



The Honorable Donald J. Trump
President of the United States
The White House
Washington, DC 20500

April 3, 2020

RE: RESPONSE TO SENATE BILL S.3565

I am the current President of the Commercial Law League of America (“CLLA”) and write to voice the CLLA’s objection to Senate Bill S.3566. The CLLA, founded in 1895, is the nation’s oldest organization of attorneys and other experts in credit and finance actively engaged in the field of commercial law, bankruptcy, and reorganization. Its membership consists of over 650 members who employ over 10,000 citizens. The CLLA is made up of lawyers, from both small and large firms, judges from virtually every state in the United States, and credit professionals, including members who own or work for collection agencies. CLLA members represent individuals, small businesses, and large corporations, all of whom are involved in the commercial credit industry. Although the CLLA has long been associated with the representation of creditor interests, it is known for seeking fair, equitable, and efficient administration of state law collection and bankruptcy cases for all parties-in-interest.

We, like all other Americans, are facing this time of crisis with solidarity, resolve, and an effort of togetherness.

While we wholeheartedly agree and support recent consumer relief actions, Senate Bill S.3565 will actually damage small businesses by cutting off their ability to require customers to pay for their goods and services, and does not accomplish the goals for which it was created. It is important that we avoid unintended consequences.

First, Senate Bill S.3565 creates a blanket prohibition of debt collections, with no distinction between who can collect from whom, i.e. small businesses cannot seek to collect from other small businesses, consumers cannot seek to collect from any business, a large business cannot seek to collect from any business that may be operating fine or even thriving during the emergency, etc. Small businesses depend on being able to collect their past due balances. Passing the bill without important clarifications will hurt the very people the bill is supposed to protect.

Second, Senate Bill S.3565 prohibits collections against consumers and small businesses, due to any National Emergency, with no distinction as to whether or not there is any harm suffered. Senate Bill S.3565 does not require that any “qualifying event” to have impacted a consumer or small business, yet still creates a wholesale prohibition of debt collection. It does not provide for any notice to be provided to a creditor so that it is aware that the consumer or small business has been impacted. Nonetheless, the Bill creates a significant penalty against a creditor who violates the law, even though the creditor would have no notice of the hardship.

Third, Senate Bill S.3565 prohibits debt collectors from working with those consumers that voluntarily wish to make payments, such as clearing their credit, satisfying liens in order to refinance their homes, or simply to honor their commitments.

Fourth, the timeframe proposed is amorphous and uncertain, with no tolling of any statute of limitations, since it prohibits any collection for one hundred and twenty days after the end of the emergency. In some emergencies, there may be a quick return to normalcy, and in some cases, an immediate return. In many cases, the degree of the impact of the



emergency may differ across regions of the country. As such, it is best for the individual states to ascertain whether or not this kind of prohibition is appropriate. It is important to note that this is already happening at the individual State level. Additionally, there is widespread self-regulation among clients, credit grantors, and attorneys, who are already extending accommodations to those affected with hardship.

Finally, it unnecessarily extends consumer protections to commercial accounts, which is beyond the intent of the Fair Debt Collections Practices Act.

I would urge you to please closely consider any legislation that offers a blanket prohibition on debt collection and oppose it, as unintended consequences are likely to occur.

Very Truly Yours,

Timothy Wan, Esq.
CLLA President