

Testimony of

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RE: Senate Bill 141 and other bills, relating to debt management services providers

Thank you, Senator Carona (Chair), Senator Harris (Vice Chair), Senator Eltife and the Honorable Members of the Texas Senate's Committee on Business and Commerce for allowing me to provide the following testimony on behalf of Money Management International (MMI).

MMI is the largest, tax-exempt, non-profit credit counseling agency in the nation and operates six telephone contact centers and over 120 in-person counseling offices in more than 20 states. We are domiciled in Texas and employ over 500 tax-paying Texans. We have offices in Abilene, Bedford, Bryan/College Station, Burleson, Forth Worth, Houston, Humble, Killeen, Lubbock, Lufkin, Mansfield, Odessa, San Angelo, The Woodlands, Stafford, Sugar Land, Texas City, and Waco.

MMI provides professional financial guidance, counseling, community-wide educational programs, and debt management assistance. We are licensed or registered in all states that require it of agencies, including Texas, and have been approved by the Executive Office for U.S. Trustees to provide both pre-filing bankruptcy counseling and pre-discharge bankruptcy education programs in all judicial districts. MMI is also an approved housing counseling agency in accordance with the standards set forth by the U.S. Department of Housing and Urban Development (HUD). MMI is a member of two major credit counseling industry trade associations, the Association of Independent Consumer Credit Counseling Agencies (AICCCA) and the National Foundation for Credit Counseling (NFCC). In 2010, over 900,000 consumers contacted MMI looking for financial education and guidance on a wide range of issues, including credit card debt, budgeting problems, debt prioritization, housing counseling, bankruptcy counseling, and pre-discharge bankruptcy education.

I currently serve MMI as Senior Vice President. Prior to this role, I was the President and CEO of Consumer Credit Counseling Service of Greater Fort Worth, which has since merged with MMI. I have served on the board of the NFCC, including as Chair.

In addition to this testimony, I am also submitting written testimony on behalf of Dr. David Jones, President of the AICCCA and its more than thirty non-profit member agencies. This testimony generally opposes SB 141 due to it being an outdated version of the Uniform Debt Management Services Act

(UDMSA) and allowing fees prior to services being delivered. I am willing to read this testimony into the record if that would be helpful to the Committee after I finish this statement on behalf of MMI.

MMI is pleased to see that debt settlement companies may finally be regulated by the Texas Commissioner of Consumer Credit by passage of Senator Eltife's bill, SB 141. We have been in favor of such regulation for years; however, SB 141 falls short. The debt settlement industry has historically charged clients large up front fees prior to any settlement realized by the already destitute consumer. The Federal Trade Commission (FTC), by its recently amended Telemarketing Sales Rule (TSR), has made an effort to eliminate many abusive practices, but it does not address debt settlement services delivered in person, and this loophole is currently being exploited by debt settlement companies.

Senator Eltife's bill, SB 141, is a soon-to-be-obsolete version of the Uniform Debt Management Services Act, or UDMSA. This Committee may not be aware, but on Thursday, February 17, the National Conference of Commissioners on Uniform State Laws began to circulate a draft of its newly revised version of the UDMSA. This much-anticipated revision does not allow payment of fees prior to actually settling a consumer's debt. Senator Eltife's SB 141 allows up-front fees, a practice that is now forbidden by federal rule except if the settlement service is delivered in person.

*MMI is strongly opposed to SB 141, and to any substitute bill that would similarly allow the taking of any up-front or advance fees.* Such fees are inconsistent with the FTC's revised rules. More important, the Committee should not allow the taking of such up-front fees because they constitute an abuse of consumers, a practice that the FTC has prohibited.

MMI, like most credit counseling agencies, offers debt management assistance, as opposed to debt settlement, for a fee that may be waived based on federal poverty guidelines. These services also result in MMI receiving funding from creditors. However, the basis of these services is financial education. Furthermore, while on a debt management plan, consumers are making regular payments to their creditors and in most circumstances have received lower interest rates from most of their creditors and accordingly a smaller monthly payment. The benefit and delivery of services is realized immediately and continues to grow over the life of the debt management plan.

The same immediate benefit is not realized from debt settlement services. It takes time to negotiate the reduction of principal. Unfortunately, reliable statistical information regarding the success rate of such services has yet to surface. To afford a settlement and its fees, most consumers are not continuing to pay their creditors, unlike a debt management plan. This results in lawsuits against the consumer and severely negative consequences to the consumer's credit score. And all the while, the consumer is forced to send money to the debt settlement companies.

All that said, debt settlement can be a good option for a certain niche of consumers who understand the consequences and risks associated with this path. But due to the severity of the product, fees should only be allowed when the settlement works. This provides an incentive to settlement providers to only offer this service to consumers with a high likelihood of a positive outcome and to do all they can to work with a client over the course of the settlement to ensure it is fully realized.

Due to the number of settlement companies based in Texas, there is support for alternative fee structures that would allow more of these companies to continue doing business without adopting a strict, success-fee model, as permitted by the FTC. The Committee should know that such an argument is baseless. There are already a number of prominent settlement companies that conduct business without taking any fees until a settlement has been successfully provided. In fact, it is entirely possible for settlement companies to operate under the FTC's new rules. Texas's laws should not, for any reason, provide for weaker consumer protections simply to accommodate those companies unwilling to conform to the intent of federal rules.

Finally, we understand there may be a substitute to SB 141 presented for consideration at today's hearing. We would respectfully request that such action not be permitted until all interested parties have had the opportunity to review the substituted bill.

I thank you again for the opportunity to provide this testimony and welcome any questions you may have about MMI or my testimony.