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February 22, 2011

Honorable Members of the
Texas Senate Committee on
Business and Commerce

On behalf of the more than thirty non-profit member agencies of the Association of Independent Consumer Credit Counseling Agencies (AICCCA), an organization which I serve as President, I would like to express my gratitude for the opportunity to provide the following testimony.

The AICCCA was fully prepared to offer its opinion of Senator Eltife's bill, SB 141, which 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. That much-anticipated revision was necessitated by actions taken this past summer by the Federal Trade Commission, when it updated its Telemarketing Sales Rule (TSR) in an effort to eliminate the abusive practices of debt settlement companies in this country.

Perhaps the central issue addressed by the revised TSR is the taking of large up-front fees by settlement companies. The revised TSR prohibits the taking of any fees until a settlement has been arranged, and the National Conference of Commissioners on Uniform State Laws has proposed a similar prohibition in the new UDMSA. Senator Eltife's SB 141 allows up-front fees, a practice that is now forbidden except in certain circumstances.

The AICCCA 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 done everything within its jurisdiction to prohibit. The passage of SB 141 or a similar substitute would essentially create a state law that would specifically allow a practice already designated as illegal by federal rule. This Committee should not recommend any bill, or any substitute, that would produce such a result.

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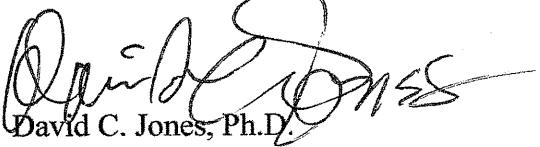
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The AICCCA is also aware that, due to the number of settlement companies based in Texas, there is support for alternative fee structures that would allow more of these companies to continue doing business without adopting a strict, success-fee model, 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 federal rules.

Finally, the AICCCA has learned that a substitute to SB 141 will be 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. Since learning of the possible existence of the bill to be substituted, we have made several requests to review a copy of the substitute, but, as of Saturday, February 19, none has been provided. To take further action on a bill that the public has not had a fair opportunity to read is unconscionable and should not be permitted. We respectfully request that this matter be continued to a later date, following a period deemed sufficient by the Committee for appropriate and thoughtful consideration of the substitute bill presented today.

I thank you again for the opportunity to provide this testimony.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David C. Jones". The signature is stylized and written in cursive.

David C. Jones, Ph.D.
President