

BUSINESS AND ECONOMIC DEVELOPMENT

Resolution BED-20-13

A RESOLUTION ON PROTECTING MINORITY COMMUNITIES FROM DEBT SETTLEMENT COMPANIES

WHEREAS, the National Black Caucus of State Legislators (NBCSL) recognizes that debt settlement companies, which claim to settle, renegotiate, or in some way change the terms of a person's debt to a creditor, cause significant problems for borrowers, often increasing debt while complicating the process of becoming debt free;

WHEREAS, debt settlement companies suggest that they are "negotiating with creditors to settle a debt for less than what is owed";

WHEREAS, debt settlement companies can require that consumers stop making payment, usually for 2 to 3 years, while they negotiate a settlement;

WHEREAS, stopping payment causes accounts to default, resulting in additional late payments, late fees, and other penalties that will be added to the amount already owed;

WHEREAS, debt settlement will have a negative impact on consumers' credit scores because not paying the full amount lowers credit scores, as does missing payments while negotiating a settlement;

WHEREAS, the fact that debt settlements in which consumers did not pay the full amount owed and remains on credit reports for seven years, making it more difficult to access and afford credit;

WHEREAS, debt settlement companies charge a fee, which is usually a percentage of the amount owed, to negotiate on consumer's behalf, the fees generally are 20–25% of the final settlement, so if a consumer's final settlement is \$5,000, they could owe another \$1,000 to \$1,250 in fees;

WHEREAS, lenders are under no obligation to accept settlement offers and in fact, some lenders refuse to work with debt settlement companies;

WHEREAS, there could be negative tax consequences from using a debt settlement company, as the IRS may count whatever amount is forgiven as income and require that the consumer list this amount on their taxes; and

WHEREAS, these companies often disproportionately operate in minority communities, where individuals and families often have fewer resources to draw on when they come under financial pressure.

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THEREFORE BE IT RESOLVED, that the National Black Caucus of State Legislators (NBCSL) support efforts at the state and federal level that ensure debt settlement companies are-subject to basic consumer protections, including licensing, regular examination, and prominent mandatory disclosure;

BE IT FURTHER RESOLVED, that the NBCSL recognizes that these services do not release a consumer from existing debt, and that ceasing to make payments without the consent of the creditor may damage the consumer's credit score and may subject the borrower to collections activities, additional fees, and interest;

BE IT FURTHER RESOLVED, that states should examine legislation restricting debt settlement companies unsafe or unsustainable loans directly or indirectly to consumers;

BE IT FURTHER RESOLVED, that the NBCSL encourages the federal government to conduct a comprehensive review of its oversight of debt servicing companies, to include federal bankruptcy rules, their acting as credit counseling services, their status as Money Servicing Businesses, and examination and enforcement by the Consumer Financial Protection Bureau (CFPB) and the Federal Trade Commission (FTC); 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 United States Senate, the Secretary of the Treasury, and other federal and state government officials as appropriate.

SPONSOR: Representative Karen Camper (TN)

Committee of Jurisdiction: Business and Economic Development Policy Committee

Certified by Committee Co-Chair: Senator James Sanders (NY)

Ratified in Plenary Session: Ratification Date is December 6, 2019

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