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The Honorable Maxine Waters
Chairwoman
House Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
House Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Chairwoman Waters and Ranking Member McHenry,

On behalf of America's credit unions, I am writing to express our views regarding H.R. 2547, the Comprehensive Debt Collection Improvement Act, which is scheduled to be considered by the Committee this week. CUNA represents America's credit unions and their more than 120 million members.

H.R. 2547, the Comprehensive Debt Collection Improvement Act

Credit underwriting and debt collection are critical to the safety and soundness of any lending institution, and these activities should be conducted in a manner that is fair to the borrower. That is what the Fair Credit Reporting Act (FCRA) and the Fair Debt Collection Practices Act (FDCPA) are designed to do; but, H.R. 2547 would amend these laws in ways that would undermine consumers' financial well-being and jeopardize lenders' ability to make safe and sound underwriting decisions.

Through the enactment of the Fair Debt Collection Practices Act (FDCPA), Congress recognized that the relationship between borrowers and lenders collecting their own debt carried different characteristic than the relationship between debtors and third-party collectors. The differences include a responsibility on the part of the lender to comply with various safety and soundness regulations including reserve requirements and deposit insurance requirements as well as an incentive on the part of the lender to maintain an ongoing relationship with the borrower. Therefore, the scope of the FDCPA is limited to third party collection activity.

The limited scope of the FDCPA carries added significance when considering credit unions' not-for-profit cooperative structure. In contrast to a bank or other for-profit lender whose shareholders have the ultimate interest in the repayment of debts, credit unions' stakeholders are their members who have the ultimate interest in ensuring the credit union can take appropriate steps to collect debts owed by their fellow members. After all, credit union members will pay the cost of uncollected debts and collection efforts through higher interest rates on loans, lower rates on savings and higher fees on products and services.

It is essential that Congress and the CFPB continue to recognize this difference in law and regulation, and maintain the practice of regulating debt collection as it pertains to lenders collecting their own debt as part of safety and soundness regulation under the supervision of the prudential regulators.

While not directly subject to the FDCPA, credit unions and other lenders periodically retain the services of third-party collectors and therefore have an interest in legislation and regulation that would disrupt efficient and timely collection activity. Credit unions also rely on credit reports and credit scores when underwriting loans. As such, we are particularly concerned with Sections 403 and 802 of the legislation.

Section 403 – Prohibition on Consumer Reporting Agencies Reporting Medical Debt

Lenders rely on complete and accurate credit reports when underwriting loans. Section 403 would amend the FCRA to prohibit credit scoring models from treating certain medical debt information on consumers' credit report as a negative factor.

Restrictions on the reporting or consideration of certain debt prevents lenders from seeing borrowers' complete debt circumstances and clouds lenders' ability to fairly assess borrowers' creditworthiness. An incomplete view of borrowers' credit history reduces lender confidence in credit reports and scores, impacting pricing decisions and credit availability. The borrowers most impacted by the consequences of this provision will be low- and moderate-income borrowers whose financial well-being could benefit the most from access to affordable credit from a credit union.

Further, we are concerned about the precedent that a provision like this sets. Today, it's medical debt; tomorrow, it could be student debt; in a decade, will Congress prohibit the reporting of home mortgage debt? This could represent the first step on a slippery slope that could fundamentally damage credit underwriting, making it harder for lenders to make safe and sound credit decisions.

Borrowers and lenders alike benefit from a credit reporting system that produces an accurate and complete record of a borrower's credit situation. This provision undermines consumers' financial well-being and jeopardizes the ability of lenders to make safe and sound underwriting decisions. Therefore, we oppose it.

Section 802 – Enforcement of Security Interests

We also have concerns regarding Section 802, which would expand FDCPA coverage of non-judicial mortgage foreclosures in response to the Supreme Court's decision in *Obduskey v. McCarty & Holthus, LLP*. This provision will expose mortgage servicers to increased FDCPA liability, and produce regulatory compliance challenges for entities enforcing security interests. Again, for consumers, the impact will be seen in pricing and credit availability; for financial institutions, resources will be wasted complying with and defending against judicial action associated with this provision.

We would strongly urge the Committee to first conduct a thorough fact-finding into the increase in lending and servicing costs before considering this measure. Currently, thirty-one states use nonjudicial foreclosure proceedings, so this change would affect a significant number of American homeowners. Between strong housing prices and a weak economic recovery for low- and moderate-income borrowers, further increases to the cost of credit could potentially price some Americans out of homeownership. Therefore, this provision should be carefully considered before adoption.

Conclusion

Consumers deserve fair treatment in the debt collection process; the FDCPA and its implementing regulations provide a framework intended to ensure that fairness. Likewise, creditors need complete and accurate credit reports to underwrite loans and ensure that borrowers have the wherewithal to repay their debt. Given the concerns that we have outlined herein, we are unable to support this legislation and urge the Committee not to report this bill to the House. On behalf of America's credit unions and their more than 120 million members, thank you for the opportunity to share our views.

Sincerely,



Jim Nussle
President & CEO