



**American Association
for Debt Resolution**

Memo in Opposition to A.7892

The American Association for Debt Resolution (“AADR”) is the leading national trade association representing companies that work alongside consumers in financial hardship to help them resolve their unmanageable unsecured debt burdens. AADR’s members are proud to provide these important services to New York consumers. A.7892, if enacted, would effectively prohibit any debt resolution companies from operating in the state, depriving tens of thousands of New Yorkers from availing themselves of an option to meaningfully address their unsecured debt. For this reason and those detailed below, AADR must oppose this legislation.

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. Of course, the long-term financial consequences of filing 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, which many consumers cannot. Debt resolution is also 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 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 of our member companies and enroll in a debt resolution program.

By the time a consumer reaches out to a debt resolution provider, they are typically delinquent on at least one – and, frequently, many – of their credit cards, and owe tens of thousands of dollars to multiple creditors. Our members’ clients are, notwithstanding their significant financial hardship, 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.

Our members unquestionably provide significant consumer benefit in New York. The most recent independent data available shows that AADR member companies settle approximately \$272 million in unsecured debt annually for New Yorkers each year. With consumers’ debt burdens increasing to historic levels, this figure will only increase over time.

The debt resolution industry is tightly regulated at the federal level by the Federal Trade Commission (“FTC”) pursuant to the Telemarketing Sales Rules (“TSR”). The TSR already bars debt resolution companies from assessing their clients any fees or accepting any compensation of 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. 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. As a result, debt resolution is

AADR

**American Association
for Debt Resolution**

one of the only products in the financial marketplace whose providers, by federal law, must deliver the benefit of their service to their clients *before* they are legally permitted to charge for their service. For this reason, the interests of a debt resolution company and its clients are aligned. Our members are paid only once their client accepts an offered resolution and makes a payment towards it. 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 provide that debt resolution companies may not hold consumer funds at any time. Instead, consumers deposit what they can afford into an FDIC-insured bank account and are allowed to withdraw from this account, or their debt resolution program, at any time, for any reason, without penalty.

A.7892 would effectively eliminate debt resolution as an option in New York by only permitting those entities registered as "budget planners" pursuant to New York State General Business Law Section 455 to offer services. Under existing statute, only not-for-profit charitable corporations may operate as budget planners. Accordingly, this legislation would prohibit TSR-compliant debt resolution companies from operating in the state, eliminating a crucial service that provides tens of thousands of New Yorkers a vital financial lifeline each year, and removing a critical option available to consumers today to address their unmanageable debt burdens.

For all of these reasons, AADR opposes A.7892 but would welcome the opportunity to discuss the consideration of any appropriate additional protections for consumers in New York who enroll in our members' debt resolution programs.