CredAbility
Nonprofit Credit Counseling & Education

March 10, 2011

Via Email (comments@uniformlaws.org)

Standby Committee on the Uniform Debt-Management Services Act
National Conference of Commissioners on Uniform State Laws

Re: Proposed Revisions and Request for Comment

Dear Standby Committee:

We would like to formally respond to the proposed changes to the Uniform Debt Management Services Act as outlined in your memorandum dated February 8, 2011.

About CredAbility:

CredAbility was founded in 1964 as the Consumer Credit Counseling Service of Greater Atlanta, and has grown to become a leading national provider of nonprofit credit counseling and education services. We are licensed to serve clients all 50 states, plus the District of Columbia, Guam, Puerto Rico and the US Virgin Islands. CredAbility offers a wide range of financial counseling and education services including budget and credit counseling, debt management plans, foreclosure prevention counseling, reverse mortgage counseling and home pre-purchase and post-purchase counseling. Services are provided 24/7 in English and Spanish, online, by phone and in-person at more than 28 offices across the southeast.

CredAbility is accredited by the Council on Accreditation and is a member of the Better Business Bureau and the National Foundation for Credit Counseling (NFCC). Governed by a community-based board of directors, CredAbility is funded by creditors, clients, individual donors and grants from foundations, businesses and government agencies.

Comments on proposed changes to the Uniform Debt Management Services Act:

We would like to bring to your attention the following considerations regarding the proposed changes to Section 22, which as written, would remove the provider agency from administration of the trust account:

- It is our understanding that the proposed change is due to a provision of the FTC's Telemarketing Sales Rule (TSR) that was written principally to address the management of escrowed service fees collected in advance, a practice that is exclusive to Debt Settlement Firms.

  The proposed requirement for independent trust account management is irrelevant to providers of Debt Management Plans ("DMPs") – nonprofit credit counseling agencies, like CredAbility. Unlike Debt Settlement programs, services fees for DMPs

are collected upon disbursement of client funds to creditors – generally within days of each client deposit, and are not escrowed. In fact, CredAbility makes daily disbursements of client funds, and as such, client deposits remain in our trust accounts for only as long as needed to assure that the funds are good.

- Transferring trust account administration to a third-party would create challenges to both the clients served by, and the nonprofit credit counseling agencies administering, Debt Management programs on their behalf.

  We see no requirement that third party trust administrators be subject to record keeping requirements, nor that they have responsibility for disbursement of client payments to creditors. The accuracy and timeliness of these functions are not only essential to meet current statutory requirements, but are critical to the success of clients participating in DMPs. Further, third party administrators are unlikely to demonstrate the same level of moral and ethical accountability to the clients whose timely payments and disbursements of funds significantly determine their opportunity to repay their obligations, and thereby regain financial stability. Failure to make a required monthly payment can – and does – result in the forfeiture of concessions from creditors, which in many cases, renders the client unable to resolve their financial challenges.

  In nonprofit credit counseling agencies, dedicated and experienced customer service and creditor relations staffs work diligently on behalf of clients to ensure their program success, and respond to countless client calls to manage questions and exceptions. As a DMP provider, CredAbility disbursed more than $120 million in client funds to creditors in 2010, which represents more than 100,000 unique transactions per month with virtually no complaints about our service. We fear the establishment of an independent trust administrator would mean a deterioration in service to our clients.

- If required to use an outside trust administrator, nonprofit credit counseling agencies would bear the financial burden for these services. There are statutory limits for providers of DMP services which barely cover the current, actual costs associated with services provided. Adding the cost of a third party administrator would be a tremendous burden that few nonprofit counseling agencies would have the ability to absorb into their operating budgets, with the potential result of reducing the overall availability of DMP services.

- Trust account management and oversight by credit counseling agencies is a highly regulated activity. Indeed, states have imposed very strict guidelines with regard to client fund handling procedures, as well as trust account management requirements. Additionally, individual signers on these accounts are consistently subject to in-depth, thorough background checks by state regulatory governing bodies where DMP activity is performed.

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We appreciate your time and consideration. It is our understanding that you have met with representatives from the Venable Law firm and the FTC to discuss our concerns. We trust that you will consider their input, and ours, very seriously.

Sincerely,

Suzanne E. Boas
President

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