



**Statement of the Massachusetts Bankers Association
Regarding H 4429, An Act Relative to Fairness in Debt Collection
House Committee on 3rd Reading
March 13, 2024**

On behalf of our more than 120 commercial, savings and cooperative banks and federal savings institution members with more than 72,000 employees located throughout the Commonwealth and New England, the Massachusetts Bankers Association (MBA) appreciates the opportunity express our concerns with **H 4429, *An Act Relative to Fairness in Debt Collection***. This bill makes significant changes to the debt collection process in Massachusetts that could have a negative impact on our members, particularly with regards to consumer lines of credit.

Under federal law, the Federal Trade Commission (FTC) and the Consumer Financial Protection Bureau (CFPB) are both tasked with administration and supervision of the Fair Debt Collection Practices Act (FDCPA) that prohibits unfair practices in debt collection. Examples of prohibited conduct under the FDCPA include misrepresentations about the debt, including the amount owed; falsely claiming that the person contacting you is an attorney; threats to have you arrested; threats to do things that cannot legally be done, or threats to do things that the debt collector has no intention of doing. Debt collectors are also not allowed to harass people under federal law. In addition, the CFPB debt collection rules governing third party debt collection and other matters were recently updated as of November 30, 2021.

H 4429 seeks to impose further restrictions on banks and others collecting debts from Massachusetts consumers. The bill also imposes unilateral changes on existing contracts – including consumer credit contracts throughout the Commonwealth. As you know, similar legislation was considered and passed in the Senate in 2016 but was not acted upon by the House. In previous sessions, the Senate addressed MBA’s concerns regarding the potential unintended consequences of the bill’s original language on mortgage lending in Massachusetts. However, we remain concerned that provisions in the current legislation before the committee today will still have a significant negative impact on access to consumer credit.

Specifically, under the revised bill the statute of limitations for all consumer loans including unsecured credit lines is shortened from six to five years. Any payment towards a defaulted consumer loan does not restart the limitation period unless the payment completely cures the default and pays off any delinquency. A consumer credit consolidation that does not cure the entire default could be extinguished under the provisions of Section 3(e) of the new Chapter 93L. Unfortunately, this provision, which is intended to help consumers, could discourage lenders from extending unsecured consumer credit to certain borrowers, since anything less than a full payoff of the loan after a default may preclude them from pursuing the debt after five years.

The Association remains concerned with much of Section 5(d), which would award attorney fees to consumers, as well. By awarding attorney fees, the Commonwealth may be unwillingly discouraging consumers from entering into repayment agreements in hopes of a default judgment further down the line. This potential approach is contrary to public policy and does not protect consumers from harm as the award is intended.

While we understand the sponsors' desire to protect consumers from unfair or deceptive debt collection practices, we believe **H 4429** creates several unintended consequences on the consumer credit lending market in Massachusetts.

Thank you for considering our views on this important issue.