



May 19, 2020

Senior Chairwoman Howard, Senior Chairman Setzer & Senior Chairman Szoka
House Finance Committee
16 W. Jones St.
Raleigh, NC 27601

RE: CONCERNS WITH HOUSE BILL 1067

Dear Chairs:

Please accept this letter, submitted on behalf of the American Fair Credit Council ("AFCC"), the trade association for the debt settlement industry, as our testimony in opposition to House Bill 1067 (Modernize Debt Settlement Prohibition). While we share the author's desire to protect consumers from unscrupulous debt settlement companies, this bill would simply put into place a flat prohibition on debt settlement, making it impossible for legitimate debt settlement companies to operate and, in the process, denying tens of thousands of financially challenged North Carolina consumers of an important tool when dealing with unmanageable levels of consumer debt at precisely the time when many will most need it.

Debt settlement has been tightly regulated at the federal level since October 2010, when the Federal Trade Commission ("FTC") passed rules implementing a regulatory regime for debt settlement providers. Included among the significant consumer protections enacted by the FTC is a prohibition on debt settlement companies from billing, let alone collecting, any portion of their compensation unless and until (1) the provider negotiates a settlement, (2) the settlement is accepted by the consumer and (3) the consumer subsequently ratifies his/her acceptance by making a payment to the consumer's creditor. The consumer may choose to reject the settlement, in which case the provider cannot bill or collect any portion of its compensation. In order to make this process functional, debt settlement service providers are prohibited from any and all contact with consumer funds: at all times, the consumer is the sole owner of funds committed to his/her debt settlement program.

Shortly after the FTC rules were enacted, the AFCC notified the North Carolina Attorney General that, based on the industry's adoption of the FTC model outlined above, we were of the opinion that debt settlement could and should be offered to consumers in North Carolina. The Attorney General thanked the AFCC for providing guidance and further advised the AFCC that, in the event the Attorney General had any concerns or received any complaints, they would advise both the provider and the AFCC. To date, other than the occasional complaint, all of which have been swiftly resolved in the ordinary course of business, the AFCC has not been advised of any volume of consumer complaints.

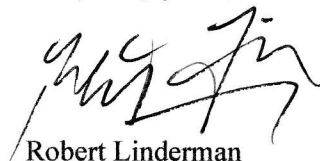
The benefit that debt settlement has provided to North Carolina consumers, on the other hand, is readily evident. Based on a recent economic impact study by John Dunham & Associates, it is estimated that, in 2018 alone, North Carolina consumers saved more than \$71.2 million as a direct result of debt settlement services (inclusive of all fees paid to service providers). These consumer savings are real dollars that feed directly into the North Carolina economy. As an aside, while we are not aware of any debt settlement companies with on the ground operations in North Carolina, the Dunham report identified 326 North Carolina jobs that are directly attributable to debt settlement activity. The Dunham report may be found here: <https://impactreport.americanfaircreditcouncil.org/>

More generally, the data demonstrate that debt settlement is not only a crucial tool for financially challenged consumers in dealing with their debt burdens but is also an extremely efficient way for consumers to avoid bankruptcy. As demonstrated by Greg Regan, a forensic accountant and the author of the only independent analysis of consumer outcomes associated with debt settlement, consumers in debt settlement programs received \$2.64 of debt reduction for every \$1.00 in fees paid to providers¹. With settlements averaging \$0.45 per dollar of debt, clients receive, on average, about \$0.35 of net benefit (after fees) per dollar of debt owed. The data tells a compelling story: for financially challenged consumers, debt settlement is an important lifeline and often the only way to avoid personal bankruptcy, a drastic measure that taints ones' credit worthiness for up to 10 years.

The AFCC has long been a strong champion of robust, consumer-centric legislation that would be both protective of consumers while enabling the industry to continue to provide services. In that regard, we would welcome the opportunity to work with the bill sponsors and other stakeholders to craft appropriate regulatory legislation to address any issues of concern while ensuring that North Carolinians continue to have access to debt settlement as an option to resolve their unsecured debt burdens. We cannot, however, support House Bill 1067 in its current form, providing as it does for the elimination of debt settlement in the state and thus removing for consumers in desperate need of financial relief a tool that saves North Carolina consumers more than \$71 million annually.

Debt settlement is not only a critical service allowing consumers afflicted with unmanageable consumer debt but a service that has been available to North Carolina consumers without controversy for more than a decade. Debt settlement saves financially challenged consumers tens of millions of dollars each year with, to the best of our knowledge, almost no consumer complaints. Now, more than ever, consumers will need every available option to deal with their debt burdens. Now, more than ever, debt settlement is likely to be the only option to bankruptcy for debt-burdened consumers. House Bill 1067 will hurt those consumers who need – or will need – debt settlement the most, and we would respectfully request your “no” vote on this legislation.

Very truly yours,



Robert Linderman
Vice President of the Board of Directors
American Fair Credit Council

cc: Chairs Conrad, Ross, Warren; Rep. Adcock, Rep. Alexander, Rep. Batch, Rep. Bell, Rep. Brody, Rep. Bumgardner, Rep. Butler, Rep. Carney, Rep. Carter, Rep. Clemmons, Rep. Corbin, Rep. Everitt, Rep. D. Hall, Rep. Harris, Rep. Holley, Rep. Humphrey, Rep. Hurley, Rep. Jackson, Rep. J. Johnson, Rep. Kidwell, Rep. Lewis, Rep. Lofton, Rep. Meyer, Rep. Sasser, Rep. von Haefen, Rep. Zachary

¹ “Options for Consumers in Crisis: An Economic Analysis of the Debt Settlement Industry” (2017) at <https://americanfaircreditcouncil.org/wp-content/uploads/2018.02.05-AFCC-Report-Consumers-in-Crisis.pdf>. The outcomes and conclusions given in the cited report have been independently validated by Harvard’s Kennedy School of Public Affairs Professor William Dobbie, PhD, see “Financial Outcomes for Debt Settlement Programs” at <https://americanfaircreditcouncil.org/wp-content/uploads/Dobbie-Report-05022020-final.pdf>