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Issues with The Statute of Limitations on Debt in the State of Vermont

Statutes of limitations on debt dictate the length of time that a creditor may pursue legal recourse for a debt owed to them. Once the statute of limitations has been reached, the Fair Debt Collection Practices Act prohibits institutions from suing consumers and threatening lawsuits.¹ After a debt reaches the prescribed statute of limitations, the debt is supposed to be removed from the debtor's credit score to reflect that the debt is no longer outstanding. In the United States, state governments have legal authority to decide how long the statute of limitations is, and many states specify different statutes of limitations on specific types of debt.

Vermont's Statute of Limitations on Debt

In Vermont, four different statutes of limitations exist in correspondence with four broad categories of debt. The four categories are written contracts, oral contracts, collection of debt on accounts, and judgements. The State of Vermont has a six-to-eight-year statute of limitations on written contracts, while oral contracts and collection of debt on accounts each have a six year statute of limitations. Judgements carry an eight-year statute of limitations.² Though these categories are specified to address a plethora of legal scenarios, they are by no means watertight; Vermont's state laws can, in practice, lead debt to be lawfully extended beyond the legislatures' intended statute of limitations, as explained below. Consequently, some debts may remain in perpetuity, thereby defying the state's intended statute of limitations, meaning that Vermonters in debt may be impacted by their debts indefinitely. Debt may pose a particular strain on those already struggling with poverty, victims of domestic violence, and other marginalized groups in Vermont, especially as the COVID-19 pandemic increases the financial stress on many citizens.

¹ Fair Debt Collection Practices Act (1977).

² 12 V.S.A. 506

Vermont in Comparison to Other States

In comparison with Vermont, New Hampshire only defines statutes of limitation on two of the four previously mentioned categories, and the state defines the statute of limitations for written contract and judgement law as 20 years, each.³ Massachusetts has a six-year statute of limitations on oral contracts, collection of debt on accounts, and judgements, though the statute of limitations on written contracts in Massachusetts ranges from six to twenty years.⁴ New York State poses a six-year statute of limitations on written contracts, oral contracts, and collection of debt on accounts from the date of default.⁵

Issues with Statute of Limitations as a tool to Improve Credit Scores

Credit Reporting Time Limit (FCRA)

There is significant inquiry into whether shortening the statute of limitations on debt in Vermont could help rectify Vermonters' credit scores during the pandemic. One of the most significant issues with this proposal is that the length of the statute of limitations does not affect the amount of time that a delinquent payment stays on a debtor's credit report.⁶ As stated above, the statute of limitations merely dictates the length of time that a borrower can be legally held accountable for their delinquent payment. Regarding the credit reporting time limit, the federal Fair Credit Reporting Act states that all delinquencies are to remain on a debtor's credit report for seven years, except for bankruptcy, which remains for ten years. Due to federal preemption, this means that any shortening of Vermont's statute of limitations will not prevent the bad credit mark from affecting debtors' credit reports for the full seven-year term. Essentially, this means that Vermont cannot legally reduce the credit reporting time limit, it can only reduce the length of the statute of limitations that allows creditors to try and recoup delinquent payments.

Perpetuity & Judgements

In Vermont, state law allows judgements on a debt to restart the timeclock of the statute of limitations. Essentially, if one form of debt is brought before the courts, and a judgement is made upon that debt, the debt time clock would be "reset" and the debt could continue to be brought to court, thereby allowing that debt to exist in perpetuity. This means that even if the statute of limitations on debt was shortened, creditors could legally pursue debtors for repayment in perpetuity by bringing the debt to court within the timeframe created by the

³ NH Rev Stat § 508:5 (2016)

⁴ MA Gen L ch 260 § 2 (2017)

⁵ CVP Article 2 § 213

⁶ "Complete Guide to the Statute of Limitations on Debt." Credit.org, January 2, 2021,

<https://credit.org/blog/complete-guide-to-the-statute-of-limitations-on-debt/#:~:text=Remember%2C%20the%20statute%20of%20limitations,report%20for%204%20more%20years.>

statute of limitations. Per the state’s statute of limitations, a legal judgement renews the validity of the claim for eight years with an interest rate of 12 percent per annum.⁷ Though the timeclock of the statute of limitations can be renewed for several reasons, including payment on a debt of any amount or a debtor’s entrance into a settlement plan, legal judgements are the only involuntary means of restarting the timeclock, which makes them a particularly challenging obstacle. In contrast, Hawaii’s statute of limitations on judgements is 10 years and judgements are not renewed, but instead extended.⁸ They have a 20-year extension limit from the date of the original judgement, after which the judgement is fully expired. Similarly, in Maine, the statute of limitations of judgements is 10 years and can be renewed only once for an additional 10 years as of September 2020.⁹ After this point, the judgement is no longer enforceable.

To reduce Vermont’s statute of limitations on debt while maintaining the perpetuity of judgement renewals would be of little practical use for debtors in Vermont. This reality further limits the legal utility of proposals to reduce the state’s statute of limitation.

Conclusion

The issues outlined above, including the preemptive nature of the federal credit reporting time limit and the renewal of judgements in perpetuity, emphasize how reducing the statute of limitations would have little practical benefit on Vermonters’ credit scores. Amending the state’s renewal of judgements in perpetuity could, conversely, make some tangible impact, as is seen in the cases of Maine and Hawaii.

This report was completed on March 10, 2021, by Madeleine Blaber, Katherine Peck, and Clay Lerner under the supervision of VLRS Director, Professor Anthony “Jack” Gierzynski in response to a request from Senator Allison Clarkson.

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⁷ 12 V.S.A. § 2901 (C)

⁸ “2009 Hawaii Code Volume 13 TITLE 36 - CIVIL REMEDIES AND DEFENSES AND SPECIAL PROCEEDINGS CHAPTER 657 - LIMITATION OF ACTIONS §657-5 - Domestic Judgments and Decrees.” Accessed February 2021. <https://law.justia.com/codes/hawaii/2009/volume-13/title-36/chapter-657/hrs-0657-0005-htm>.

⁹ 5 M.R.S §4651-A (9) (2019).