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Chairman Wilson, Vice Chairman Hackett , Ranking Member Smith, and Members of the Senate Financial Institutions and Technology Committee:

I'm Marc Dann. Both as Ohio Attorney General and in private practice I've dedicated my career to protecting consumers from financial predators like those in the debt adjusting industry. This year alone we've brought multiple lawsuits against Debt Settlement companies and their affiliates. One recent complaint filed in Lake County Common Pleas Court is attached to this testimony.

Senate Bill 68 would harm Ohio consumers by allowing an unscrupulous industry with a history of misleading and abusive practices to charge unlimited fees for a service of dubious value. Debt settlement companies, including founding members of the leading industry trade group, have a long record of lying to consumers about their ability to negotiate with creditors for more favorable terms, failing to make payments on behalf of consumers, and charging excessive fees for their services.

Ohio consumers have been protected from some of the worst industry abuses by a sensible eight and a half percent fee cap imposed under current law, but SB 68 would eliminate the cap and allow debt settlement companies to charge unlimited fees, further reducing the value of any relief obtained. The fee cap would be removed for companies"operating in compliance with federal regulations" including the FTC's Telemarketing Sales Rule. However, unlike the state statute, federal law only regulates the disclosure of fees, and imposes no substantive limits on the fees a debt adjuster may charge. Under the new exemption proposed by Senate Bill 68, a debt adjuster could theoretically charge unlimited fees to desperate consumers, so long as the fees were disclosed.

Consumers targeted by debt settlement companies need the protection of state law, including the fee cap. People facing unmanageable debt are particularly vulnerable to aggressive marketing tactics and inflated promises of debt relief. It is difficult for consumers under financial stress to judge the relative benefits and risks of debt settlement as compared with other options. The

choice is made even more difficult when debt settlement companies mislead consumers about the relief they can obtain and the risks involved. For example, many of the largest credit card companies including Chase, American Express, Synchrony Bank, Macy's, and Discover simply refuse to work with debt settlement companies, providing no relief to consumers hoping to address those debts.[1] Additionally, eliminating the fee cap would decrease the money available for settlement, increase time to save enough money to begin negotiations, and reduce the chances of any settlement at all. By encouraging debtors not to pay their debts for months or years while money accrues for settlement, the debt settlement industry increases and prolongs consumers' exposure to continued collections calls, damage to credit, and debt collection lawsuits. In the meantime, late fees and interest on the debts continue to accrue and the debt grows larger.

In our experience representing consumers who have been misled by Debt Settlement Companies consumers believe that their debts are being handled and defended but when creditors who refuse to work with the debt settlement companies they often sue and take judgment against those consumers who don't find out until their home has been liened, their bank account attached their bank account or garnished their wages.

Removing the cap on fees charged by debt settlement providers would provide consumers with no benefit, while exposing them to great financial risk at too high a price. The FTC rules are necessary but not sufficient. In fact, the FTC rules contemplate concurrent enforcement and complementary regulation by state regulators. 16 C.F.R. § 310.7(b). Only state regulations can reign in the exorbitant fees charged by debt settlement companies.

Some of the largest operators in the industry have lied to consumers and violated even the modest procedural limitations imposed by the FTC rules. For example Freedom Debt Relief, a founding member of the American Fair Credit Council and one of the largest debt settlement company in the country, faced charges by federal regulators that it billed consumers without settling their debts as promised, charged consumers after having them negotiate their own

[1] For example, the CFPB found that Freedom Debt Relief, one of the largest debt settlement companies, lied to prospective consumers about its ability to negotiate with creditors who it knew refused to deal with the company. See *C.F.P.B. v. Freedom Debt Relief*, Case No. 17 CV 6484, Amended Complaint, ¶ 26 (N.D. Ca. 2019) ("Freedom made this representation even when the creditors listed on the Schedule of Creditors and Debt included Chase, American Express, Discover, Macy's, Synchrony Bank, or other creditors either known to Freedom to have policies against working with debt-settlement companies or with track records of repeatedly refusing to negotiate with Freedom".)

settlements with creditors, and misled consumers about the company's fees and its ability to negotiate directly with all of a consumer's creditors. The Freedom Debt Relief lawsuit was recently settled with a multimillion dollar restitution order and an order for the company to follow the law in the future. Through 2020, the Ohio Attorney General's Office received nineteen consumer complaints against Freedom Debt Relief for misrepresentation, failure to deliver products or services, and billing issues. Given this history, there is no reason to trust the empty promises of the industry's trade group to adhere to "best practices" as urged by its lobbyists. *See e.g., C.F.P.B. v. Freedom Debt Relief*, Case No. 17 CV 6484 (N.D. Ca. 2019), *available at* https://files.consumerfinance.gov/f/documents/cfpb_freedom-debt-relief_stipulated-final-judgment-order_2019-07.pdf

If the Ohio Senate is truly interested in considering policy changes to provide relief to working families burdened by debt, a better starting point would be to revisit our antiquated debt collection laws. Ohio law permits creditors to seize twenty five percent of a working person's wages to satisfy a debt, and our state exemptions fail to adequately protect family cars and homes. With the highest wage garnishment rate in the nation, desperate consumers facing a significant loss of income or loss of their sole means of transportation are driven into predatory debt settlement contracts or bankruptcy. Reforming our debt collection laws by reducing or eliminating wage garnishment and increasing protections for cars and homes would be a great relief to struggling working families. The National Consumer Law Center report on collection reforms is a good starting point for model legislation: https://www.nclc.org/issues/report-still-no-fresh-start.html

In sum, Ohio consumers would be best protected maintaining current state limits on fees that may be charged by debt adjusters and considering additional reforms to current collection laws.