

April 9, 2024

The following testimony is submitted on behalf of the Colorado Chapter of the National Federation of Independent Business in opposition to Hb 24-1380, CONCERNING MEASURES TO INCREASE CONSUMER PROTECTIONS IN TRANSACTIONS WITH DEBT-RELATED SERVICES.

The National Federation of Independent Business is an 80-year-old, Not for Profit membership organization with approximately 300,000 dues paying members nationally and dedicated to making it possible for every individual to own, operate and grow their business free from over regulation by government. Our membership is comprised of small and independent businesses who have an average of 5-9 employees. NFIB Colorado membership is approximately 6,000 individual small businesses.

Hb 24-1380, Concerning Measures to increase consumer protections in transactions with debt-related services.

NFIB Colorado is OPPOSED to Hb 24-1380.

Small business owners know how to run their businesses and the products they sell. Small business owners are not well versed in matters such as collection of debts. Many small businesses offer credit to established customers. At times, debts will go past due resulting in the use of credit collection agencies. Business owners will contract with a debt collection service to collect outstanding debt on behalf of the business. This practice is after months of attempted collection by the small business owner.

House bill 24-1380 if passed, would require debts to be collected in the name of the original creditor/business. This change would be detrimental to business or medical practices. A small business would be forced to go to court or retain counsel and, in the name of the business, attempt to collect the debt. This can cause unjustified prejudice against the business. A more serious problem would be incurred if the debt was in the name of a medical practice or healthcare provider. House bill 24-1380 by law would require identification of the healthcare provider to be available to all as a public record under debt collection law. This issue would inadvertently violate the spirit if not the letter of the Health Insurance Portability and Accountability Act (HIPAA).

The process laid out by Hb 24-1380 would cause more damage to all parties in both business practices and public policy.

NFIB Colorado requests House bill 24-1380 NOT PASS.

A.F. Tony Gagliardi
State Director, NFIB Colorado
303-831-6099



April 10, 2024

Cliff Andrews

Suite 1025
1717 Pennsylvania Ave. NW
Washington, D.C. 20006

RE: Written Testimony Concerning Colorado HB 24-1380 by the Consumer Debt Relief Initiative

Dear Representative Weissman and Judiciary Committee Members,

The Consumer Debt Relief Initiative, Inc. ("CDRI"), a leading national debt settlement industry association, is pleased to provide these comments regarding HB24-1380. We urge the Colorado legislature to carefully consider the implications of HB24-1380 and its potential impact on consumers and industry stakeholders.

CDRI is dedicated to the protection and promotion of the debt settlement industry. Our membership consists of diverse stakeholders that comprise our ecosystem including debt settlement companies, dedicated account providers, marketing companies, attorneys, law firms and various industry partners all of whom adhere to the existing Colorado regulations regarding our industry. CDRI is committed to advancing the highest consumer protection standards to ensure that debt-distressed consumers have access to safe and transparent solutions to achieve financial stability.

Colorado consumers have benefited from access to debt settlement services while being assured that the companies providing such services are regulated and monitored by a robust and fair licensure system. Additionally, Congress amended the Telemarketing Sales Rule (TSR) in 2010 to ensure that debt settlement providers could only charge reasonable fees that were proportional to the work performed, suitable for a consumer who is experiencing financial distress, and (most importantly) only due after work had been successfully performed. The current changes being proposed will have several negative impacts on Coloradans at a time when the need for access to financial services for financially distressed consumers is at an all-time high.

While the bill has the laudable intention of increasing consumer protections for debt-related transactions, certain provisions raise concerns that warrant further examination.

With that being said, CDRI has several suggestions related to limited aspects of this bill that impact Colorado consumers who are seeking the services of licensed debt settlement companies, including the following:

- Section 5 of the bill grants regulators sole discretion over setting fees for debt settlement services, replacing the statutory fee structure that has been in place since 2017. This existing standard adopts the long-standing federal fee structure codified in the

Telemarketing Sales Rule in 2010. This standard restricts how fees are calculated, in addition to when they can be assessed. This proposed change would limit consumer access to debt settlement services and hinder the industry's ability to operate efficiently. Any further restriction through the implementation of arbitrary fee caps will result in compliant, licensed debt settlement providers leaving the market, further limiting consumer options and forcing many into bankruptcy.

- Granting regulatory bodies sole discretion over fees without industry input could lead to outcomes that do not align with market realities, resulting in fee structures that are unsustainable for businesses, especially smaller operators. With the prohibition of charging upfront fees, debt settlement providers operate on behalf of consumers for several years before fully charging fees. History has shown that the more restrictive the fee cap is, a debt settlement provider must deny clients with lower debt levels. This unpredictability could hinder the industry's ability to plan and price services effectively, which would reduce consumer choice in the market and stifle competition.
- The proposed change creates a top-down approach where the Colorado Legislature is removed from important policymaking authority which heretofore it has successfully exercised. The current statutory fee standard is similar to the regulations adopted by several other states, including Texas, Tennessee, Maryland and Pennsylvania, as well as the federal TSR that provides robust protections for consumers. In all of those situations, the regulating bodies have determined that fee caps were not necessary to achieve the desired consumer protection controls.
- In other states where restrictive fee controls have been proposed, we have seen compliant companies exit the market, leaving a vacuum where noncompliant bad actors step in. These companies have no concern for regulatory restrictions and prey on consumers.
- Aligning with new regulatory standards for fees may increase the complexity and cost of compliance, detracting from the industry's focus on serving consumers and potentially leading to higher prices or reduced service quality.

We appreciate that the bill sponsors have several different goals in mind with this bill, and we respectfully believe that amending the bill to entirely remove Section 5 to preserve the Legislatures' authority is the best approach. However, at a minimum we sincerely request adding the following clarifications to make this a more workable bill for Colorado residents who utilize debt settlement services:

- Specify clear criteria or guidelines for regulators to follow when setting fees, ensuring transparency and consistency across the state. Establish a process for industry stakeholders to provide input on proposed fee structures.
- Consider regulations that allow for flexible fee structures compliant with federal law, such as performance-based fees contingent on achieving savings for the consumer. This

aligns the interests of debt settlement firms with those of their clients and reflects the value provided by the service.

- Enhance transparency and disclosure requirements around fees to ensure consumers are fully informed about the costs and benefits of debt settlement services. Standardize disclosures to clearly explain how fees are calculated and what consumers can expect in terms of savings.
- Establish a mechanism for regular review and adjustment of fee guidelines based on market conditions, inflation, and other relevant factors to ensure the regulatory framework remains responsive to changes in the economy and the debt settlement industry.

For your consideration, the fee requirements of the TSR require debt settlement service providers to place the interests of their consumers before their profits. Both the prohibitions against up-front fees and the prerequisites to collection of a fee ensure the consumer is protected. The consumer has the right to cancel the program and withdraw all of their settlement savings and any unearned fees, at any time. If the company does not provide a satisfactory service throughout the life of its entire client base, it simply will not survive. As such, we recommend that Colorado maintain a fee structure based on the performance model as outlined in the TSR.

In conclusion, while consumer protection is paramount, it is essential to strike a balance that promotes industry sustainability to maximize consumer access to debt relief services. The existing licensing structure in place in Colorado has been very effective in protecting consumers and permitting compliant debt settlement providers the opportunity to assist Coloradans. We urge policymakers to consider these issues and work collaboratively with industry stakeholders to develop regulations that support both consumer protection and industry innovation.

Thank you for considering CDRI's testimony on this critical item.

Respectfully,



Cliff Andrews
CEO
Consumer Debt Relief Initiative



Budget Control Services, Inc.
Turning bad debt into profit!

March 10, 2024

To whom it may concern,

My name is Kim Louthan, and I am an employee with a third-party collection agency, Budget Control Services, Inc. I believe by enacting this bill (HB 24-1380), it will be extremely detrimental not only to our agency, but to our clients, to the economy, and to the collection industry as a whole. The use of legal action is a vital tool and sometimes necessary for collection agencies in helping the recovery for our clients. I feel that our clients as well as collection agencies should be able to make the decision to pursue an account legally at their own discretion and not be told we are unable to do what might be best for all parties involved.

My vote is to oppose HB 24-1380.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Louthan", is written over a horizontal line.

Kim Louthan