

# BUSINESS AND ECONOMIC DEVELOPMENT

Resolution BED-21-23

## A RESOLUTION ON PROVIDING A SUSTAINABLE PATH TO LEAD CONSUMERS OUT OF DEBT

WHEREAS, the COVID-19 pandemic, with its disproportionate economic impact on communities of color, has left many families struggling to make ends meet;

WHEREAS, debt settlement companies negotiate directly with a consumer's unsecured creditors with the objective of securing less than full balance settlements of that consumer's debts;

WHEREAS, in 2010, the Federal Trade Commission passed sweeping consumer protection amendments to its Telemarketing Sales Rule (16 CFR 310.4 *et seq.*) ("FTC Rule") regulating debt settlement;

WHEREAS, the FTC Rule protects consumers by requiring that debt settlement companies may only charge or collect a fee if (i) the debt settlement company negotiates a settlement of a debt on behalf of a consumer, (ii) the consumer accepts the offered settlement and (iii) the consumer ratifies his or her acceptance by making at least one payment to the creditor under the terms of the settlement;

WHEREAS, the FTC Rule requires that only the fee associated with a specific debt may be charged at the time the settlement is ratified by the consumer;

WHEREAS, the FTC Rule allows a consumer to (i) reject an offered settlement for any reason or no reason at all, and (ii) terminate his or her debt settlement program at any time, in either case without any cost or penalty;

WHEREAS, the FTC Rule requires that, although a debt settlement company may require a consumer to accumulate funds for the settlement of debts in a separate bank account, the debt settlement company cannot touch the consumer's funds, and the account must at all times be under the exclusive control of the consumer;

WHEREAS, the FTC Rule requires that debt settlement companies provide detailed disclosures to consumers, including, but not limited to, the inability of debt settlement companies to settle debts that are not delinquent, the possible taxability of a settlement, the fees charged by the debt settlement company for its services and that creditors are under no obligation to settle a consumer's debts;

WHEREAS, the Center for Responsible Lending found that consumers must settle at least two-thirds of all debts in order to benefit from enrolling in a debt-settlement program;

WHEREAS, there are wide variety of companies in this industry and some have done little to actually settle financial debt, the Consumer Financial Protection Bureau found that one case with one company that nearly 90% of consumers enrolled in the program had not had any debts settled;

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WHEREAS, states like Connecticut, Illinois, and Maine limit fees to 10-15% of the actual savings debt-settlement companies achieve for the consumer;

WHEREAS, studies have shown that debt settlement clients receive as much as \$2.64 of debt reduction for every \$1.00 of fees paid for settlements; and

WHEREAS, the American Fair Credit Council found that in 2018, debt settlement companies settled more than \$5 billion of unsecured debt for consumers, saving more than \$1.6 billion for the nation's most financially challenged consumers.

THEREFORE BE IT RESOLVED, that the National Black Caucus of State Legislators ("NBCSL") believes that, in times of severe economic hardship, consumers need more, not fewer, options to manage their finances;

BE IT FURTHER RESOLVED, that NBCSL believes that a debt settlement company should settle all the debt of the consumer and put them on a sustainable path that will eliminate their debt;

BE IT FURTHER RESOLVED, that, for consumers in financial hardship with considerable unsecured debt but who are unable to qualify for bankruptcy, or who are unwilling to suffer the lasting effects of bankruptcy on their credit histories, debt settlement may offer an appropriate alternative with significant consumer benefits although it may also negatively impact the consumers credit score;

BE IT FURTHER RESOLVED, that the NBCSL supports the Consumer Financial Protection Bureau's recommendations to improve state policy found in a report published in June 2014 titled "The State of Lending in America & its Impact on U.S. Households", which includes recommendations for state policy including requiring screening before enrollment, including provisions to ensure the consumer is "not worse off", requiring data reporting, establishing limitations on fees, and ensuring broad coverage of the law;

BE IT FURTHER RESOLVED, that the NBCSL recommends that the individual states where debt settlement is currently unavailable examine appropriate legislation that makes debt settlement available to financially challenged consumers in a manner compliant with the FTC Rule, provides ample consumer protections, and encourages debt settlement companies to consider seriously the needs of financially challenged consumers in communities of color in managing and ultimately eliminating their debts; and

BE IT FINALLY RESOLVED, that a copy of this resolution be transmitted to the President of the United States, the Vice President of the United States, members of the United States House of Representatives and the United States Senate, and other federal and state government officials and agencies as appropriate.

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**SPONSOR(S): Representative Karen Camper (TN), Representative Calvin Smyre (GA),  
Senator. Raumesh Akbari (TN), and Representative Harold Love, Jr. (TN)**

**Committee of Jurisdiction: Business and Economic Development Policy Committee  
Certified by Committee Co-Chairs: Senator James Sanders (NY) and Representative  
Reginald Bolding (AZ)**

**Ratified in Plenary Session: Ratification Date is December 3, 2020**

**Ratification is certified by: Representative Gilda Cobb-Hunter (SC), President**