



## THE BEST WAY TO PROTECT NJ CONSUMERS FROM DEBT ADJUSTMENT SCAMS IS TO VOTE 'NO' ON S1310/A4598

**The existing FTC debt relief services rule has not eliminated bad actors and has proven too weak to stop misconduct.**

- A 2023 BBB report found “over 11,000 complaints and almost 900 negative reviews . . . about debt and credit assistance”<sup>1</sup> despite the FTC rule. The CFPB has also received complaints about debt relief services in NJ.<sup>2</sup>
- The FTC rule is, effectively, unenforceable by consumers. Consumers can only enforce it if they have at least \$50,000 of damages, so it is often violated with impunity.
- The rule is limited to telemarketers. So companies operating exclusively over the internet and small-time, local fraudsters aren’t covered.
- The FTC rule does not prohibit debt relief companies from giving consumers dangerous advice to stop paying their creditors. This exposes consumers to lawsuits and more debt collection efforts, and it’s unfair to law-abiding businesses.

### **S1310/A4598 has a major loophole that scammers will exploit.**

S1310/A4598 exempts “any person engaged in the practice of law.” A number of states have similar exemptions and debt relief scammers have exploited this loophole so often that the maneuver even has a name: the attorney model. The way it works is a scammer recruits naive or unethical local attorneys to associate with the scammer’s business. The scammer claims to refer debt settlement customers to the attorney and to provide support services for the attorney, but in reality, the attorney does minimal work and has almost no contact with the client. Ultimately, the attorney is only leasing their name and license to give the scammer a veneer of legitimacy. The CFPB has shut down some national attorney-model scammers.<sup>3</sup> But if NJ creates a loophole for the attorney model, consumers and state regulators will be unable to enforce NJ law against them.

### **S1310/A4598 fails to mandate adequate regulation of debt adjusters.**

S1310/A4598 fails to *require* the Commissioner of the Department of Banking to regulate debt adjusters. Instead, it merely says the Commissioner “may” take certain actions. Instead, it should say the Commissioner “shall” regulate debt adjusters, and require annual reporting. The bill should also specify that it shall not go into effect until the regulations are in place. Otherwise, the industry will have free rein. That is very dangerous for NJ consumers.

### **Debt adjustment can leave consumers worse off.**

The industry claims no one will be worse off for trying debt adjustment. But that’s not true. Debt adjusters can’t give any guarantees, and while consumers save up for a debt adjustment plan, they must endure ongoing debt collection attempts—including lawsuits and maybe garnishment. Consumers have better, safer options.

## Bankruptcy, credit counseling, and self-help are safer options.

Bankruptcy is usually cheaper and gives better, guaranteed results. The debt management plans offered by credit counseling nonprofits offer guaranteed results for those who qualify. And any creditor willing to settle with a debt adjuster will usually offer the same deal directly to their customer—without the expensive debt adjustment fees.

Some creditors refuse to deal with debt adjusters. Some will automatically sue when they learn that a consumer is trying debt adjustment. Even people who make it through the debt settlement gauntlet leave with unsettled debts. Those debts will be bigger than when the consumer signed up. The growth of the unsettled debts, plus the debt adjustment fees, plus tax on the settlements, will reduce any net benefit from debt adjustment.

***The truth is debt adjustment is a dangerous gamble. New Jersey is better off without it.***

<sup>1</sup> BBB, Credit Repair and Debt Relief at 2 (Aug. 2023).

<sup>2</sup> See Consumer Financial Protection Bureau, Consumer Complaint Database.

<sup>3</sup> See, e.g., CFPB v. Morgan Drexen, Inc. <https://www.consumerfinance.gov/enforcement/payments-harmed-consumers/payments-by-case/morgan-drexen/> and CFPB v. World Law Group, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-world-law-group-for-charging-illegal-fees-and-making-false-promises-in-debt-relief-scheme/>