



May 24, 2019

Hon. Stephen M. Sweeney
President
New Jersey Senate
New Jersey State House
P.O. Box 098
Trenton, NJ 08625-0098

Dear Senate President Sweeney:

On behalf of the American Fair Credit Council (“AFCC”), I write to respectfully request that you bring to the floor of the Senate for a vote in June Senate Bill 3499, which was approved unanimously by the Senate Commerce Committee on March 4, 2019. The Assembly version of the bill is also on second reading, having been released unanimously by the Assembly Committee on Financial Institutions and Insurance on October 15, 2018.

The AFCC is the trade association for the debt settlement industry, fighting for consumer rights, defending access to debt settlement services and ensuring the ethical treatment of consumers who often have nowhere else to turn other than the bankruptcy system. Amidst a growing debt crisis – the per capita credit card debt in New Jersey is nearly \$4,000, significantly higher than the national average of \$2,500 – AFCC members 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 settlement clients with much-needed relief from the threat of ruinous litigation or destructive bankruptcy and confers a certain peace of mind. Debt settlement 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. In essence, it is 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 settlement 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 settlement offers a way of meeting a moral obligation: the opportunity to pay something, if not everything, in a dignified and economically reasonable manner.

The debt settlement 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, to which the AFCC actively contributed and supported, debt settlement companies are barred from assessing their customers any fees whatsoever until: a settlement on an account has been reached; the consumer has accepted the settlement; and the consumer has made a payment to the creditor towards the settlement. Debt settlement is therefore one of the only products in the financial marketplace whose providers, by federal law, must deliver a resolution to their customers before they are legally permitted to collect a fee.

The TSR amendments, which banned advance fees, was a sea change for the industry, resulting in debt settlement 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 settlement, on average, saves consumers \$2.64 for every \$1 in fees they pay for debt settlement services, with the majority of debt settlement customers seeing their first account settled within four to six months of starting their debt settlement program. And, importantly, under the FTC rules, debt settlement customers have the right to reject any proposed settlement at any time, for any reason, or to withdraw from their debt settlement program whenever they choose, without any penalty.

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.

S.B. 3499 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.

As consumer debt continues to increase for millions of consumers across New Jersey, we hope you will allow S.B. 3499 to receive a vote in the Assembly prior to the June 30 recess.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Boms', with a long horizontal flourish extending to the right.

Steven Boms
American Fair Credit Council

Cc: Senator Nellie Pou