



September 15, 2022

Chairman Moriarty, Vice-Chair Quijano, and members of the Assembly Consumer Affairs Committee:

Thank you for the opportunity to testify this morning in support of A1739, 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 Fair Credit Council: the trade association that represents America's leading debt resolution companies.

Amidst a growing debt crisis that has been exacerbated by historically high inflation and recovery from the Covid-19 pandemic, AFCC member companies work with financially challenged consumers who have experienced a financial hardship to achieve reductions in the amount that they owe to their unsecured creditors. This service provides debt resolution clients with much-needed relief from the threat of ruinous litigation or destructive bankruptcy and confers a certain peace of mind. Debt resolution should be seen as the opportunity for consumers in financial crisis to restructure their debt obligations in a dignified and efficient manner, in all cases with the participation and consent of their creditors. Said differently, debt resolution can be thought of as a market-based alternative to bankruptcy.

Unfortunately, there are few options available to consumers in financial distress. For those Americans who have, for example, suffered a loss of income or incurred significant, unforeseen medical expenses and can no longer afford to pay their unsecured debt, personal bankruptcy is too often the only path available. As many New Jerseyans can personally attest, the long-term financial consequences of filing personal bankruptcy are significant and can substantially limit the future economic opportunities of the filer for up to a decade. And this assumes that the consumer can meet the means test of the bankruptcy code, a test designed to prevent the discharge of credit card debt and keep consumers suffering under the cycle of minimum monthly payments that never seem to let them pull free.

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, and owe tens of thousands of dollars to multiple creditors. Our members' customers are not looking for an easy way to skip their bills: In the midst of significant financial hardship, they are committed to resolving their obligations by paying what they are able to afford. Debt resolution offers a way of meeting a moral obligation: the opportunity to pay something, if not everything, in a dignified and economically reasonable manner.

The industry is federally regulated by the Federal Trade Commission ("FTC") under the 2010 amendments to the Telemarketing Sales Rule ("TSR"). Under the revisions to the TSRs debt resolution companies are barred from assessing their customers any fees whatsoever until: 1) a

settlement on an account has been reached; 2) the consumer has accepted the settlement; 3) and the consumer has made 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 a fee may be collected for that particular account. Debt resolution is therefore one of the only products in the financial marketplace whose providers, by federal law, must deliver the benefit of their service to their customers before they are legally permitted to collect a fee.

The TSR amendments, which banned advance fees, were a sea change for the industry, resulting in debt resolution becoming fully consumer-centric and shifting all economic risk to the providers. The data demonstrably shows our value to consumers: an independent study published earlier this year 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, or to withdraw from their debt resolution program whenever they choose, without any penalty. The TSR also requires 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.

New Jersey implemented a statutory framework prohibiting our industry from working with its citizens in the 1970s. The law has not been revisited since the imposition of the stringent federal regulations of the TSR in 2010, despite the vast majority of states across the country, including New Jersey's neighbors, such as Delaware, Maryland and Pennsylvania, having revisited their own laws and regulations to permit their citizens to take advantage of the critical services the AFCC'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.

A1739 would modernize New Jersey law to allow New Jerseyans to have one more tool in their arsenal to deal with their unsecured debt and would provide, for many, a path to avoid filing personal bankruptcy. The bill would both ensure harmonization with the federal framework put into place nearly a decade ago by the FTC and would appropriately provide the New Jersey Department of Banking and Insurance with oversight of the industry. An identical bill was released unanimously by both the Assembly Financial Institutions and Insurance Committee and the Senate Commerce Committee (with certain amendments mirroring the federal regulations) in a previous session.

As the consumer debt crisis continues to worsen across the country and New Jersey, we hope the committee will release A17139. I would be very happy to answer any questions you may have.