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Interested Party Testimony
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Chairman Wilson, Vice Chair Hottinger, and Ranking Member Maharath—thank you for the opportunity to present brief written testimony on behalf of the Consumer Protection Section in the Ohio Attorney General's Office. Attorneys in that section of our office have a unique perspective regarding the effect of current law on debt-settlement companies. I write to ensure the committee has access to their perspective as it continues deliberations on this measure.

During an earlier hearing, the committee heard proponent testimony that the Debt Adjuster's Act (DAA) only applies to credit counseling companies and does not apply to debt-settlement companies because these companies do not handle consumer funds. We disagree with this characterization.

The term "debt adjusting" is defined in O.R.C. 4710.01(B). "Debt adjusting" means doing business in debt adjusting, budget counseling, debt management, or debt pooling service, or holding oneself out, by words of similar import, as providing services to debtors in the management of their debts, to do either of the following: (1) To effect the adjustment, compromise, or discharge of any account, note, or other indebtedness of the debtor; (2) To receive from the debtor and disburse to the debtor's creditors any money or other thing of value." [emphasis added].

Under this existing definition, a company need only meet subpart (1) or (2) to qualify as doing debt adjusting work. Thus, the implication that a debt settlement company is not subject to the DAA because it does not handle consumer funds, is not accurate under our reading of the law.

This is an important distinction because if the DAA does apply to debt-settlement companies—and we believe that it does—then those companies are currently subject to existing fee caps on how much they can charge consumers for their services. Notably, SB 211 would allow debt-settlement companies to avoid the existing fee caps present in the DAA.

Another purported benefit of SB 211 is that the bill will require debt-settlement companies to undergo rigorous third-party audits. While this element of the bill is surely a benefit to consumers, I would note that Ohio law already contains an independent auditing provision that applies to this activity. R.C. 4710.02(D) of the DAA requires any debt adjusters doing business in Ohio to undergo an annual audit conducted by an independent third party. Again, because debt-settlement companies meet the definition of debt adjusting as explained above, these audits requirements already apply to their practices in Ohio.

Thank you again for the opportunity to share the perspective of our attorneys in the Consumer Protection Section of our office. Should you or any members of the committee have any questions, I would be happy to provide any additional information you might need.