

SENATE No. 147

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to debt settlement.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

James B. Eldridge

Middlesex and Worcester

Carolyn C. Dykema

8th Middlesex

SENATE No. 147

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 147) of James B. Eldridge and Carolyn C. Dykema for legislation relative to debt settlement. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to debt settlement.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 180 of the General Laws is hereby amended by striking out section
2 4A and inserting in place thereof the following section:-

3 Section 4A. (1) Credit counseling services as used in this chapter shall mean (a) the
4 providing of financial and budgetary advice and opinion to individuals in connection with the
5 creation of a budgetary plan; or (b) the creation of a plan whereby an individual turns over an
6 agreed amount of income that is then distributed to creditors in accordance with a plan which
7 creditors have approved and which may provide for smaller payments or a longer term than the
8 original contract; or (c) the providing of educational services relating to the use of credit; or (d)
9 for or with the expectation of a fee, commission, or other valuable consideration, assisting or
10 offering to assist an individual in negotiating or attempting to negotiate a debt to a creditor in an
11 amount less than the amount currently outstanding on the debt; or (e) any combination of these.

12 (2) Exempt attorney as used in this chapter shall mean an attorney licensed, or otherwise
13 authorized, to practice law in this state who, in the context of an attorney-client relationship: (a)
14 negotiates the settlement of pending litigation; (b) negotiates the settlement of a debt that is
15 subject to a bona fide dispute regarding its amount or legality; (c) provides information, advice,
16 or legal representation with respect to filing a case or proceeding under title 11 of the United
17 States Code; or (d) negotiates a debt as an ancillary matter to such attorney's representation of a
18 client.

19 (3) No person, other than an exempt attorney or a nonprofit charitable corporation
20 organized under the provisions of this chapter, shall render those credit counseling services
21 specified in clause (1)(b) or (1)(d). Each such corporation shall comply with the provisions of
22 section eight F of chapter twelve.

23 (4) Any such corporation formed for credit counseling purposes shall not engage in the
24 practice of law. If it appears that an individual receiving credit counseling services needs legal
25 advice or counsel, he shall be referred to an attorney of his own choice, the local bar association
26 referral service, or a local legal aid program, whichever course may seem most appropriate.