



Memorandum in Opposition House Bill 251

Dear Chairman Hambley, Vice Chairman Patton, Ranking Member Brown, and Members of the Civil Justice Committee:

On behalf of Encore Capital Group, Inc., and its wholly-owned subsidiaries including Midland Credit Management, Inc. (collectively, “Encore”), I submit this memo in opposition to House Bill 251 (“HB 251”). While well-intended, this legislation would create many harmful consequences for the very consumers it is meant to protect.

By way of background, Encore is a publicly traded company that, together with its debt purchaser and debt collector subsidiaries, has provided over 60 years of service to Ohio consumers. Purchasing primarily charged-off credit card receivables, we currently own an account for over 1.8 million Ohio consumers, and partner with them by offering discounted payment plans, flexible repayment terms, and charging no interest or fees on new accounts. In 2018, we forgave over \$9.8 million in debt to Ohio residents. Unfortunately, this bill would significantly reduce the discounts Encore could provide to Ohio consumers, as it would hamper our ability to collect on valid debt obligations. This legislation would also create a sharp rise in debt collection litigation against consumers, by leaving creditors and debt purchasers with no choice but to file suit against consumers as the only means to protect their legal rights to collect on valid delinquent debt.

A Shortened Statute of Limitations to Collect Would Result in A Spike in Lawsuits Filed Against Consumers

While well-intended, this legislation would result in significant harm to potentially tens of thousands of consumers in Ohio, who would face litigation on their delinquent debt much sooner than is currently the case. The fiscal analysis for this bill erroneously states that it will help the courts, on the assumption that there may be cases that will not be filed timely. We respectfully disagree. By shortening the statute of limitations from 8 to 5 years for claims based on written contracts, and from 6 to 3 years for claims based on oral contract – which is typically what credit and collection lawsuits are based upon, since 73% of consumers apply for creditors online¹ – that will give us and our consumers 3 fewer years to try to resolve the account outside of the litigation process. As such, reducing the limitations period actually will *increase* litigation against consumers, and decrease the chances that consumers and creditors or debt purchasers work together to negotiate a resolution outside of litigation to pay back delinquent debt. Ultimately, this proposed change will serve to harm many consumers who, under the current law, would not end up facing litigation.

At Encore, filing collections litigation is truly a last resort. Since we do not charge interest or fees, consumers have the ability to resolve their obligations through an extended period of time, without

¹ Bill Streever, *Key Trends Reshaping Credit Card Marketing in 2019*, The Financial Brand (located at: <https://thefinancialbrand.com/80322/credit-card-marketing-trends/>).



incurring additional costs. Only after we have attempted to communicate with our consumer multiple times do we resort to filing a lawsuit, which is both a poor outcome for our consumers and very costly to us. By taking away the ability for us to work with our consumers through an extended period, the legislation would surely harm our consumers.

Reducing the Statute of Limitations Reduces the Amount of Time Creditors and Consumers Have to Amicably Settle Their Debt

By requiring debt purchasers to act within three years to file a lawsuit based upon oral contract, HB 251 incentivizes debt purchasers to rush into legal remedies, leaving little time for creditors and debt purchasers to work with a consumer to resolve their debt as stated previously. At Encore, we would much rather work with a consumer amicably, to resolve their debt and offer discounts to help consumers resolve their obligations. Only after we have attempted to communicate with our consumers multiple times do we resort to litigation or post-judgment remedies, which is both a poor outcome for our consumers and very costly.

The proposed language does not take into account situations in which the creditor and consumer have agreed to suspend collections for the benefit of the consumer. For instance, our Consumer Bill of Rights² mandates that we suspend collection activities when a consumer demonstrates that he or she is experiencing significant financial hardship due to medical issues or when a consumer is a victim of a national or other catastrophic disaster. We also offer reasonable grace periods to consumers who encounter unforeseen circumstances, such as a job loss. By agreeing to suspend collections due to a consumer's hardship, creditors may lose the ability to collect on a debt entirely due to HB 251.

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HB 251 would create many negative outcomes for the consumers we serve by forcing creditors and collectors to file lawsuits against consumers 3 years sooner than current law allows. That will mean fewer negotiated payment plans and more lawsuits filed in the courts – a poor outcome for us, our consumers, and the court system. I respectfully urge you to vote NO on HB 251.

Sincerely,

Kimberly Klemenok
Regional Managing Attorney
Encore Capital Group

² Our Consumer Bill of Rights can be found at <https://midlandcredit.com/who-is-mcm/our-pledge/>