

Committee Report

CONSENT CALENDAR

February 9, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Commerce and Consumer Affairs to
which was referred HB 109,**

AN ACT relative to the referral of debts for collection.

**Having considered the same, report the same with the
following resolution: RESOLVED, that it is
INEXPEDIENT TO LEGISLATE.**

Rep. Dawn Johnson

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Commerce and Consumer Affairs
Bill Number:	HB 109
Title:	relative to the referral of debts for collection.
Date:	February 9, 2021
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill requires creditors to give affirmative notice to a consumer before bills for goods and services may be referred for collection. This bill would require a person or business who is owed money by another to give a in-person, certified mail, or telephone communication or a home visit before they can turn the person over to collections. There was no evidence that a consumer is unaware that they owed money. Creditors do not send people out to collection without sending notice and making calls. The adoption of this bill could lead to abuse since the debtor has to give a consumer affirmative notification, meaning that the creditor can not go to collection until the collector has affirmed that the consumer has actually gotten the notification. This would put an unnecessary hardship on many small businesses. A debt collector has the resources to locate and deliver collection notices. That is their job not the job of the one owed the funds.

Vote 16-1.

Rep. Dawn Johnson
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Commerce and Consumer Affairs

HB 109, relative to the referral of debts for collection. **INEXPEDIENT TO LEGISLATE.**

Rep. Dawn Johnson for Commerce and Consumer Affairs. This bill requires creditors to give affirmative notice to a consumer before bills for goods and services may be referred for collection. This bill would require a person or business who is owed money by another to give a in-person, certified mail, or telephone communication or a home visit before they can turn the person over to collections. There was no evidence that a consumer is unaware that they owed money. Creditors do not send people out to collection without sending notice and making calls. The adoption of this bill could lead to abuse since the debtor has to give a consumer affirmative notification, meaning that the creditor can not go to collection until the collector has affirmed that the consumer has actually gotten the notification. This would put an unnecessary hardship on many small businesses. A debt collector has the resources to locate and deliver collection notices. That is their job not the job of the one owed the funds. **Vote 16-1.**

Original: House Clerk

Cc: Committee Bill File

Archived: Thursday, April 22, 2021 2:01:17 PM
From: JOHN B HUNT
Sent: Monday, March 1, 2021 10:30:00 AM
To: Dawn Johnson; Carrie Morris; Pam Smarling
Subject: Re: ITL HB109 REPORT
Importance: Normal

HB109

ITL Committee

This bill requires creditors to give affirmative notice to a consumer before bills for goods and services may be referred for/to collections. This bill would say that a person/business who is owed money by another would have to give a in-person, certified mail, or telephone communication or home visit before they can turn the person over to collections. There was no evidence that a consumer is unaware that they owed the money. Creditors do not send people out to collection without prior sending statements and made calls. Passage has the potential of being abused since the debtor has to give a consumer affirmative notification, meaning that the creditor can not go to collection until the collector has affirmed that the consumer has actually gotten the notification. This would put an unneccetary hardship on many small businesses. A debt collection has the resources to locate and deliver the collection notices. That is their job not the job for the one owed the funds.

JBH

On Mar 1, 2021, at 9:25 AM, Dawn Johnson <dawnjohnsoninthehouse@gmail.com> wrote:

Started with this small one let me know what you think...

Sent from [Mail](#) for Windows 10

<HB109 ITL report.docx>

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 109

BILL TITLE: relative to the referral of debts for collection.

DATE: February 9, 2021

LOB ROOM: Remote

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Johnson

Seconded by Rep. Potucek

Vote: 16-1

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Keith Ammon, Clerk

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION ON HB HB109

BILL TITLE: relative to the referral of debts for collection.

DATE: Feb 9, 2021

LOB ROOM: ZOOM

MOTION: (Please check one box)

OTP ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. Johnson Seconded by Rep. Potucek Vote: _16-1

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of
Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR? X Yes _____ No

Minority Report? _____ Yes X No If yes, author, Rep.: _____ Motion: _____

Respectfully submitted, Rep. Ammon, Clerk



2021 SESSION

Commerce and Consumer Affairs

Bill #: HB109 Motion: ITL AM #: _____ Exec Session Date: 2/9/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Hunt, John B. Chairman	16		
Potucek, John M. Vice Chairman	1		
Osborne, Jason M.			
Ammon, Keith M. Clerk	2		
Abramson, Max	3		
Ham, Bonnie D.	4		
Depalma IV, Joseph			
Greeson, Jeffrey	5		
Johnson, Dawn M.	6		
Terry, Paul A.	7		
Bartlett, Christy D.	8		
Abel, Richard M.		1	
Herbert, Christopher J.	9		
Van Houten, Constance	10		
Fargo, Kristina M.	11		
Weston, Joyce	12		
Beaulieu, Jane E.	13		
Burroughs, Anita D.	14		
McAleer, Chris R.	15		
TOTAL VOTE:	16	1	

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 109

BILL TITLE: relative to the referral of debts for collection.

DATE: January 26, 2021

LOB ROOM: 302 **Time Public Hearing Called to Order:** 11:15 am

Time Adjourned: 11:48 am

Committee Members: Reps. Hunt, Potucek, Ammon, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

Bill Sponsors:
Rep. Ulery

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep Jordan Ulery

Hillsborough 37. Bill was introduced last year but didn't go far. Sometimes mail does not come through and people don't know bills are due. Bill provides that consumer knows they have a balance before credit is affected. Business knows the

Rep Hunt

Q: So you're not looking that the person has to receive the certified letter. You're saying they would still be in compliance if they attempted to send a certified letter?

A: Yes. Doesn't need to be a certified letter. Some businesses use door hangers.

Q: The word I got hung on was "affirmative"

A: Strike like three strike give and put "attempt."

Rep Abramson

Q: Bill applies to business that operate in new Hampshire.

A: Doesn't just apply to NH businesses. Says, "a creditor." If an out of state business doesn't comply they can't certify in their own local court.

Rep Bartlett

Q: So all of the other notices don't count. We now must have another notice, correct?

A: Up to the business as to what time they want to send the notice. This is just a final attempt for the business to know that this person isn't going to pay the bill.

Q: Example. I received a bill yesterday from Concord hospital for a procedure done Jan 2020. If I don't pay this bill, I'm going to keep getting notices. So you're saying the "deadbeat" still needs another notice?

A: Yes, a final, affirmative notice.

Rep Hunt

Q: What you really want is, whenever an agency decides to send your bill to collection, whenever they want to do it, you want them to send a letter, hang a postcard, to let you know they're sent your bill to collection.

A: Not sent but going to be sent. Yes, in essence but I would prefer pre-notification.

Rep Abramson

Q: Bill says cannot leave notice of a collection of debt on a recorded device.

A: Already illegal under federal law.

Q: Don't need a state law under federal law.

A: Some question to if whether federal law applies within the same state. If you want to strike it, go ahead.

Testimony

Mike Boony, NH Landlord Association *

Filing in for Nick. Have written testimony and will submit it. Bill is not practical because the debtor may not know the address of the person who leaves. Tenants leave and don't leave their forwarding address. Smaller landlords don't have the ability to locate tenants who move. Quick proposal. We're required to return deposit. Audio cut out.

Stephen Tower

I did sign up but at 11 AM. Procedure is new to me. I'm from NH Legal Assistance. Support the bill. Important benefit to consumers receiving notice prior to being sent to collections. They need a separate notice because sending to collections affects their FICO score even if they immediately pay it. I run a clinic for debtors once a month. I frequently meet with people who thought they had already paid a bill but then receive a notice from court. Had they known they would have taken action before it was sent to collection. A very similar process is done by utilities when pursuing an unpaid utility bill. Before they disconnect, they send a disconnect notice either by phone or posting an envelope on a door. It provides notice that a substantial impact will happen to the customer. I don't know this particular bill accomplishes that or not.

Rep Greeson

Q: Re: landlords trying to reach tenants that don't have a forwarding address for. Your bill only requires they send notice and that delivery was attempted, correct?

A: Yes. They would document the attempt has been made. They can put down on the envelope a request to the USPS for the new address – skip trace hack. It benefits the consumer and the creditor.

Rick Blais

In opposition as a landlord. The eviction process is the issue. From a creditor perspective the judge creates the lien. This becomes part of the judicial process and so it creates a quagmire from a landlord's perspective.

Respectfully Submitted,

Rep Ammon, Commerce Clerk

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

PUBLIC HEARING on Bill # HB109

BILL TITLE:

DATE: Jan 26, 2021

ROOM: Zoom

Time Public Hearing Called to Order: 11:15 AM

Time Adjourned: 11:48 AM

(please bold if present)

Committee Members: Reps. Hunt, Potucek, Ammon, ~~Osborne~~, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, ~~Beaulieu~~, Burroughs and McAleer

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Rick Blais

In opposition as a landlord. The eviction process is the issue. From a creditor perspective the judge creates the lien. This becomes part of the judicial process and so it creates a quagmire from a landlord's perspective.

House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill HB109 on 2021-01-26

Support: 12 Oppose: 5 Neutral: 0 Total to Testify: 4

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Ulery, Rep Jordan	repulery@comcast.net	603.231.7867	An Elected Official	Myself	Support	Yes (0m)	1/25/2021 5:13 PM
Blais, Rick	rickblais@gmail.com	603.370.0776	A Member of the Public	Myself	Oppose	Yes (0m)	1/26/2021 11:31 AM
Noonan, Amanda	amanda.noonan@puc.nh.gov	603.271.1164	State Agency Staff	NH Public Utilities Commission	Neutral	Yes (0m)	1/26/2021 9:02 AM
Tower, Stephen	stower@nhla.org	603.261.2818	A Lobbyist	New Hampshire Legal Assistance	Support	Yes (0m)	1/26/2021 10:59 AM
Lord, Kit	kitlord@yahoo.com	603.942.5374	A Member of the Public	Myself	Oppose	No	1/26/2021 12:25 PM
Dean, Mark	mdean@mdeanlaw.net	603.230.9955	A Lobbyist	New Hampshire Electric Cooperative	Oppose	No	1/26/2021 8:55 AM
See, Alvin	absee@4Liberty.net	7380656	A Member of the Public	Myself	Oppose	No	1/25/2021 11:15 PM
McCary, Michael	mike@bmlcboston.com	617.933.7255	A Lobbyist	New England Collectors Association	Oppose	No	1/24/2021 3:38 PM
Ploszaj, Tom	tom.ploszaj@leg.state.nh.us	603.279.9965	An Elected Official	Myself	Support	No	1/24/2021 8:39 PM
Scarponi, Ellen	ellenscarp1@gmail.com	603.703.7315	A Lobbyist	Consolidated Communications	Oppose	No	1/25/2021 11:17 AM
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Support	No	1/25/2021 12:13 PM

Testimony

01/26/2020 at 11:15 AM HB109, Notice To Debtors Before Referral To Collection Agency
Nick Norman
Legislative Initiative Landlord Tenant Law
AANH Government Affairs Chair
NickNorman@yahoo.com
603-432-5549

Property Owner Position: Against, vote to kill this bill.

Summary: This bill requires creditors to give affirmative notice to a consumer 2 weeks before bills for goods or services may be referred to a collection agency. Notice is to be certified mail, telephone, home visit, or posting a notice on the door of the debtor in a plain envelope with the debtor's name only on the outside. There is no provision if the creditor does not have contact information of the debtor.

This bill is **completely unnecessary**. By the time a bill goes to collection the **debtor is well aware of the debt**. The bill is also **not practical** because it is making creditors give notice to debtors before referral to a collection agency when the **creditor may not know the address or location of the debtor**.

For landlords, where we have a person who leaves owing rent without notice, it is **difficult if not impossible to give notice** to the **former tenant** that the debt of unpaid rent will be referred to a collection agency. **Tenants** in such circumstances, **do not leave forwarding addresses, and can have moved out of state**. The collection agencies, with additional resources, maybe able to locate the former tenant. Smaller landlords, without such resources, do not have that ability. Enactment of this **bill basically says write off the debt by making it impossible to provide notice** before transferring to a collection agency.

Please vote Inexpedient To Legislate.

01/26/2020 at 11:15 AM HB109, Notice To Debtors Before Referral To Collection Agency

Nick Norman

Legislative Initiative Landlord Tenant Law

AANH Government Affairs Chair

NickNorman@yahoo.com

603-432-5549

Property Owner Position: Against, vote to kill this bill.

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Please vote Inexpedient To Legislate.

01/26/2020 at 02:30 PM HB473, Renter's Insurance Notification Requirement
Nick Norman
Legislative Initiative Landlord Tenant Law
AANH Government Affairs Chair
NickNorman@yahoo.com
603-432-5549

Property Owner Position: Against, vote to kill this bill.

Summary: The bill would require landlords to include in any residential rental agreement of more than a month that a sentence that informs the tenant that the landlord's insurance does not cover the tenant's belongings from loss or damage and that the landlord recommends that the tenant purchase renter's insurance.

This bill will **not prevent the harm that it is intended to preclude**. It does not address the **situations where there are no rental agreements**. Just because there is a line in the lease, **does not mean a tenant is going to read the lease, or understand it**. It is also unclear what happens if a landlord does not include such a paragraph in the rental agreement. Truly the reason for this bill is because we do not teach life skills in high school. The burden of teaching people about insurance coverage belongs to the schools and not the landlords. Schools should be required to teach personal economics, especially in a state that does not have mandatory automobile insurance.

It is a **trap for the small, uninformed landlord**. It is unclear what liability the small landlord would be subject to if there is a loss and the required language is not in the rental agreement.

Tenants are adults, and **we should not have to hold their hands**. No insurance is required for automobiles, nor do car dealers have to go through these hoops, why should landlords?

What happens if landlord doesn't know to put this clause in their lease?

What happens **if landlord doesn't put this clause in their lease and tenant does not get renter's insurance and does sustain a loss**? Is the **landlord now responsible for tenant's loss even though it is tenant's responsibility** to protect themselves?

Lastly it is **not the government's place** to dictate what should be in a **private business contract**.

There are way **too many far reaching unintended consequences** in this bill. It should be killed from the very start.

Please vote Inexpedient To Legislate.

Archived: Tuesday, April 13, 2021 11:38:09 AM

From: [Shulock, David](#)

Sent: Monday, January 25, 2021 1:23:30 PM

To: ~House Commerce Committee

Cc: Noonan, Amanda

Subject: HB109-NHPUC Testimony

Importance: Normal

Attachments:

[HB109-NHPUC Comments.docx](#) 

Dear Rep. Hunt and Members of the Commerce and Consumer Affairs Committee:

Attached please find the testimony of Amanda A. Noonan on behalf of the Public Utilities Commission, relating to House Bill 109.

If you have any questions, please do not hesitate to contact either me or Ms. Noonan.

Best regards,

David Shulock

David J. Shulock

General Counsel

New Hampshire Public Utilities Commission

21 S. Fruit Street, Suite 10

Concord, NH 03301-2429

603.271.2431 (phone)

603.271.3878 (fax)

THIS TRANSMITTAL AND ATTACHED ACCOMPANYING DOCUMENTS (if any) IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, PROPRIETARY, AND/OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or an employee or agent who is responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, in any manner or form, is strictly prohibited. If you have received this communication in error, please notify me immediately, delete it from your machine's memory and destroy any hardcopy information. Thank you for your assistance.

Archived: Tuesday, April 13, 2021 11:38:09 AM

From: [Michael McCary](#)

Sent: Sunday, January 24, 2021 3:52:31 PM

To: ~House Commerce Committee

Subject: Testimony Opposing HB109

Importance: Normal

Attachments:

[NECA NH 2021 HB109\[4768\].pdf](#) 

Members of the House Committee on Commerce and Consumer Affairs:

On behalf of the New England Collectors Association, please accept the attached testimony in opposition to House Bill 109.

Thank you and please do not hesitate to contact me with any questions you might have.

Mike McCary

Michael McCary
Buoniconti & McCary, LLC
One Boston Place, Suite 2600
Boston, MA 02108
(617) 933-7255
www.bmlcboston.com

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Archived: Tuesday, April 13, 2021 11:34:23 AM
From: [Sheridan A. Lloyd](#)
Sent: Wednesday, February 24, 2021 8:58:07 PM
To: ~House Commerce Committee
Subject: HB109 Referral of debts for collection
Importance: Normal

I am against this bill, and ask you to please kill it.

This bill is unnecessary, and adds more confusion to collecting money legally due to a person or business. By the time a bill goes to collection, the debtor is very much aware of what's owed. As an example, if a tenant doesn't pay rent, and moves out with no notice- which is what happens if they haven't paid rent. They are NOT going to leave a forwarding address. Therefore, how is a landlord or any other payee (such as a used car dealership), going to know where to send the notice. This is another step of delaying payment collection on a valid bill. Even if it is forwarded by the USPS, there is no likelihood that the debtor is suddenly going to pay. So, there is another week or more, of lost time on getting payment. IF it has to go to a collection agency, they are in business to find debtors and collect the money.

Regards,
Sheridan Lloyd

Archived: Tuesday, April 13, 2021 11:34:23 AM
From: [Hsiu Chang](#)
Sent: Sunday, February 7, 2021 9:25:54 PM
To: ~House Commerce Committee
Subject: Executive Session: 02/09/2021 01:25 pm
Importance: Normal

Dear House Commerce Committee

My name is Hsiu Chang, my parents and Ming and Li, we own affordable apartment in downtown Manchester, NH

HB109, Notice To Debtors Before Referral To Collection Agency
My Position: Against

HB473, Renter's Insurance Notification Requirement
My Position: Against

Archived: Tuesday, April 13, 2021 11:34:23 AM

From: [Kit Lord](#)

Sent: Tuesday, January 26, 2021 12:19:56 PM

To: [~House Commerce Committee](#)

Subject: Vote NO on HB473 Renters Insurance Notice & HB109 Notice to Debtors

Importance: Normal

Dear Committee members,

I am writing to ask you to kill these bills and providing my opinions below:

HB473, Renter's Insurance Notification Requirement.

Especially in a state which doesn't require auto insurance, it is astounding that this body would force landlords to "recommend" that tenants get their own insurance in a private business contract. (I will point out that as a caring landlord I already do everything being laid out in this bill.)

I find it troubling that government would say do instead of mandating actually teaching high-school student practical home economic skills they will really need. They should know well before getting an apartment that they need their own insurance.

What will happen in the case where a small landlord who doesn't follow your bills doesn't include this in a contract? If there is an unfortunate loss does that make the landlord liable? That's untenable.

HB109: Notice To Debtors Before Referral To Collection Agency.

As a small landlord, I can foresee being in the probable position where my tenant skipped out on the rent and left me no forwarding address on purpose, especially as many are losing jobs. These tenants absolutely already know they owe the money!

If I do not have their forwarding address, how am I supposed to give this notice?

Sincerely,
Kit Lord,
Northwood

Archived: Tuesday, April 13, 2021 11:34:24 AM

From: Nick Norman

Sent: Monday, January 25, 2021 9:03:59 PM

To: ~House Commerce Committee

Subject: hb109, HB313, HB166, HB473, 1/26/21 LT bills; summary & talking points; please vote ITL

Importance: Normal

Attachments:

[210126HB109NickTestimony.doc](#)  [10126HB473NickTestimony.doc](#) 

To House Commerce & Consumer Affairs committee,

I lead the NH Legislative Initiative that follows all new landlord Tenant legislation from the point of view of the property owner. Our initiative is forwarded individual affiliates and to memberships of landlord associations and groups across the entire state with a distribution list in the range of 4000 weekly. We have a core team of highly experienced landlords and real estate attorneys reviewing legislation and have communication with landlords across the entire state. We bring to you a composite view point of many many property owners. Occasionally, if it is just me speaking for me I will start by saying "speaking personally".

Unfortunately, do to a prior commitment, I can not attend the zoom meeting Tuesday 1/26/21. In my stead, Rick Blais & Mike Bunie, will speak for our organization.

HB109, Notice To Debtors Before Referral To Collection Agency

Download and read attached important Summary & talking points

HB313, Amateur Radio Antennas

Speaking personally, I don't see that it makes sense for the government to force Home Owner Associations to except amateur radio antennas. Shouldn't that be left to individual associations to decide. Maybe the owner bought into that association because they didn't want to look of antennas everywhere. An avid amateur radio operator can inquire before buying into an association if it is that important to the buyer.

HB166, Pool Safety Requirements Foreclosed Residential Property

Again speaking personally, it seems to me we just keep piling on more and more government regulation which ultimately increases costs which are passed on to the consumer and little bit by little bit making housing less and less affordable. If the property is foreclosed there shouldn't be any trespassers on the property.

HB473, Renter's Insurance Notification Requirement

Download and read attached Important Summary & talking points

Please feel free to call me anytime to clarify any points regarding landlord tenant legislation and please vote ITL on all of these bills.

(we, the people, can end the pandemic by all wearing face masks in public indoor places or large gatherings of people, following careful safety protocols with touched surfaces & avoiding touching our face.

Be Safe)
Love & Light,
Nick Norman
Director of Legislative Affairs
AANH Government Affairs Chair
603-432-5549

Archived: Tuesday, April 13, 2021 11:34:24 AM

From: [Kit Lord](#)

Sent: Monday, January 25, 2021 2:50:28 PM

To: [~House Commerce Committee](#)

Subject: Vote NO on HB473 Renters Insurance Notice & HB109 Notice to Debtors

Importance: Normal

Dear Committee members,

I am writing to ask you to kill these bills and providing my opinions below:

HB473, Renter's Insurance Notification Requirement.

Especially in a state which doesn't require auto insurance, it is astounding that this body would force landlords to "recommend" that tenants get their own insurance in a private business contract. (I will point out that as a caring landlord I already do everything being laid out in this bill.)

I find it troubling that government would say do instead of mandating actually teaching high-school student practical home economic skills they will really need. They should know well before getting an apartment that they need their own insurance.


What will happen in the case where a small landlord who doesn't follow your bills doesn't include this in a contract? If there is an unfortunate loss does that make the landlord liable? That's untenable.

HB109: Notice To Debtors Before Referral To Collection Agency.

As a small landlord, I can foresee being in the probable position where my tenant skipped out on the rent and left me no forwarding address on purpose, especially as many are losing jobs. These tenants absolutely already know they owe the money!

If I do not have their forwarding address, how am I supposed to give this notice?

Sincerely,
Kit Lord,
Northwood

Archived: Tuesday, April 13, 2021 11:34:24 AM
From: [Shulock, David](#)
Sent: Monday, January 25, 2021 1:23:30 PM
To: [~House Commerce Committee](#)
Cc: [Noonan, Amanda](#)
Subject: HB109-NHPUC Testimony
Importance: Normal
Attachments:
[HB109-NHPUC Comments.docx](#) 

Dear Rep. Hunt and Members of the Commerce and Consumer Affairs Committee:

Attached please find the testimony of Amanda A. Noonan on behalf of the Public Utilities Commission, relating to House Bill 109.

If you have any questions, please do not hesitate to contact either me or Ms. Noonan.

Best regards,

David Shulock

David J. Shulock
General Counsel
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301-2429
603.271.2431 (phone)
603.271.3878 (fax)

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Archived: Tuesday, April 13, 2021 11:34:24 AM

From: [Michael McCary](#)

Sent: Sunday, January 24, 2021 3:52:31 PM

To: ~House Commerce Committee

Subject: Testimony Opposing HB109

Importance: Normal

Attachments:

[NECA NH 2021 HB109\[4768\].pdf](#) 

Members of the House Committee on Commerce and Consumer Affairs:

On behalf of the New England Collectors Association, please accept the attached testimony in opposition to House Bill 109.

Thank you and please do not hesitate to contact me with any questions you might have.

Mike McCary

Michael McCary
Buoniconti & McCary, LLC
One Boston Place, Suite 2600
Boston, MA 02108
(617) 933-7255
www.bmlcboston.com

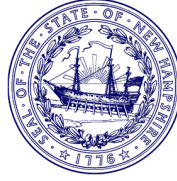
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STATE OF NEW HAMPSHIRE

CHAIRWOMAN
Dianne Martin

COMMISSIONER
Kathryn M. Bailey

EXECUTIVE DIRECTOR
Debra A. Howland



TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-2431

Website:
www.puc.nh.gov

PUBLIC UTILITIES COMMISSION

21 S. Fruit St., Suite 10
Concord, N.H. 03301-2429

January 25, 2021

Representative John Hunt, Chairman
Commerce and Consumer Affairs Committee
Legislative Office Building, Room 302
107 North Main Street
Concord, NH 03301

Dear Rep. Hunt and Members of the Committee:

Thank you for the opportunity to provide testimony on House Bill 109, relative to the referral of debts for collection. We offer the following comments on the proposed bill.

- The proposed bill is unnecessary for the referral to collection of debts incurred for utility service. RSA 363-B prohibits the termination of any residential utility service without a minimum of 10 days written notice. The Commission's administrative rules, Puc 1200, require a 14 days written notice to a customer before utility service would be disconnected.
- In accordance with RSA 363-B and the Commission's administrative rules, written notice of the utility's intent to disconnect service shall be sent by US mail with a postmark 14 calendar days prior to the proposed disconnection date. In addition to the requirement for written notice, before disconnecting service, utilities are also required to notify an adult residing at the premises or to leave a written notice if no adult is at the premises.
- Costs associated with collecting past due accounts are passed along to all customers through rates. Requiring utilities to provide affirmative notification via certified mail would create additional costs to be borne by all ratepayers. Certified mail could potentially delay the receipt of the notice and may result in customers refusing to accept the notice. Receivable balances and uncollectible debt written off may increase as a result.
- The posting of a notice of debt on the consumer's door also raises privacy concerns for the consumer. For consumers who reside in secured apartment or condominium buildings, the notice would be clearly visible to all residents not just the intended customer.

Thank you again for your time.

Sincerely,
Amanda O. Noonan
Director, Consumer Services and External Affairs Division

STATE OF NEW HAMPSHIRE

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Dianne Martin

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- The posting of a notice of debt on the consumer's door also raises privacy concerns for the consumer. For consumers who reside in secured apartment or condominium buildings, the notice would be clearly visible to all residents not just the intended customer.

Thank you again for your time.

Sincerely,
Amanda O. Noonan
Director, Consumer Services and External Affairs Division



January 26, 2021

The Honorable John Hunt, Chairman
The Honorable John Potucek, Vice Chairman
Committee on Commerce and Consumer Affairs
Legislative Office Building
107 North Main Street
Concord, NH 03301

Oppose HB 109

Chairman Butler, Vice Chairman Williams and Members of the Committee:

On behalf of the New England Collectors Association (NECA), I write in opposition House Bill 109, *an Act* relative to the referral of debts for collection.

The New England Collectors Association is the trade association of the debt collection industry in the state of New Hampshire. Our membership consists primarily of third-party collection agencies which assist creditors such as hospitals, dentists, landscapers and other businesses with the collection of delinquent consumer debt. It is our job to contact those responsible for delinquent accounts and work with them to arrange a way for a debt to be repaid which is reasonable for both the consumer and the creditor.

The majority of our member companies are small businesses. According to a recent survey by our national trade association, ACA International, 44 percent of members have fewer than nine employees. Additionally, 85% of members have 49 or fewer employees and 93% of members have 99 or fewer employees.

Additionally, these small businesses serve other small businesses in our New Hampshire communities. The same survey found that half of members indicated that between 50% - 100% of their clients are also small businesses.

This is important to point out because new regulations often place a disproportionate burden on small businesses, their clients and their customers.

Affirmative Notification

The proposed legislation would require a creditor to “give a consumer affirmative notification two weeks prior to referral of any bill to collection by certified mail, telephone communication, or home visit, or posting of a notice of debt on a consumer's door in a solid envelope marked confidential and endorsed with the consumer's name.”



Many small businesses utilize the expertise and resources of third-party collection agencies to handle all aspects of their accounts receivable. This includes sending invoices, collecting accounts prior to going in default as well as collecting on accounts in default. This legislation would prevent many small businesses in New Hampshire from outsourcing portions of or their entire accounts receivable portfolio. Outsourcing services is a critical practice embraced by business large and small to best serve their customers and to conserve critical resources to meet their bottom line. Outsourcing of accounts receivable is no different than outsourcing legal needs, accounting needs, building maintenance, security or payroll. Many businesses do not have the internal resources or expertise to handle these services in house. This is even more evident when it comes to conducting highly regulated business activities such as accounts receivable actions.

NECA members are required to comply with dozens of federal laws, hundreds of state regulations, as well as the ethical standards and guidelines established by our association and ACA International. Specifically, the collection activities of our members are regulated primarily by the Federal Trade Commission (“FTC”) and Consumer Financial Protection Bureau (“CFPB”) and fall under the purview of the Fair Debt Collection Practices Act (“FDCPA”),¹ the Fair Credit Reporting Act (as amended by the Fair and Accurate Credit Transactions Act),² Telephone Consumer Protection Act (TCPA) and the Gramm-Leach-Bliley Act (“GLBA”),³ in addition to other federal, state and local laws and numerous federal and state regulators and law enforcement agencies (see attached).

The costs and lost opportunities associated with implementing this provision will harm New Hampshire businesses and all New Hampshire consumers as increased cost are inevitably passed along through higher prices, lower salaries and less available and more expensive credit.

Leaving a message

Additionally, the proposed legislation would prohibit a debt collector from leaving a message of debt on a recording device. Hindering two-way communication between collectors and consumers to discuss debt resolution options exposes consumers to long-term harm by increasing the likelihood of litigation to recover the outstanding debt. Debt collectors should be able to communicate in accordance with the preferences of consumers. Eliminating specific communication avenues only hurts the consumer. Debt collectors are already prohibited from leaving a message specifically about a debt due to third party disclosure concerns. However, initiating communication over a recorded message is often the first and best way to start a two-way dialogue with a consumer.

¹ 15 U.S.C. § 1692 *et seq.*

² 15 U.S.C. § 1681 *et seq.*

³ 15 U.S.C. § 6801 *et seq.*



Third party collection agencies have a tough job. They are talking with consumers about sensitive and emotional financial situations. The key to finding an appropriate solution is establishing a two-way line of communications with the consumer. In many cases debt collectors are a consumer's best chance of quickly resolving a dispute with the original creditor.

If a consumer doesn't communicate or have the opportunity to communicate with a collector, the options for remedy become limited. The ability to negotiate a reduced settlement, convenient payment plan or some other affordable solution can only occur if there is an open line of communication.

The ability to leave a voice recorded message and the content of any message is highly regulated at the federal level through the TCPA and the FDCPA. The CFPB just finalized a seven-year debt collection rule writing effort to protect consumers and modernize outdated laws. This new rule specifically addresses a limited content message that a debt collector can leave on a consumer's voicemail. In the final rule, the CFPB notes "use of voicemail messages should make it more convenient for consumers to communicate with debt collectors because consumers will be better able to arrange a discussion at a time that is convenient for them rather than at a time when the debt collector happens to reach them."⁴ Additionally, the bureau noted "some consumers express annoyance at receiving repeated calls from callers who do not leave messages."⁵

Now is not the time to eliminate critical communication avenues for consumers.

Third Party Communication

The proposed legislation would prohibit a collector from discussing "a debt with a third party, as described by the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. section 1692c(b), other than a discussion initiated by the customer with a state agency."

Consumers' privacy are already protected by federal law and any additional regulations to thwart communication with a consumer would ultimately harm the consumer. If a consumer does not have the ability to find out about and debt and/or communicate about a debt, the debt does not go away. The issue only escalates.

The FDCPA allows a debt collector to contact and communicate with a third party if the communication is not regarding a debt.

In order to protect a consumer's privacy, the FDCPA restricts the parties with whom debt collectors may communicate regarding a consumer's debt. Generally, debt collectors are prohibited from communicating with a third party about a consumer's debt, with a narrow group of exceptions. For the most part, collectors may not communicate with employers,

⁴ Consumer Financial Protection Bureau, 12 CFR Part 1006 [Docket No. CFPB-2019-0022], Debt Collection Practices (Regulation F) Final Rule, Page 517.

⁵ Consumer Financial Protection Bureau, 12 CFR Part 1006 [Docket No. CFPB-2019-0022], Debt Collection Practices (Regulation F) Final Rule, Page 517.



neighbors, friends and even family (other than the consumer's spouse or parents under certain circumstances) regarding a consumer's debt. However, the FDCPA does provide some exceptions to its restriction on communication with third parties.

The FDCPA does permit debt collectors to communicate with particular third parties under certain limited circumstances. These include:

- Spouse
- Parents (if the consumer is a minor)
- Creditor to whom the debt was originally owed
- Attorney of the consumer, creditor, or debt collector
- Consumer reporting agency (if otherwise permitted by law)
- Guardian, executor, and administrator (including other individuals authorized to pay debts from assets of the decedent's estate)
- Co-debtor, or other person legally obligated to pay the debt

Conclusion

Attempts to limit legitimate collection activity ultimately decreases available credit and increases the cost of credit. There is no such thing as an unpaid debt. Unrecovered debts are passed along to consumers in higher prices, more expensive credit or on to workers in the form of lower wages and benefits.

I encourage the committee to oppose the legislation. Thank you for your consideration and please do not hesitate to contact me at any time with questions you might have.

Best regards,

Jeff DiMatteo, President

New England Collectors Association

Fiscal Notes

Bill as
Introduced

HB 109 - AS INTRODUCED

2021 SESSION

21-0311
06/10

HOUSE BILL **109**

AN ACT relative to the referral of debts for collection.

SPONSORS: Rep. Ulery, Hills. 37

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill requires creditors to give affirmative notice to a consumer before bills for goods or services may be referred for collection.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the referral of debts for collection.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Unfair Collection Practices; Affirmative Notification Required. Amend RSA 358-
2 C by inserting after section 1 the following new section:

3 358-C:1-a Affirmative Notification Required. A creditor shall give a consumer affirmative
4 notification 2 weeks prior to referral of any bill to collection. In this chapter, "affirmative
5 notification" means in-person contact by certified mail, telephone communication, or home visit, or
6 posting of a notice of debt on a consumer's door in a solid envelope marked confidential and endorsed
7 with the consumer's name. No debt collector shall leave a message of debt on a recording device. No
8 debt collector shall discuss a debt with a third party, as described by the Fair Debt Collection
9 Practices Act (FDCPA), 15 U.S.C. section 1692c(b), other than a discussion initiated by the customer
10 with a state agency.

11 2 Effective Date. This act shall take effect 60 days after its passage.