Superior Debt Services is pleased to provide comments regarding the proposed revisions to the Uniform Debt Management Services Act (UDMSA). We appreciate the committee's willingness to consider input from all sources prior to consideration of the revised Act.

Superior Debt Services has been providing Debt Settlement services to consumers since 1998 and has been very active in providing input to the committee on past versions of the Act. Superior supports changes made by the FTC's Amended Telemarketing Sales Rule (TSR) and, in fact, converted to the no-advanced fee model well in advance of the FTC's announcement because we believe this to be in the consumer's best interests.

The Standby Committee is to be commended for its timely drafting of amendments to the UDMSA that will remove inconsistencies with the TSR. We believe the UDMSA combined with the TSR will provide consumers the protection they deserve while still allowing legitimate settlement firms a viable opportunity to offer debt-strapped consumers an option other than Credit Counseling or Bankruptcy. Consumers can then make informed decisions based upon their particular circumstances and goals. Consumers with well-defined and differentiated options are best equipped to make adjustments to the dramatic changes required by today's economy.

Superior believes the committee has done an outstanding job drafting the proposed amendments to the UDMSA and strongly supports them. We respectfully submit the following comments and suggestions with respect to the committee's first draft.

<u>Section 23(d)(4)(A) Allowable Fees</u>: While market forces should ultimately shape fees charged for settlement services, we believe that 30% of savings is a reasonable limit on the fee for settlement of a consumer's account. Our experience with the no advanced fee model is that a provider may experience a gap of 12 to 14 months before the new fee structure adequately supports the structure required for a client in a debt settlement program.

<u>Section 19(e) Power of Attorney</u>: this section and Section 28(a)(3) only allows a settlement company to accept or exercise a power of attorney that allows negotiation of consumer's debt rather than actual settlement of the debt. Negotiations with creditors often involve an extremely time-sensitive environment in which settlements most favorable to a consumer can only be completed within very short time constraints. Settlement companies need the flexibility of consummating a settlement based upon the client's power of attorney rather than the client's explicit approval with the understanding that their fees may be at risk if the client refuses to approve the settlement. Even if the client rejects a settlement, in most cases, the settlement can be reversed within 60 days of completion, so there is little or no risk for the client.

<u>Section 19 (d)(2) Creditor Participation in a Plan</u> – this section states that the provider will notify the individual within five days after learning of a creditor's final decision to reject or withdraw from a plan. Debt settlement is very different from a CCC program under which creditors do agree to participate in the client's debt management plan. Creditor's do not "join" a debt settlement plan and therefore cannot "withdraw" from the plan. Creditor's may choose not to work with some or all debt settlement providers, but often accounts with those creditors can still be settled over time with third party

collectors or debt buyers. Under the amended TSR rule, a settlement company cannot take a fee until a debt is settled, so if a client's debt with a particular creditor cannot, if fact, be settled, no fee will be charged and the consumer is not harmed. We respectfully suggest that this be restated as, "If a plan contemplates that the individual's creditors will reduce finance charges or fees for late payment, default, or delinquency, the provider will notify the individual within five days after learning of a creditor's final decision to reject or withdraw from a plan…"

Section 23(d)(4)(B) Fees for Term Settlements – this section states that if a debt is to be settled by installment payments, the provider may not collect a portion of the settlement fee that is greater than the proportion of that particular payment to the total settlement amount. The TSR rule places no such restriction upon the taking of fees for a term settlement and this added restriction places undue risk upon a provider who has in good faith fulfilled the stated purpose of settling a client's account. Failure to complete a term settlement most often occurs due to client cancellation or client failure to provide promised funds, neither of which are factors under a provider's control. The settlement provider assumes almost all risk under the no advanced fee model and this additional restriction will place undue burden upon the provider.

Section 13(b)(2) Bond – This section requires a surety bond rated at least "A" by a nationally recognized rating organization. We believe this rating to be unreasonably high and suggest that this be changed to "A-" which will provide adequate protection without the increased difficulty in qualifying and cost.

Section 12 – Registration in another state – Superior supports the concept of reciprocity as defined in this section as it reduces the burden of registration across a multitude of states, yet still allows each state to manage the services provided to their consumers. As the number of states regulating debt management services increases, the cost of providing services to consumers also increases dramatically. Since ultimately the cost of any service is born by consumers, anything that reduces the cost will be in the consumer's best interest and will serve to increase options for consumers as they attempt to manage the impact of changes in our economic environment.