the economic impact related to the coronavirus, now would be a particularly dangerous time to introduce such uncertainty.

Finally, and most importantly, **limitations to garnishments were already addressed by the Colorado Legislature in the 2019 Legislative Session.** CO HB 19-1189 was passed by both houses and was effective August 2, 2019. The bill addressed wage garnishment reform, reduced the amount of wages subject to garnishment, and required provision of more detailed information to the judgment debtor regarding garnishment.

PRA stands ready to work with the sponsor on reasonable amendments to the bill that will enhance consumer protections for those consumers impacted by COVID-19 without unintended harm to all consumers and without unnecessarily rehashing issues that were raised and addressed in the 2019 Legislative Session. For all the reasons mentioned above, PRA Group opposes passage of this legislation as it is currently drafted.

Thank you very much for your attention in this important matter. Please feel free to contact me directly for any further information.

Best regards,

Elizabeth Kersey
Vice-President, Communications and Public Policy

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Professional Finance Company

6/2/2020

Dear Senator Gonzales:

I am a resident of Weld County Colorado (House District 1 and Senate District 48) and have been in the collections industry for over 40 years. When I started in 1977, I did not have a college degree and was just beginning a family. Few industries today afford individuals the opportunity for advancement that the collections industry allows. This industry rewards hard work and loyalty with advancement opportunities absent in many others. It is truly an entrée' for many folks to build a career. I am very proud of the work I do and believe sincerely that at unprecedented times such as we're experiencing now, the industry is part of the solution to economic recovery. We dispense valuable information to consumers and ally their fears and anxiety over payment of their just and owing debts. Some of the initiatives we've initiated in response to the pandemic are listed below. In addition, we support creditors who rely on payment of these obligations to sustain their businesses – in our case, these are healthcare providers; many of them physicians, ancillary services and rural facilities that are in dire financial straits, but fighting the good fight on the front line of the pandemic.

But today, I am reaching out to you on behalf of Professional Finance Company, Inc., a collection agency located in Greeley, Colorado. We employ 150 Coloradans and have been in operation in one form or another since 1904. Roughly 85% of our client are in the medical and healthcare space and we pride ourselves on servicing accounts for small local Colorado facilities as well as national healthcare systems.

In reviewing the proposed bill put for the by the Bell Policy Center, I must state our opposition. Most importantly, the bill appears only to protect consumer who are not impacted by the COVID crisis, as existing laws, rules, and regulations already protect consumers who are experiencing financial difficulty. If someone is not working or does not make the minimum amount decide by the Colorado Legislature, they can't have their wages garnished and unemployment in almost every circumstance can't be garnished. Further, the collection industry has taken real, effective, and impactful steps to ensure that consumers are being treated fairly and compassionately during this crisis.

As an example, we've taken the following proactive measures to help consumers, often to the detriment of our own business and the recovery of our clients' accounts:

- A COVID-19 Hardship Program
    - Releasing garnishments for those impacted by the pandemic and instead taking minimal or delayed payment arrangements until the consumer's circumstances change
    - Suspension or deletion of credit reporting due to identified hardship
    - Cessation, waiver, or suspension of interest accrual (where applicable) upon identified hardship
- 90-day renewable hold on all collection activity upon consumer request related to COVID-19, no questions asked.
- Ceased issuing bank garnishments indefinitely

- Directed collectors to cancel or amend payment arrangements as directed by consumers and have reiterated this policy in the context of the current COVID-19 pandemic
- Instructed our collection team to be sympathetic, empathetic, compassionate, and understanding of the COVID-19 pandemic's impact on all consumers. Such instruction included flexibility in the terms of payment arrangements, agreements to release employment garnishments, and consumer-friendly stipulations, where applicable

We believe these measures have been effective, have seen agencies throughout the industry take similar measures, and have been given data reflecting these measures' effectivity. On May 21, the Consumer Financial Protection Bureau (CFPB) released a special COVID-19 edition of its Complaint Bulletin. The CFPB observed trends in its complaint database, particularly to determine what impact the pandemic is having on consumer complaints. In a chart that compares the average weekly complaints pre- and post-COVID by product, debt collection is one of only three products—out of thirteen total—that had a negative percentage change. It is clear that the collection industry has taken proactive measures to reduce consumer harm in the crisis, without waiting for regulatory guidance and without the need for overbearing legislation.

Many of our clients are local Colorado healthcare providers who are suffering under this crisis. Without the ability to provide the elective procedures that they rely on to remain afloat, they turn to us to collect their outstanding receivables for services provided well before this crisis.

The collections industry in Colorado employs over 5,000 Coloradans which represents $309M in payroll. If collections were suspended in the state, this could result in shutting down certain collections actions until potentially February or March of next year (assuming the state of emergency continues until December 2020). This would result in the closure of small businesses adding thousands of individuals to Colorado's unemployment and also impacting the businesses such as childcare centers, doctors, and dentist offices, etc that we serve.

We ask that you consider the above in reviewing this bill and vote against this unnecessary legislation. Thank you for your thoughtful consideration.

Sincerely,

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