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NCLC Update: Credit Counseling Agencies' Compliance with State Licensing Laws Lax, and State Enforcement of Those Laws Weak

BOSTON – National Consumer Law Center today released a one-year update of its ground-breaking "Credit Counseling in Crisis" report, and the news is discouraging though not uniformly grim.

The original report triggered a series of actions against the worst credit counseling agencies from the Federal Trade Commission, state attorneys general and the Congress. Both houses of Congress held hearings, with the Senate's final report condemning some of the industry's worst players and abuses and calling for stronger federal enforcement. Several state attorneys general and the Federal Trade Commission cracked down on some of the biggest offenders, with some states passing tough new laws or strengthening existing ones, and the Internal Revenue Service launched audits of at least 50 agencies for compliance with the laws governing non-profits.

Today's report, "Credit Counseling in Crisis Update," notes this progress -- especially comprehensive legislative efforts at the state level to deal with credit counseling abuses – but the update also reports that many of these laws are largely ineffective because of the failure of many counseling agencies to comply coupled with weak enforcement.

"Passing a strong law is not enough," says report author and NCLC Staff Attorney Deanne Loonin. "Without industry compliance and strong enforcement, these laws have virtually no teeth."

The new report reveals that almost half of the twenty-five credit counseling agencies surveyed offered to perform services for prospective customers in states where the agencies were not licensed. The good news first: All eight agencies affiliated with the National Foundation for Credit Counseling (NFCC) rightly refused to serve test customers who said they were calling from states where the agencies are not licensed. Less encouraging is the fact that just five of eight agencies affiliated with the Association of Independent Consumer Credit Counseling Agencies (AICCCA) refused such business. But worst of all was the fact that all nine agencies not affiliated with either of those groups failed to comply with state licensing laws. **<u>This is particularly troubling since estimates show that about 80% of the credit counseling agencies now operating are not members of NFCC or AICCCA.</u>**

Despite this widespread non-compliance, seven of the eight state enforcement bodies surveyed reported no enforcement action against credit counseling agencies since their licensing laws went into effect. Only Maine took action, among a survey group that included that state plus Arizona, Idaho, Maryland, Minnesota, Mississippi, Nebraska and New York.

Not only are states failing to enforce laws against problem agencies, they're also failing to adequately screen initial applicants for entry into their state's credit counseling world. Six of the eight states in the survey had not rejected a single agency application for licensing or registration, and the other two states have rejected just a few**.**

In light of these findings NCLC attorneys are calling for additional action in the following public policy areas:

1. **Passage of strong consumer legislation.** New legislation should include not only rigorous licensing laws, but also provisions such as fee limits and bond requirements that target widespread abuses in the industry and help ensure that consumers have access to quality services.

2. **Industry compliance with public laws**. This may include strong industry best practices standards, but only as a complement to public regulation. Industry self-regulation is never a substitute for strong public legislation, industry compliance, and effective public and private enforcement.

3. **Public and private oversight and enforcement.** States must allocate sufficient resources to state enforcement agencies to permit both effective monitoring of credit counseling practices and enforcement actions against violators. And the weak public enforcement record to date underscores the need for private enforcement rights as well as greater enforcement by public agencies.

4. **Creditor action.** Creditors who continue working with credit counseling agencies must more aggressively ensure that they affiliate only with agencies that comply with state laws and meet other minimum quality standards.

A copy of the new report can be found at:
http://www.nclc.org/initiatives/credit_counseling/content/cc_enforcement.pdf

The original "Credit Counseling in Crisis" report can be found at:
http://www.nclc.org/initiatives/credit_counseling/content/creditcounselingreport.pdf

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