

# POLICY MEMO

## IMPROVING DEBT RESOLUTION OPTIONS IN OHIO SEPTEMBER 9, 2024

### The Buckeye Institute's Recommendation

Ohio should ensure that **debt resolution** companies can effectively operate in Ohio. It can do this by ensuring that state regulations closely align with the federal **telemarketing sales rule** (TSR) promulgated by the Federal Trade Commission (FTC), which already provides significant consumer protections. Ohio should also forego caps on allowable fees, establish consistent state-level oversight, and encourage consumer access to all available debt management and settlement options.

### Background

As daily living expenses rise with near-**historic inflation** rates, household debt has risen, too. Nationally, Americans face **more than \$1 trillion** in credit card debt, and Ohio's credit card debt averages **more than \$5,700** per person—or more than 8.5 percent of the **state's median household income**—making **debt consolidation, credit counseling, debt management planning**, and even **bankruptcy** helpful options for many consumers struggling to repay high-interest loans.

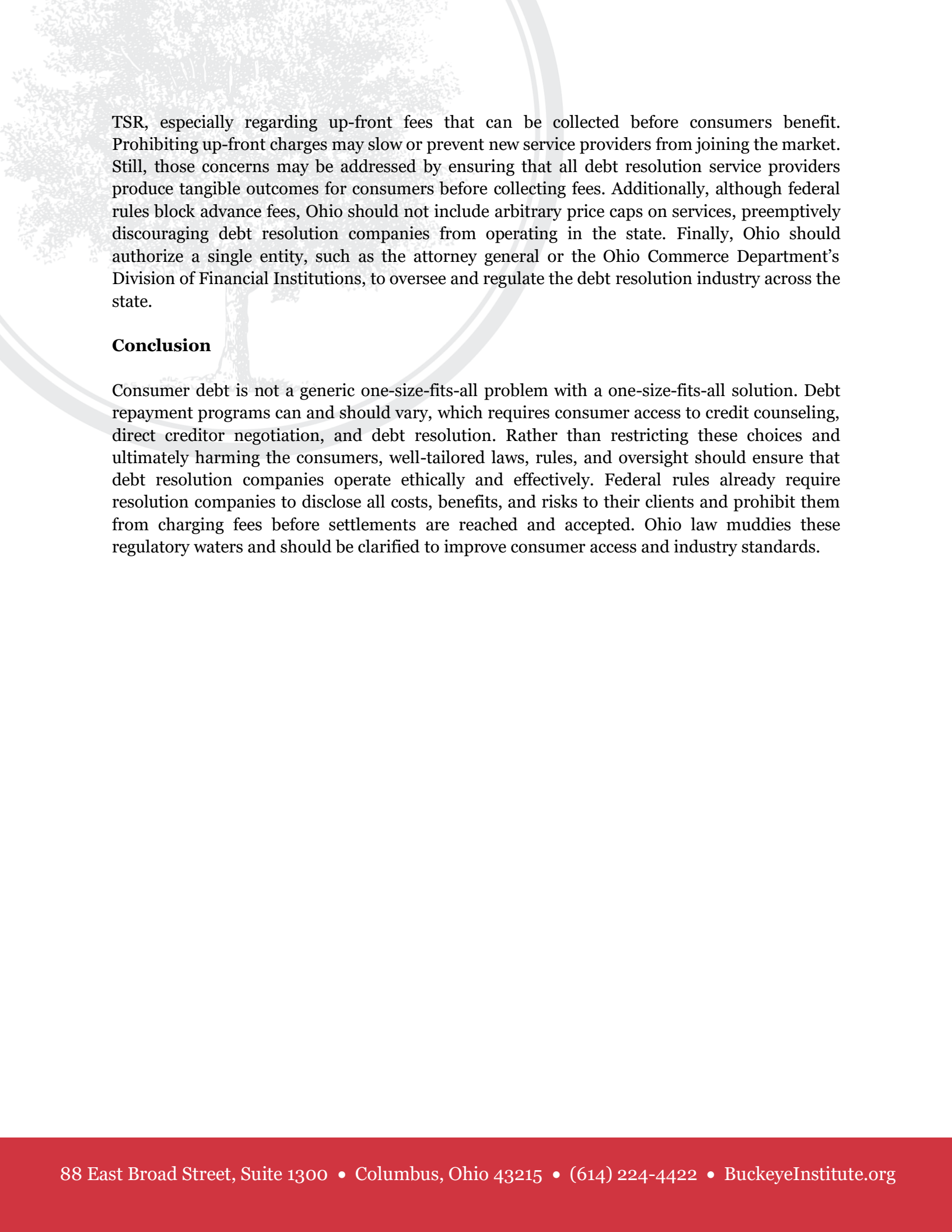
Debt management services, for example, can help restructure debt repayment time frames to make the payment schedule more affordable by focusing on one creditor at a time. Debt resolution providers can often negotiate lower total debt amounts, which **have been shown** to save debtors up to \$2.64 for every \$1 in fees. More than half of debt resolution customers see their first account settled within four to six months.

Before 2010, debt resolution was largely unregulated and too easy for the unscrupulous to prey on the unsuspecting. **Since 2010**, however, the TSR has prohibited debt resolution companies from charging any fees until the consumer accepts a settlement agreement and a settlement payment has been made. These requirements, enforced by the FTC, help thwart scammers and those taking advantage of consumers because concrete steps must be taken, and settlement payments must be made before fees may be charged.

Unfortunately, Ohio law has fallen out of step with these recent federal efforts to regulate the debt resolution market and does not offer the broad, flexible range of options that it should. Poorly tailored laws restrict some services offered by for-profit debt resolution firms. **Ohio law** allows consultation fees and other charges to be imposed before a settlement is reached, which differs from the TSR rules and creates market uncertainty.

### Improving Debt Resolution Options in Ohio

Ohio should remedy the confusing situation currently confronted by debt resolution companies that make it difficult to operate in the state. This starts with making Ohio law more closely to the



TSR, especially regarding up-front fees that can be collected before consumers benefit. Prohibiting up-front charges may slow or prevent new service providers from joining the market. Still, those concerns may be addressed by ensuring that all debt resolution service providers produce tangible outcomes for consumers before collecting fees. Additionally, although federal rules block advance fees, Ohio should not include arbitrary price caps on services, preemptively discouraging debt resolution companies from operating in the state. Finally, Ohio should authorize a single entity, such as the attorney general or the Ohio Commerce Department's Division of Financial Institutions, to oversee and regulate the debt resolution industry across the state.

## **Conclusion**

Consumer debt is not a generic one-size-fits-all problem with a one-size-fits-all solution. Debt repayment programs can and should vary, which requires consumer access to credit counseling, direct creditor negotiation, and debt resolution. Rather than restricting these choices and ultimately harming the consumers, well-tailored laws, rules, and oversight should ensure that debt resolution companies operate ethically and effectively. Federal rules already require resolution companies to disclose all costs, benefits, and risks to their clients and prohibit them from charging fees before settlements are reached and accepted. Ohio law muddies these regulatory waters and should be clarified to improve consumer access and industry standards.