



**STATEMENT OF THE OHIO STATE BAR ASSOCIATION  
IN OPPOSITION OF SENATE BILL 112**

Presented by Desiree Blankenship, Esq.  
Before the Senate Insurance and Financial Institutions Committee  
Senator Bob Hackett, Chair  
February 26, 2020

Chairman Hackett, vice-chair Hottinger, ranking member Craig, and members of the Senate Insurance and Financial Institutions Committee. My name is Desiree Blankenship. I serve as General Counsel and Bar Counsel for the Ohio State Bar Association (OSBA). I am here on behalf of the OSBA to restate our position of opposition to Senate Bill 112.

As counsel to the OSBA Unauthorized Practice of Law Committee I am appearing here today on behalf of the committee to make it clear that the OSBA continues to oppose Senate Bill 112 because it encourages practices that are likely to cross the line into the unauthorized practice of law (UPL).

The OSBA wanted to appear again in front of this committee to update you on relevant case law that has been decided since our last testimony. Additionally, we wanted to reiterate that our position remains resolute. Recently, The Supreme Court of Ohio issued an opinion in *OSBA v. Watkins Global Network*. By way of Background, the OSBA brought its case against Watkins for allegations of UPL in connection with his debt-settlement business. In its holding, the Court clarified its prior position and created precedent that will provide guidance to UPL committees in the ongoing evaluation of debt settlement cases.

On motion for summary judgment by the OSBA, the Unauthorized Practice of Law Board found that Watkins had engaged in UPL on 31 occasions. The Board recommended enjoining respondents from the practice of law and imposing a civil fine of \$31,000. The Supreme Court of Ohio rejected this, holding that the OSBA only demonstrated that Respondent engaged in UPL in one of the 31 occasions charged. As a result, the Court enjoined further UPL by Respondents and reduced the civil penalty to \$1,000.

In its opinion, the Court held that it was using this case to clarify its position on UPL as it applies to debt-settlement negotiations. The Court went on to hold that the act by a non-lawyer of negotiating debt on behalf of another is not a *per se* violation of UPL. Rather, the Court made clear that whether a person engages in UPL will turn on the specific actions a person takes while attempting to negotiate a settlement and whether those actions constitute the rendering of legal services. In other words, it's fact-specific to the situation and the business processes of the debt-settlement company.

While it is important to correct our testimony in light of the *Watkins* decision to clarify that debt settlement does not amount to a *per se* violation of the unauthorized practice of law, we must

reiterate that this case does nothing to alleviate the problems posed by the SB 112. This bill is dangerous to Ohio consumers because it seeks to authorize activities that have clearly been found to constitute the practice of law. The Court in *Watkins* was clear that debt settlement can and does constitute the unauthorized practice of law when legal devices and tactics are used to assist clients. Ohio's constitution squarely places the regulation of the practice of law outside of the legislature and exclusively with the Ohio Supreme Court. The uncodified language in SB 112 does not trump that fundamental constitutional prohibition – it only sets the stage for ambiguity and conflict that is both costly and time consuming.

It is critical that Senate Bill 112 is not passed. Thank you for the opportunity to update this committee and to restate our position. I would be happy to answer any questions.