

## Thank You Chair & Committee

Hello, my name is Arthur Scott. My wife Linda and I are Colorado residents and homeowners for nearly 40 years where we put 3 daughters thru college and were pursuing the next phase of our American Dream. For 35 years I worked in the Aerospace / Defense industry and systematically laid a foundation to enable our pursuit of the dream. After retirement we opened a small business and 5 years later, under a perfect storm of unfortunate events, our business met its demise. It was then that we discovered current bankruptcy legislation offered us no protection. I support SB22-86.

From 2014 for nearly 5 years, we were small business owners in the automotive services industry. We invested life savings and secured an SBA loan. We created a well-researched business plan, hedged known and anticipated risks and poured our all – physically, emotionally and financially, into the business. Gross revenues grew, but profit margins remained painfully thin, making it impossible to recoup our investment in the short run. Experiencing a revolving door of employee turnover, we hired a business consultant firm to evaluate our operations and make recommendations. Disappointingly, their findings offered few solutions other than a recommendation for more working capital and a FUNDING SOURCE. The capital came in the form of MERCHANT FUTURE RECEIVABLES PURCHASE AGREEMENT with PERSONAL GUARANTEES. This was promoted as a “business loan” and provided a quick source of capital, but at a steep price, usurious rates and cloaked disclosures.

Operations continued into 2019 when we suffered a parts supply chain problem leading to a short-term cash-short position. This

resulted in a late lease payment giving the new business park owners cause to default our lease and began immediate eviction proceedings. Even though cure was made promptly we were only able to negotiate a stipulated agreement giving us 2 months to fully evacuate. Our subsequent search for suitable properties came to a halt with the COVID-19 pandemic lockdowns.

The next months in 2020 were spent closing out remaining business obligations. The lending firm holding our merchant future receivables purchase agreement REFUSED ALL ATTEMPTS to negotiate and restructure the debt and began aggressive collection actions. With no business cash flow or cash reserves left on hand, no business assets to seize, this unscrupulous lender asserted their rights under a personal guarantee through a sympathetic Virginia court. Had Colorado homestead and bank account exemptions been higher we could have avoided the fight for garnishment of pension, unemployment and social security wages and banked stimulus payments.

Small business, the backbone of American society is under siege, filled with unforeseen risks and predators. Higher limits on the Homestead and Bank Account Exemptions allow individuals to pursue their American Dream without fear of it becoming the American Nightmare. I urge you to support SB22-86.

**Homestead Exemption and Consumer Debt Protection**

SB22-086

Testimony to the Senate Finance Committee

Andrea Kuwik, Senior Policy Analyst, February 16, 2022

Thank you for the opportunity to provide testimony in support of [SB22-086](#). My name is Andrea Kuwik, and I'm a senior policy analyst with the Bell Policy Center. The Bell Policy Center provides policymakers, advocates, and the public with reliable resources to create a practical policy agenda that promotes economic mobility for every Coloradan.

The Bell strongly supports SB22-086 because of its ability to strengthen the financial well-being of economically vulnerable individuals and families throughout our state. Despite our continued economic recovery from COVID-19, we know too many Coloradans continue to struggle. For example:

- According to the [Urban Institute](#), nearly one-quarter of all Coloradans have some type of debt in collections, a number which grows to almost 40 percent when considering those from communities of color.
- As of the middle of last year, Colorado had the 4<sup>th</sup> highest rate of [credit card debt](#) in the country.
- Nationally, the number of adults [unable to afford a \\$400 unexpected expense](#) continues to rise, growing to 64 percent in 2020, up from 54 percent in 2015.
- In the most recent [Census Household Pulse Survey](#), over one-quarter of reporting Coloradans said they had at least some difficulty paying for usual household expenses over the past week.
- Additionally, as [reported by CPR](#), since August when the eviction moratorium ended, evictions have been on the rise, with requests for emergency assistance increasing by [33 percent in November](#).

These indicators of economic vulnerability speak to the financial challenges which continue to plague our state. Concerningly, current law often exacerbates these existing problems by allowing the garnishment of nearly all of a person's assets when they are involved in debt collection proceedings. For example:

- Only \$75,000 of an individual's home is protected, despite a statewide median home price of [over \\$500,000 in 2021](#).
- Only temporary protections allowed individuals to keep up to \$4,000 in their bank account. When in place, this allowed single individuals in Denver to meet a basic self-sufficiency standard for [nearly two-months](#).
- Only \$7,500 of a car is currently exempt from garnishment, despite the fact that the average cost of a used car in November, 2021 was [approximately \\$29,000](#).

Our current debt collection laws are not strong enough. Without a car, shelter, or money to pay for very basic expenses, individuals in economic crisis are further challenged in their ability to pay off and escape debt. In fact, Colorado's debt protection limitations are so poor the [National Consumer Law Center](#) gave our state's protections for family finances a 'D' rating.

COVID-19 has demonstrated that financial vulnerability is all too common for many Coloradans, and that one unexpected expense can cause significant harm for individuals and families. We've also seen, through temporary measures put in place during the pandemic, how stronger debt collection protections can make a meaningful difference in the lives of Coloradans. By passing SB22-086 we have an opportunity to act on these lessons and improve the protections which can benefit our friends and neighbors.

Thank you again for the opportunity to testify, and thank you to Senator Winter for bringing forward this important bill. We encourage your support, and please reach out if you have any questions or would like additional information.

Good afternoon Mister Chair, Members of the Committee and Senator Winter,

My name is Elizabeth Marcus and I am a member of the Legislative and Regulatory Affairs Committee of the Colorado Mortgage Lenders Association. CMLA is a trade association whose membership is comprised of 138 Member Companies and includes Mortgage Bankers, Brokers, Licensed Mortgage Loan Originators, Banks and Credit Unions located throughout the State of Colorado. Our members employ over 9,000 individuals and account for the majority of residential lending in our State.

While CMLA does not oppose an increase in the homestead exemption amount, it believes the amount of the increase in SB 22-086 is excessive and without need or justification. Historically, Colorado has taken a middle of the road approach with regard to the homestead exemption as compared to other states. The last amendment to the homestead exemption amount in 2015 increased the exemption by \$15,000 to the present levels. The proposed increase seeks to quadruple the homestead exemption amount. Although property values have increased in Colorado, that increase does not necessarily correlate to the equity homeowners enjoy in their homes. The purpose of the homestead exemption is to protect a portion of the homeowner's equity from creditors, not to provide a safe haven and open invitation to out-of-state debtors to shield their assets from creditors by moving to Colorado. As of 2018, Colorado ranked 49th among the 50 states in percentage of homeowners who owned their homes free and clear of mortgages – only 28.71% according to Move.com. Only a small percentage of judgment liens are foreclosed against homesteaded property. In fact, the levy and execution statutes require that the debtor's home be taken last in execution. The state homestead exemption does apply in bankruptcy court. The proposed exemption will provide debtors with an inordinate amount of protection from creditors in bankruptcy. It is a question of balancing the interests of debtors and creditors. CMLA believes that an increase in keeping with previous increases of 25% is more in line with Colorado's historical increases. As such an increase from 75K to 94K and from 105K to 131K for elderly and disabled is in keeping with Colorado's past middle of the road approach. CMLA believes an increase of the homestead exemption amount in the magnitude proposed in this bill will have an overall negative impact on Colorado and Coloradoans. The cost of credit to all consumers will increase due to creditors' inability to collect as much on defaulted debt and likewise reduce access to credit by creditors, requiring higher credit standards and less availability of credit to Colorado consumers.

Thank you for this opportunity to provide written testimony to you today.

Thank you to the Senate Finance Committee for the opportunity to submit my testimony. My name is Linda Schiller and I am writing on behalf of Young Invincibles to support Senate Bill 22-086, Homestead Exemption And Consumer Debt Protection, because protecting consumers from harmful debt collection practices is an issue of economic equity for young adults and young families in Colorado.

Anyone can be impacted by debt - student loans and medical emergencies can be unavoidable, and young adults face disproportionate amounts of student and medical debt. Drastic debt collection actions can harm our young adults' upward mobility by taking away their autonomy to pay for even their basic needs. Passing Senate Bill 22-086 is a crucial step we must take to ensure that Colorado protects its residents from this harm. Protecting a minimum amount of \$5,000 in bank accounts will allow Coloradans to stay on their feet and cover their basic needs as they work to pay off their debt. Protecting disability and economic stimulus payments from debt collection will also ensure that Coloradans can actually use the money that is meant to enable them to support themselves.

We cannot serve Coloradans in need without ensuring that they are protected from harmful debt collection practices. Colorado ranks low in consumer protections, and this is in part due to our outdated debt exemption laws. Updating these laws to protect basic necessities will ensure that all Coloradans have the chance to provide for themselves and to take charge of their own finances.

By passing Senate Bill 22-086, we can ensure that Coloradans can keep their dignity and autonomy in the face of debt collection. It is time for us to update our consumer protections. I support Senate Bill 22-086 and I strongly urge you to vote yes. Thank you.