



November 30, 2018

The Honorable Jay Hottinger, Chair  
The Ohio Senate Insurance and Financial Institutions Committee  
1 Capitol Square  
Columbus, Ohio 43215

Dear Chairman Hottinger:

House Bill 182 (Senate companion, Senate Bill 120), relating to debt adjusting, is of great concern to the American Financial Services Association (AFSA)<sup>1</sup> and the consumer credit industry as a whole. If enacted, either bill will directly affect our members and their Ohio customers by giving the greenlight for “debt adjusters” to add to the concerns of distressed borrowers by charging significant fees, without providing any value not already accessible for free through direct negotiation with the creditor.

We are specifically concerned about the exemption from Ohio fee limitations that would be afforded to debt adjusters, otherwise known as debt settlement companies. The proposed legislation inaccurately implies that debt adjusters are currently regulated at the federal level by the Telemarketing Sales Rule (“TSR”) at 16 C.F.R. part 310. In fact, the TSR merely prohibits a debt adjuster from charging up-front fees and requires the disclosure of certain information to customers before signing them up for debt relief services. The TSR offers no regulatory framework and contains no limit on the fees charged to consumers. Without element such as state licensing, regulation, and oversight of fees, the bill provides no framework to control debt adjusters and the fees they hope to charge distressed and potentially distressed borrowers. By contrast, many states have debt settlement fee caps on the amount that a for-profit debt settlement company can charge a customer. In fact, at least 40 states either have fee limits or an outright prohibition on for-profit debt settlement companies.

The Ohio Revised Code currently *does* authorize debt settlement in Ohio, as long as the debt adjuster does not charge a fee that “exceeds eight and one-half per cent of the amount paid by the debtor each month for distribution to the debtor's creditors or thirty dollars, whichever is greater.”<sup>2</sup> The proposed exemptions under HB 182, however, would open the floodgates in Ohio to for-profit debt adjusters by eliminating fee limits entirely. These companies thus would be able to charge any fees that they desire and to perform a service for consumers that creditors already provide for free.

Based on our experience, not only will consumers likely be charged exorbitant fees, but it is typical for debt adjusters to instruct borrowers to stop making payments to their creditors, further harming consumers’ credit situations. Communication between creditors and their customers is critical; by their nature, for-profit settlement companies sever those valuable lines of communication.

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<sup>1</sup> Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

<sup>2</sup> *Ohio Revised Code Sec. 4710.02(B)(3)*

When debt settlement companies prey on vulnerable consumers, the consumer and the lender both pay the economic price. In a 2010 study, the United States Government Accountability Office (GAO) found that “some debt settlement companies engage in fraudulent, deceptive, and abusive practices that pose a risk to consumers.”<sup>3</sup> Regarding consumer benefit, the GAO further noted FTC investigations that revealed less than 10 percent of consumers successfully complete programs through these settlement companies.<sup>4</sup>

Creditors stand ready and able to work directly with consumers in the unfortunate event of hardship. We respectfully ask you and the Senate Committee to oppose these bills and not advance them for full consideration of the Senate so that proper protections remain in place for the residents of Ohio and for creditors who do business in Ohio.

I am at your service for further discussion and can be contacted on 952-922-6500 or, by email at [dfagre@afsamail.org](mailto:dfagre@afsamail.org).

Sincerely,

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Senior Vice President  
**American Financial Services Association**  
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*Signed in opposition to HB 182:*



Dayna Baird Payne  
Executive Vice President  
**Ohio Financial Services Association**



Winfield P. Crigler  
Executive Director  
**Student Loan Servicing Alliance**

CC: Senator Larry Obhof, Senate President  
Senator Bob Peterson, Senate President Pro Tempore  
Senator Randy Gardner, Senate Majority Floor Leader  
Senator Matt Huffman, Senate Majority Whip  
Members of The Ohio Senate Insurance and Financial Institutions Committee  
John Barron, Ohio Senate Chief of Staff  
Frank Strigari, Ohio Senate Legal Counsel  
Vanessa McMahan, Ohio Senate Policy Advisor

<sup>3</sup> <https://www.gao.gov/assets/130/124498.pdf> [Though this study was carried out immediately before TSR took effect, we have seen no evidence that this characterization is no longer valid, and plenty of anecdotal evidence that it is]

<sup>4</sup> 74 Fed. Reg. 41988 (Aug. 19, 2009)