



November 9, 2022

Dear Chairman Moriarty:

Thank you for posting Assembly Bill 1739 for discussion in a recent Consumer Affairs Committee hearing. I greatly appreciated the opportunity to share the perspective of the American Fair Credit Council (“AFCC”) and its member companies, and to provide information to the committee regarding the debt resolution industry and the benefits it provides to consumers across the country. As I testified during the September hearing, New Jersey remains one of the only states in the country that maintains a statutory prohibition on debt resolution services. A1739, if enacted, would allow debt resolution companies to offer their services to consumers throughout the state while subjecting providers to regulation by the New Jersey Department of Banking and Insurance (“DOBI”) pursuant to the New Jersey Debt Adjuster’s Act (N.J.S.A. 17:16G-1 – 9). This state regulatory regime would be in addition to the stringent federal regulations imposed on debt resolution providers under the Federal Trade Commission’s (“FTC”) 2010 amendments to the Telemarketing Sales Rule (“TSR”).

Following the committee’s hearing on A1739, I thought it important to address the numerous mischaracterizations and inaccurate data placed on the record by opponents of this legislation.

Several of the bill’s opponents demonstrated a marked lack of familiarity with the 2010 TSR amendments and the significant consumer protective regulatory framework they created. Under the federal regulations, debt resolution companies are strictly prohibited from collecting any fee from a consumer prior to: 1) their negotiation of a settlement with the client’s creditor; 2) the client’s acceptance of that settlement; and 3) the client’s payment towards that settlement. The FTC’s regulatory framework for debt resolution providers therefore requires that companies provide consumers the benefit of their services prior to being able collect their fee. The bill’s opponents also called for debt resolution companies to be held to the same trust account standards as attorneys; however, unlike attorneys, debt resolution companies are prohibited from holding or controlling consumer funds under 2010 TSR amendments. Taken together, these comments offered by the opponents ignore the material changes that have taken place in the debt resolution industry as a result of the FTC’s rulemaking more than a decade ago.<sup>1</sup>

In addition to disregarding the significant consumer protections provided under existing federal regulations, the opponents of this legislation consistently relied upon outdated, pre-TSR data and hyperbole during the committee’s hearing. By warning of “widespread abuses”, “predatory marketing” and financial experiences “fraught with danger” the bill’s opponents tellingly avoided pointing to any specific instances of consumer harm. Unsurprisingly, the same opponents relied upon studies and data that pre-dated the current federal regulations and thus do not capture the

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<sup>1</sup> See 16 CRF 310.4(a)(5)(1) and (2).



true consumer experience working with debt resolution firms over the last 12 years. In truth, independent, peer-reviewed studies have determined that consumers save, on average, \$2.64 for every \$1 in fees they pay to debt resolution companies, and the average debt resolution client reduced their total debt at the time of settlement of more than \$30,000 by approximately \$9,500 *after* deducting fees paid to their debt resolution provider.<sup>2</sup>

The opponents' testimony also failed to acknowledge that A1739 would grant the Commissioner of Banking and Insurance authority over licensure applications for debt resolution companies, the standards for issuance and denial of licensure, and the imposition of injunctive relief and civil penalties for violations of the law. This state-level licensing framework would be an additional layer of regulation beyond the 2010 FTC regulations. Accordingly, if enacted, A1739 would create a regulatory framework in New Jersey under which DOBI, the FTC and the Consumer Financial Protection Bureau would each have jurisdiction over ensuring that debt resolution providers in the state are operating lawfully.

As the economy continues to challenge the financial wellbeing of so many across the state, the AFCC urges passage of A1739 and its Senate companion, which would provide New Jersey consumers in financial hardship with an alternative to bankruptcy and its associated significant financial implications. Given the positive discussion that we had in front of your committee in September, and recognizing the irrefutable shortcomings and inaccuracies of the opposition's arguments, we respectfully request that this bill be posted for a vote at an upcoming Consumer Affairs Committee meeting.

Of course, if you have any further questions or would like additional discussion on any aspect of this legislation, please do not hesitate to contact me. Thank you for your continued consideration of this vitally important bill.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Boms", is written over a horizontal line.

Steven Boms  
Legislative Director  
American Fair Credit Council

Cc: Members of the Assembly Consumer Affairs Committee  
Assembly Speaker Craig Coughlin  
Assemblyman John McKeon

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<sup>2</sup> Regan, G. J. (2021, February). Options for Consumers in Crisis: An Updated Analysis of the Debt Settlement Industry. Retrieved from <https://americanfaircreditcouncil.org/wp-content/uploads/2020.12.31-AFCC-Report-v.1.19.21.pdf>.