



SENATE COMMERCE COMMITTEE

JUNE 10, 2024

TESTIMONY IN SUPPORT OF SENATE BILL 1310

Chairwoman Pou, Vice-Chair Cryan and members of the Senate Commerce Committee:

Thank you for the opportunity to testify this afternoon in support of S1310, legislation that would enact a licensing regime for the debt resolution industry in New Jersey. My name is Steven Boms, and I am the Legislative Director of the American Association for Debt Resolution, the trade association that represents America's leading debt resolution companies.

S1310 is substantively similar to legislation released by this committee and passed unanimously by the full Senate last session. The bill would enable New Jersey consumers in financial hardship to access an additional option to address their unmanageable unsecured debts and would align New Jersey with the vast majority of states across the country. And the consumer impact is significant. Nationwide, AADR member companies resolve more than \$6 billion in unsecured debt annually, saving consumers nearly \$2 billion each year.

New Jersey is one of the only states in the country that statutorily prohibits debt resolution companies from offering their services to its citizens. All of New Jersey's neighboring states permit our member companies to operate, and therefore you and your constituents may see advertising for our companies on television or the radio in the Philadelphia and New York media markets.

AADR member companies work with consumers who have experienced a financial hardship to achieve reductions in the amount that they owe to their unsecured creditors. This federally-regulated service, which operates under strict rules promulgated by the Obama-era Federal Trade Commission, can be thought of as a private sector alternative to bankruptcy, the long-term financial consequences of which are significant and can substantially limit the future economic opportunities of the filer for up to a decade. And this assumes, of course, that the consumer can meet the means test of the bankruptcy code, which many consumers cannot.

The 2010 FTC rules modernized the debt resolution industry and resulted in many smaller and less professional entities leaving the marketplace. Under the regulations, debt resolution companies are barred from assessing their customers any fees or accepting any compensation of

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any sort until: 1) a settlement on an account has been reached; 2) the consumer has accepted the settlement; and 3) the consumer has ratified his/her acceptance by making a payment to the creditor towards the settlement. To be clear, this test must be met for each individual debt enrolled in a debt resolution program before any fee may be collected for that particular account. For this reason, the interests of a debt resolution company and its clients are aligned. Our member companies are paid only when our client accepts an offered resolution. Clients know the cost of the service prior to the start of the work and pay it only once they've agreed to a resolution of an individual debt. The federal rules also allow consumers to withdraw from a debt resolution program at any time, for any reason, without penalty. The FTC rules also require that any funds deposited by a consumer in a debt resolution program be kept in an FDIC-insured account that the consumer controls at all times. Debt resolution service providers *never* control consumer funds.

S1310 would codify the important consumer protections promulgated under the FTC rules in New Jersey statute and require debt resolution providers to be licensed and overseen by the New Jersey Department of Banking and Insurance. We have also worked with Senator Pou to add additional mandatory consumer disclosures to the legislation this session to ensure that consumers who are considering debt resolution as an option to address their unmanageable credit card, medical debt, and/or personal loan debt burdens fully understand the benefits and costs of these programs. Additionally, the AADR has stringent accreditation requirements, including with regard to compliance with state and federal law and industry-leading marketing, suitability, and third-party product standards, administered by an independent auditing firm, for all of its member companies that offer debt resolution services to consumers.

It's important to understand who typically finds themselves in need of the services our members provide. By the time a consumer reaches out to a debt resolution provider, they are typically delinquent on at least one – and, frequently, most – of their credit cards or other unsecured debts, and owe, on average, about \$30,000 spread across seven or more different creditors. These consumers have been robbing Peter to pay Paul for months or even years – paying late or becoming delinquent on some debts to keep on top of others, charging medical debt on credit cards to put an end to aggressive collections efforts – and have reached a point at which they are no longer able to continue juggling their high-interest, unsecured debt burdens. Independent studies published since the promulgation of the FTC rules have found that debt resolution, on average, saves consumers between 30 and 35 percent of their total enrolled debt levels – **including** fees. And, importantly, under the FTC rules, debt resolution customers have the right to reject any proposed settlement at any time, for any reason.

To be clear, debt resolution is not the most appropriate option for every individual or family that is in debt. Bankruptcy may be appropriate for a certain set of families who are in acute financial

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hardship and credit counseling may be appropriate for others, who may be able to navigate their financial challenges with a less intensive program. In fact, only about 12% of individuals who contact AADR member companies actually meet the suitability criteria required under AADR accreditation and enroll in a debt resolution program. This is because the federal regulations align the incentives between the consumer and the debt resolution provider: only consumers who can be successful in these programs are permitted to enroll.

New Jersey's statutory framework has since the 1970s prohibited our industry from working with its citizens. New Jersey's Debt Adjuster's Law has not been revisited since the imposition of the stringent federal regulations in 2010, despite the vast majority of states across the country, including New Jersey's neighbors, such as Maryland, Delaware and Pennsylvania, having revisited their own laws and regulations to permit their citizens to take advantage of the critical services the AADR's member companies provide. While it is true that consumers in New Jersey may currently access non-profit credit counseling services, these programs do not offer consumers the ability to reduce their overall debt load; instead, they provide consumers with a longer time horizon with which to pay the full amount they owe, perhaps at a reduced rate of interest. For consumers who enroll in debt resolution programs, significantly more assistance is required to help them out of their financial hardship.

As the consumer debt crisis continues to worsen across the country and New Jersey, we hope the committee will release S1310. I would be very happy to answer any questions you may have.