

**Testimony in Opposition to SB 68**  
**Ohio Senate Financial Institutions and Technology Committee**  
**Patrick Skilliter, Managing Attorney**  
**Legal Aid Society of Columbus**  
**March 28, 2023**

Chair Wilson, Vice Chair Hackett, Ranking Member Smith, and members of the Committee, thank you for the opportunity to provide testimony on Senate Bill 68.

My name is Patrick Skilliter. I am the Managing Attorney of the Economic Justice Team at the Legal Aid Society of Columbus where I represent low-income and elderly consumers, homeowners, and other victims of deceptive conduct. I have been practicing law for over 17 years and it is my opinion that the debt relief industry is one of the worst perpetrators of unfair, deceptive, and abusive practices in the Country. If you take away only one thing from what I am about to say, let it be this: through Senate Bill 68 the debt settlement industry is out to line its pockets, not to help consumers. I am here today to ask you to protect the interests of Ohio's residents – rather than out-of-state businesses looking to exploit them.

**1. SB 68 would remove several important consumer protections and make Ohio a virtually unregulated state for this predatory industry.**

LASC has worked with several victims of debt settlement scams. Their stories follow a pattern. The debt relief company makes all kinds of promises about improved credit scores and ending debt collector harassment. They often talk about the horrors of bad credit and bankruptcy. There are no discussions about fees or disclosures about limitations. The consumer hires them and pays hundreds of dollars per month. The debt relief company tells the consumer to stop paying their debts directly to the creditor, which actually hurts their credit and increases interest and late fees on the debt. The debt relief company gladly accepts payments, pockets exorbitant fees, and often settles few (or zero) debts. The consumer assumes everything is fine, until they get sued. Then, the house of cards starts to collapse. The company becomes unresponsive. They often refuse to provide an accounting of where the money went or what debts were settled. More lawsuits follow and the consumer is left to handle the results.

Even in situations where the services are not tantamount to theft, debt relief payment plans can often take years to pay off – all the while interest is running, and the company is collecting fees. Because of this industry's well-known history of misconduct, many large creditors, including JPMorgan Chase, American Express, and Discover Bank have all refused to negotiate with debt

settlement companies.<sup>1</sup> Other states have banned debt settlement operations, including Arkansas, Hawaii, Kansas, Louisiana, Massachusetts, New Mexico, North Carolina, and Wyoming.<sup>2</sup>

In 2019, the Consumer Financial Protection Bureau settled a lawsuit for \$20 million against the largest debt settlement company in the Country, Freedom Debt Relief. In that action, the CFPB alleged that Freedom engaged in several deceptive practices, including (1) charging unlawful advance fees, (2) failing to inform consumers of their right to recover funds held by the company, (3) failing to settle debts as promised, and (4) misleading consumers about their ability to settle debts.<sup>3</sup> Freedom is the largest debt settlement company in the country – smaller companies that are less-concerned about their reputation are engaging in worse practices, including charging excessive fees while doing no work to benefit the consumers. They often advise consumers to stop paying creditors, causing credit report damage, escalating debt due to default interest rates, debt collection harassment, and the possibility of a lawsuit.

## **2. SB 68’s purported protections and limitations on fees are illusory; the TSR does not limit fees.**

Ohio’s current Debt Adjuster’s Act<sup>4</sup> has substantive limitations on the fees that debt settlement companies can charge. SB 68 would eliminate those fee limits for anyone “operating in compliance with federal regulations” like the Federal Trade Commission’s Telemarketing Sales Rule (“TSR”). The TSR, however, merely requires disclosure of fees without any cap or limitation on the amount of fees.

SB 68 also makes no mention of who determines that the debt settlement company is in compliance with federal laws. Is that determination of compliance left to the company or a regulator? Must that determination occur before the company can charge unlimited fees in Ohio or is that merely a defense that a company can raise in litigation years after it has been charging unlimited fees?

SB 68’s exception also overlooks modern marketing methods. The TSR applies to telephone communications and has limited applicability to modern methods of marketing like social media, email, and online chat.<sup>5</sup> SB 68 fails to address the disclosures required in marketing methods other than telephones.

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<sup>1</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_freedom-debt-relief\\_first-amended-complaint\\_2019-07.pdf](https://files.consumerfinance.gov/f/documents/cfpb_freedom-debt-relief_first-amended-complaint_2019-07.pdf), Complaint, at 4-6.

<sup>2</sup> <https://www.ncsl.org/research/financial-services-and-commerce/credit-counseling-debt-managem983and-settle983.aspx>

<sup>3</sup> <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-lawsuit-against-freedom-debt-relief/>

<sup>4</sup> R.C. Chapter 4710.

<sup>5</sup> <https://www.ftc.gov/tips-advice/business-center/guidance/debt-relief-services-telemarketing-sales-rule-guide-business>

### **3. SB 68 eliminates licensing requirements for debt adjusters.**

The current law requires debt adjusters to be licensed by the Ohio Attorney General and to submit annual account statements. SB 68 only requires them to “register” with the Attorney General, without a licensing requirement. This removes front-end safeguards provided by the licensing process. This industry needs more oversight by regulators like the Ohio Attorney General, not less.

In the past, proponents of similar bills have claimed that opposition to debt adjustment is simply economic protectionism by the bar. I am a legal aid lawyer. I do not charge my clients fees. I oppose this bill simply because it is bad policy, and it is bad for Ohio voters.

The cumulative result of these issues with SB 68 is that it would allow a bad industry to charge desperate Ohioans unlimited fees while reducing regulatory oversight. There is a reason that this industry is trying to push this legislation through: recessions are good for their business.<sup>6</sup> We are still recovering from the pandemic. Ohioans are trying to get back on their feet financially. They need real help, not the empty promises from this industry. If you want to help Ohioans deal with debt, I recommend increased funding of non-profit consumer credit counseling services and similar services.

For these reasons, the Legal Aid Society of Columbus respectfully asks you to reject SB 68. I appreciate the opportunity to testify, and I look forward to answering any questions you may have.

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<sup>6</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_quarterly-consumer-credit-trends\\_debt-settlement-credit-counseling\\_2020-07.pdf](https://files.consumerfinance.gov/f/documents/cfpb_quarterly-consumer-credit-trends_debt-settlement-credit-counseling_2020-07.pdf)