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February 14, 2020

The Honorable Delores G. Kelley, Chairwoman
Committee on Senate Finance
3 East Miller Senate Office Building
Annapolis, MD 21401

RE: MD Senate Bill 425 (Beidle)—OPPOSE

Dear Chairwoman Kelley and Members of the Committee,

Encore Capital Group, Inc. and its wholly-owned subsidiaries (collectively, "Encore") submit this letter in **opposition** to Senate Bill 425. While well-intended, this legislation would render courts' valid judgments virtually meaningless, and would have a severely negative impact on the availability of affordable credit to Maryland consumers. Simply put, the bill's drastic overhaul of creditors' ability to collect on court judgments would have many negative unintended consequences for the 671,000 Maryland consumers we serve.

By way of background, Encore is a publicly-traded company and a leading provider of debt recovery solutions for consumers, with more than 60 years of experience helping consumers toward a better life. Through its subsidiaries, our company purchases portfolios of credit card receivables from major banks and partners with individuals as they repay their obligations and work toward financial recovery. We take a consumer-centric approach to helping consumers resolve their obligations, and each of our 8,500 employees takes great pride in this. We voluntarily cease or suspend collections where consumers demonstrate a hardship.[1] Additionally, last year we forgave over $5 million in debt to consumers in Maryland.

Still, even with our consumer-centric approach, we sometimes have to utilize litigation as a last resort. A key priority for us is to try to communicate with our consumers to resolve their debt obligations, and we typically offer flexible payment plans and deep discounts on the account balances of our consumers. In addition, we charge no fees or pre-judgment interest on the debt we purchase. Still, for a small segment of consumers who we believe have the ability, but not the willingness, to repay their obligations, litigation is a path we sometimes take after years of attempting to work with the consumer outside of the legal process. The attached timeline shows a typical path to wage garnishment, where we have attempted to work with the consumer or notify them of their options 17 times prior to a wage garnishment.

When we do proceed to the last resort of litigation and a court awards a judgment for a valid debt obligation, we believe that judgment should be enforced, and the debt obligation should be repaid. When we obtain a judgment issued by a Maryland court of law, wage garnishment is the primary way we are

[1] *See* Encore's Consumer Bill of Rights, Article 2 (attached).

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able to collect on the judgment. If the garnishment law has no teeth, courts' judgments will be rendered meaningless.

Garnishment Is a Valid Method to Collect on Court-Ordered Judgments

Garnishment is a well-established, court-supervised, formal procedure that allows us and other judgment creditors to seek repayment by collecting a small fraction of a non-paying judgment debtors' wages. Obtaining a garnishment order requires creditors such as retailers, banks and credit unions, financial services companies, professional service firms, and a variety of small businesses to go through a lengthy, costly and rigorous legal process.

By Drastically Increasing Exemptions from Garnishment, SB 425 Would Render Courts' Valid Judgments Virtually Meaningless

As introduced, SB 425 exempts from garnishment any disposable earnings equaling 50 times the *state* minimum wage – up from the current law's 30 times the *federal* minimum wage. Using the state minimum wage of $15 an hour in 2025, Maryland consumers earning up to approximately $50,000 gross salary would be entirely exempt from repaying their debt obligations (estimating a 22% difference between gross salary and disposable wages[2]). As such, a consumer would have to earn over $50,000 to even start to be subject to wage garnishment and even then, the greater of 75% of disposable wages or $750 per week in take home wages would be protected from garnishment.

While Encore believes that protections should be provided for consumer who are in financially difficult situations or are undergoing hardships, we cannot support the proposal's blanket, no-questions-asked exemption for *all consumers*. It makes sense to consider individual life circumstances when determining who needs financial protection and who does not. For example, a single mother earning $50,000 annually and supporting several children may need an exemption from wage garnishment in order to afford the necessities of life. In contrast, a married wage-earner from a dual-income household, raising no dependents and earning $50,000 annually needs fewer protections. Applying the same automatic garnishment exemptions to all wage-earners does a disservice to consumers by reducing creditors' ability to collect and therefore reducing affordable credit.

Maryland law already provides a robust exemption for consumers from judgement creditors in the form of a $6,000 bank account or personal property exemption. This exemption is guaranteed once the consumer files a simple document with the court, making it one of the most consumer-friendly exemptions in the country.

The changes to the law proposed in SB 425 combined with the existing protections for consumers in the state, would mean that the courts' valid judgments would be unenforceable for the vast majority of consumers who have incurred a debt obligation but are unwilling to pay it back.

[2] The term "disposable wages" are the amount of earnings left after legally required deductions e.g., federal, state taxes, Social Security, unemployment insurance and medical insurance. (See Maryland Courts "Frequently Asked Questions," located at https://mdcourts.gov/sites/default/files/court-forms/district/forms/civil/dccv065br.pdf/dccv065br.pdf)

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The Availability of Credit for All Maryland Consumers Would Decline

This inequity doesn't just impact creditors and the consumers who failed to repay their valid debt obligations. The inequity will harm a far greater segment of society -- Maryland consumers who seek credit to get a mortgage, car loan, or credit card, the majority of which *do* repay their valid debt obligations. Simply put, the availability of credit at reasonable prices will go down. Numerous research studies in recent years have shown just this – that placing more restrictions on the collection of validly owed debt causes the availability of credit to decrease.[3] As Professor Todd Zywicki of the Mercatus Center at George Mason University found in his comprehensive research, greater restraints on creditors' remedies will reduce the supply of lending and raise prices, at the expense of other consumers who may end up paying more or obtaining less access to credit.[4] Another recent study noted that cumbersome regulation has "restricted the availability of financial products and credit, particularly for low-income borrowers, young people, and minorities."[5] Finally, a recent study from the Harvard Kennedy School of Government noted that a 250% surge in credit card related restrictions by regulators since 2007 has contributed to a 50% drop in annual credit card originations to lower-risk-score Americans.[6]

It is critical to maintain a reasonable level of wage garnishment so that Maryland continues to be a state where creditors who have extended money and have not been repaid are able to recoup the outstanding debt owed to them. Without the ability to recoup valid debt obligations, creditors will have little incentive to lend money to Maryland consumers in the first place. We ask you to consider these unintended consequences and urge the Committee to issue an unfavorable report on SB 425.

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Thank you for your attention to this important matter. Please feel free to contact me directly at 858-309-6923 for any further information.

Sincerely,

Sonia Gibson

Sonia Gibson
National Government Affairs

Enclosure

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[3] *Debt Collection Agencies and the Supply of Consumer Credit*, Philadelphia Federal Reserve Working Paper 15-23 (June 2015). *See also* Fonseca, Julia, *Access to Credit and Financial Health: Evaluating the Impact of Debt Collection* (Staff Repot No. 814). Federal Reserve Bank of New York, May 2017.
[4] Todd J. Zywicki, *The Law and Economics of Consumer Debt Collection and its Regulation*. Mercatus Center at George Mason University (September 2015).
[5] *Dodd-Frank At 5: Higher Costs, Uncertain Benefits*, American Action Forum (July 2015).
[6] Marshall Lux and Robert Green, *Out of Reach: Regressive Trends in Credit Card Access*, Harvard Kennedy School of Government (April 2016).