December 15, 2021

The Honorable Steve Wilson
Chairman Senate Financial Institutions and Technology Committee
Ohio Senate
1 Capitol Square
Columbus, Ohio 43215

RE: SB211 Opposition testimony

To the Honorable Members of the Committee:

My name is Martin Lynch, and I serve as president of the Financial Counseling Association of America (FCAA), a trade association representing 26 non-profit credit counseling agencies, many of which are currently serving financially challenged Ohio residents. I'd like to thank you for this opportunity to provide written testimony on Senate Bill 211.

The FCAA's members provide a wide range of services, including free budget counseling and financial literacy education, HUD-approved first-time homebuyer courses, foreclosure avoidance counseling, and several other free and low-cost programs. For roughly 20% of the troubled consumers who reach out to us, our agencies may also offer the option of enrollment in a debt management plan, or DMP, a creditor-approved option that allows our clients to repay their principal balances in full but at single-digit interest rates, helping them achieve significant savings as they pay down their account balances over time. **The FCAA has testified in opposition to prior versions of this bill over the years, and we continue that strong opposition today.**

Our past testimony has always begun with a simple acknowledgement: the FCAA supports the existence of the settlement option, but that option must be strictly controlled. That's where this bill and its predecessors have fallen woefully short. Proponents of SB 211 have suggested that because the for-profit settlement industry is subject to the FTC's Telemarketing Sales Rule (TSR), the states don't need to impose additional regulation to protect consumers. This is an outrageous mischaracterization of the current state of affairs.

The FTC *does not* actively regulate for-profit settlement companies. It doesn't audit or examine those companies, even to ensure that the TSR's modest restrictions are being followed. Most important, the FTC's Telemarketing Sales Rule doesn't impose fee caps on for-profit settlement programs, leaving that decision to the states. Interestingly, Ohio has such a fee cap, but the settlement companies would like you to believe that it doesn't apply to them or that they can't abide by it. This is another misstatement of the facts.

The current Ohio Debt Adjuster's law already applies to for-profit settlement companies because they satisfy not one but both of the criteria that can subject a company to the statute. For-profit settlement companies unquestionably seek,

> **"(1) To effect the adjustment, compromise, or discharge of any account, note, or other indebtedness of the debtor; and (2) To receive from the debtor and disburse to the debtor's creditors any money or other thing of value."** (Source: O.R.C. 4710.01(B))

So, if there is no question that settlement companies are already subject to Ohio's debt adjuster statute, why are we back here year after year considering these disingenuous bills? (A strong but accurate characterization. For example, the current version allows for state examinations, as if that had never been an option. That seems generous, until one recognizes that Ohio's current Debt Adjuster law *already* allows for such examinations.) So, again, why are we considering this bill? It's because the for-profit settlement industry would rather not be subject to the consumer protections embodied in effective state laws that actually protect consumers, and more to the point, they'd rather not be subject to fee limits that guarantee that consumers who purchase their services actually save a significant amount of money.

The settlement industry often makes a point of declaring that lifting fee limits will result in lower fees for consumers, since that's what should happen in an open marketplace. In fact, the settlement industry knows full well that financially challenged consumers *don't* constitute a typical marketplace. They are desperate, often grabbing at the first lifeline thrown to them (or reaching out to that company whose ads they've seen dozens of times on late-night TV – the commercials that misleadingly boast about "the secret the banks don't want you to know.") Given Chairman Wilson's support of financial literacy requirements and personal background in the banking industry, he can readily confirm the fact that there is no right to settle debts in this country.

There's no need to take our word for what happens when fee limits are removed, however. In its "*2014 Sunset Review: Uniform Debt Management Services Act*," the State of Colorado documented precisely what happened when settlement company fee limits were removed in that state. Consumer fees went *up*, not down. In fact, settlement companies, which had been limited to fees amounting to 18% of the amount saved by the consumer, raised those fees to 25% of the amount the consumer thought they'd be saving. In simpler terms, consumers were exploited at a time when they were financially vulnerable.

If you pass SB 211, replacing an existing law that protects consumers and that clearly applies to for-profit settlement companies, you'll expose Ohio residents to similar exploitation. That is why the FCAA is strongly opposed to SB 211.

Respectfully submitted,

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