American Financial Services Association Testimony
Opposing New Jersey S1310

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For the record, the American Financial Services Association, known as AFSA, 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.

Thank you for the opportunity to provide testimony on Senate Bill 1310. S1310 would make certain for-profit debt adjusters eligible for licensing to conduct business in the state. This is of great concern to the AFSA members operating in New Jersey, and to the consumer credit industry as a whole. This measure would directly affect our members and their New Jersey customers by giving the greenlight for so-called "debt adjusters" who exacerbate the problems of distressed borrowers by charging significant fees without providing any value that is not already available to a borrower for free through direct negotiation with their creditor.

S1310 would allow the development in New Jersey of a new type of licensed "debt adjuster" that claims to offer consumers assistance in identifying novel, quick-and-easy routes out of debt. The proliferation of these companies in recent years has been accompanied by significant legal and ethical concerns about whether they create a benefit for their consumers they claim to help. We acknowledge that debt adjustment could have a place in the fabric of financial service offerings, but only when it has proper guardrails and oversight to ensure consumer protection. As written, S1310 fails to do this effectively.

AFSA members are concerned about the possibility that these firms may interfere with their own programs intended to help distressed borrowers settle their debts without incurring significant additional charges. The processes of many so-called "debt adjusters" detract from tried-and-tested loss mitigation activities carried out by creditors and often add to borrowers' financial burden and associated distress.

It is the routine practice of debt settlement companies to advise distressed borrowers to stop paying their loans and instead build up an escrow account of savings to pay off their debt. This tactic is irresponsible, as it increases the size of the loan, with no guarantee that loan terms will be improved, or an accommodation reached with the creditor. This can have catastrophic

consequences for a borrower's credit score, affecting their ability to become financially mobile and access cheaper credit over time. There is a great deal of evidence that "debt settlement" companies charge significant fees for their services—often 20% of the debt owed. This may be collected whether an accommodation is reached with the lender or not. Even in the very best-case scenarios, these methods can leave borrowers no better off than they were previously.

There is also significant and growing evidence that some so-called "debt settlement" companies often operate in an entirely unscrupulous and predatory manner, collecting fees without ever contacting lenders. As the number of such firms has grown, so has the number of complaints about them. For example, in Maryland, complaints about "debt settlement" firms rose from 15 complaints to 104 complaints, over a two-year period. We are also concerned that many of these firms have begun to engage in lending activity offering to finance settlement plans which can place consumers in more debt without a correlating benefit.

Although the aim of S1310 is to subject "debt settlement companies" to regulatory oversight, we believe that it falls short. By exempting for-profit debt settlement companies from bonding requirements and omitting a requirement for mandatory reporting—an essential tool for regulators seeking to understand how debt settlement companies structure their fees—the bill leaves room for practices that are not in the interests of consumers. This is exacerbated by the discretion the bill gives to the commissioner for setting maximum fees for for-profit debt adjusters and a lack of provisions dealing with misleading advertising, caps on unreasonable fees, and prohibition of lending or a pecuniary interest in a new loan by debt settlement companies, all of which would contribute to safer and more effective oversight in the interests of New Jersey Consumers.

AFSA believes that the best recourse for a distressed borrower is to work with their creditors to assess all the distressed borrower options available and to select the one that suits the borrower's personal circumstances.

For these reasons, we oppose S1310 as written and urge committee members to make significant revisions in order to fulfill the bill's promise of more effective regulation of for-profit debt adjusters. Thank you for the opportunity to provide testimony. If you have any questions about how AFSA can be of any further assistance to you as you move forward, please do not hesitate to contact me at 952-922-6500 or dfagre@afsamail.org.