The Bell Policy Center

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Extending Limitations on Debt Collection Actions (SB21-002)

Testimony to Senate Finance Committee
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Thank you for the opportunity to testify today. I am Tyler Jaeckel, the director of policy and research at the Bell Policy Center. The Bell Policy Center provides policymakers, advocates, and the public with reliable resources to create a practical policy agenda that promotes economic mobility for every Coloradan.

The Bell Policy Center supports SB21-002, which extends the limitations of SB20-211 that prohibit a judgment creditor from initiating or maintaining a new extraordinary collection action. **It was passed to ensure Coloradans already dealing with the health and economic consequences of COVID-19 are not further at risk of losing wages, vehicles, and savings that are vital to their continued and future survival.** The bill also preserves governmental resources and protects the health and safety of individuals involved in the debt collections process, including court officials and defendants.

An extension of the limitations of SB20-211 is needed because:

- Colorado must preserve any stimulus payments from collection during the ongoing emergency. The stimulus payments that are likely to come in the coming months could be garnished unless these protections are extended. SB20-211 protects $4,000 in bank accounts from collections, a protection that is critical to the economic survival of too many Coloradans in the coming months.
- The economic circumstances for Coloradans have not improved since the last extension of the protections and have worsened for too many. By ensuring Coloradans can prioritize their spending on critical household survival, we can ensure a stronger recovery for those families and their communities.
- Letting the protections of SB20-211 expire could lead to a flood of court cases, threatening the economic and physical safety of Coloradans. Time is needed to allow families to get on their feet and receive state and federal assistance before the floodgates of debt collection are reopened.
- The expiration date of February 1 was chosen to allow the Legislature to assess the economic conditions facing Coloradans and contemplate further needs. The current session timetable does not provide that opportunity before an expiration of SB20-211.

Collection suits can have a lasting negative effect on consumer economic and health conditions. A recent study by economists from Dartmouth's Tuck School of Business and the University of California San Diego focuses on debtors who, after being sued, agreed to pay in order to avoid garnishment. The study shows those actions drained those consumers' cash buffer and left them vulnerable to falling behind on other debts, leading to foreclosure or bankruptcy.[1] These situations are exacerbated by COVID-19.

In extending the limitations of SB20-211, the administrator for the Uniform Consumer Credit Code concluded the limitations were both needed to protect Colorado residents from economic hardship and preserve state resources. Some of the key benefits of the bill have been:[2]

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[1] Ing-Haw Cheng et. al. *How Do Consumers Fare When Dealing with Debt Collectors? Evidence from Out-of-Court Settlements* SSRN (24 Jan 2019) *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3312448

[2] *SB-211 Final Order.* Office of the Attorney General (25 October 2020) *available at* https://www.sos.state.co.us/CCR/RegisterContents.do?publicationDay=10/25/2020&Volume=43&yearPublishNumber=20&Month=10&Year=2020#4

- The bill permits consumers to notify judgment creditors about how they are experiencing hardship from COVID-19 with a phone call or in writing and does not require the consumer to provide documentation. This structure resembles the CARES Act forbearance protections, which similarly do not require consumers to provide documentation.
- Attending a court hearing and providing evidence could be a significant burden to clients, even as the courts have transitioned to offering remote hearings, which can still present challenges for consumers with limited or no access to the technology required. Consumers, most who will appear pro se, will need to gather evidence of income and expenses.
- Gathering the documentation of income and living expenses required for the court to consider is a significant burden during the pandemic.
- Settlements reached by consumers and collection agencies and firms as a result of SB-211 that avoid the need for additional court proceedings or filings of writs of garnishments or other extraordinary collections actions preserves judicial resources, as well as garnishee and collections resources.

The conditions leading the administrator to make her conclusions are still just as relevant today as they were two months ago, and based upon ongoing data from the U.S. Census Bureau, things have become worse:

- **More Coloradans expect losses in employment income.** In week 9 (June 25-30), the percentage of adults in Colorado who expected someone in their household to have a loss in employment income over the next four weeks was 28.8 percent. In week 15 (September 16-28), the percentage was 23.7 percent. The current percentage for week 21 (December 9-21) has increased to 30.4 percent.[3]
- **Food insecurity has increased**. In week 9 (June 25-30), the percentage of adults in Colorado living in households where there was either sometimes or often not enough to eat in the last seven days was 6.1 percent. In week 15 (September 16-28), the percentage was 9.8 percent. The current percentage for week 21 (December 9-21) has increased to 10.4 percent.[4]
- **More Coloradans are having difficulty paying for household expenses.** In week 9 (June 25-30), the percentage of adults in Colorado who expected someone in their household to have a loss in employment income over the next four weeks was 28.8 percent. In week 15 (September 16-28), the percentage was 23.7 percent. The current percentage for week 21 (December 9-21) has increased to 35.8 percent.[5]
- While Colorado outpaces national trends in employment, **employment has stalled** during the winter months and the K-shape of the recovery continues to have dramatic consequences on Colorado workers in low-wage jobs. For middle- and low-wage workers, employment is down 5.8 percent and 17.6 percent, respectively.[6]
- **Unemployment claims have surged** again as leisure and hospitality industries have had to cut back. Jobs are coming back, but much slower than they were lost. Colorado remains 4.5 percent below its February 2020 level.[7]
- **Up to 42.1 percent of Colorado residents report taking on debt** to meet everyday spending needs, putting Colorado second worst in national rankings released by Lendingtree.[8] For Coloradans, using credit cards or loans (26.7 percent) is almost as likely to be a tactic for financing immediate spending needs as using savings or selling assets (28.5 percent).[9]

We urge you to pass this 120-day extension to promote the economic security of families in Colorado and preserves governmental resources.

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[3] *Household Pulse Survey Interactive Tool.* US CENSUS BUREAU. (last reviewed January 6, 2021), *available at* https://www.census.gov/data-tools/demo/hhp/#/.
[4] *Id.*
[5] *Id.*
[6] *December 2020 Economic and Revenue Forecast*, COLORADO LEGISLATIVE COUNCIL. Dec 2020, *available at* http://leg.colorado.gov/sites/default/files/images/decemberforecast.pdf
[7] *Id.*
[8] Devon Delfino. *"State Where Residents Rely Most on Debt to Make Ends Meet."* LENDINGTREE. Sep 2020, *available at* https://www.lendingtree.com/debt-consolidation/debt-to-make-ends-meet-study/.
[9] *Id.*