



**Testimony of Steven Boms
On Behalf of
The American Fair Credit Council
to the
Senate Financial Institutions and Technology Committee
Regarding
S.B. 68
June 6, 2023**

Good morning Chairman Wilson, Vice Chair Hackett, Ranking Member Smith and members of the Senate Financial Institutions and Technology Committee. My name is Steve Boms and I am pleased to appear before the committee this morning once again on behalf of the American Fair Credit Council (“AFCC”) to offer testimony in support of S.B. 68, to address mischaracterizations about this legislation and the debt resolution industry, and importantly, to answer any questions you may have.

As the committee will recall, S.B. 68 would allow debt resolution companies in compliance with federal regulation to serve consumers in Ohio. Passage of this legislation would provide another option for consumers struggling with unsecured debt to consider, and would allow AFCC member companies to negotiate with creditors on behalf of financially challenged consumers across the state who have experienced a financial hardship to achieve reductions in the amount that they owe, not simply reducing their interest rates or giving them a bit more time to pay 100% of what they owe. On average, debt resolution programs provide consumers with total net savings of between 30 and 35 cents on the dollar, *including fees*.

The debt resolution industry has been federally regulated by the Federal Trade Commission (“FTC”) since 2010, under the FTC’s amendments to the Telemarketing Sales Rule (“TSR”). Under the revisions to the TSRs, to which the AFCC actively contributed and which our organization supported, debt resolution companies are barred from assessing their customers any fees whatsoever until: a resolution on an account has been reached for a consumer; the consumer has accepted the resolution; and the consumer has made a payment to the creditor towards the resolution. Debt resolution 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.

Opponents of S.B. 68 claim AFCC members can operate in Ohio under existing debt adjusting law (ORC 4710), but this simply is untrue. Current law in the state applies only to non-profit credit counseling. Further, numerous provisions of current law, including the ability to charge up to \$75 for an initial consultation fee for a debt management plan and collecting up to 8.5% or \$30 (whichever is greater) each month for paying creditors for clients are in direct conflict with the FTC’s 2010 amendments to the TSR, which prohibit debt resolution companies from collecting fees until consumers have accepted a settlement and made a payment towards that settlement. This lack of harmonization between Ohio statute and federal rules is one of the reasons Ohio consumers do not have as unfettered access to debt resolution services as their neighbors in other states.

S.B. 68 would impose additional safeguards for consumers beyond what the FTC rules require. For example: the legislation calls for annual audits for debt resolution providers and provides for the ability of the Ohio Attorney General to regulate our members’ businesses under the unfair sales practices act, which itself would

prohibit, for example, disclosing one fee to a consumer and charging another.

And, in the interest of providing even more consumer protections, we have contributed to and support an amendment that would require an additional, prescriptive set of consumer-facing disclosures beyond what is required under the FTC rules to ensure that consumers who choose to enroll in debt resolution plans clearly understand the terms of their program.

Amidst ever-increasing levels of unsecured consumer debt, Ohioans need more, not fewer, options available to them to resolve their burdens. Given the stringent federal regulatory framework that has been applied to the debt resolution industry for the last decade and the additional consumer protections that S.B. 68 includes beyond what is required at the federal level, and I respectfully urge the committee to once again pass S.B. 68. I would be happy to respond to any questions you may have.

Commented [SB1]: This is a rebuttal to a specific and unfounded assertion made by the Bar Association in their meetings with members of the committee.