

Exhibit No. 3
DATE 4/1/08
BILL NO. HB 140 as HB 140

Senate testimony in support of proposed amendments to HB 140 as submitted by Consumer Credit Counseling Service of Montana, Inc

After further review of the bill, Consumer Credit Counseling Service of Montana, Inc is concerned that it would open credit counseling to for-profit companies and propose tightening the language to require those entities to be non-profit. We are also concerned that striking the requirement for credit counseling organizations to have a physical location in the state will undermine the need for community based services.

Thirty-six years ago when Consumer Credit Counseling Service of Montana began delivering services to consumers, the agency's primary focus was on delivering financial education and counseling to Montana consumers. We provided literature and traveled across the state to deliver financial education classes to anyone who requested us at no charge. We provided individual counseling and education to low and moderate income people for no charge. In the course of counseling, if appropriate, we would negotiate with creditors to help our clients get caught up on their payments and avoid bankruptcy. Debt management activities were a relatively small part of our overall activities, but were an integral part of our services. We were able to provide these services to consumers for free because of the contributions we received from local businesses and creditors.

Nearly every credit counseling agency in the country was a member of the National Foundation for Credit Counseling. The NFCC maintained quality services through strict membership requirements and accreditation. In the early 1990's a lawsuit was brought against the NFCC citing that they restricted fair trade by limiting membership geographically. The NFCC lost, and an age of unregulated credit counseling was born. Though they were able to obtain 501(c)(3) nonprofit status, new credit counseling agencies such as Ameridebt, Profina, Credit Counselors of America (now Take Charge America), and Cambridge focused on signing as many people as possible to a debt management plan to collect outlandish fees from clients and contributions from creditors. They embarked on massive national marketing campaigns and used huge call centers with telemarketing tactics to sign callers to DMP plans that they did not need. These practices were described in great detail at the US Senate Permanent Subcommittee in Investigations hearings and the subsequent report *Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling*.

These new companies used their non-profit status to avoid taxes and restrictive regulations. They still operated like a for-profit with huge salaries for their executives, paid board members that were made up of friends and family, and no education or contributions back to communities. Debt management plans were a commodity that were bought and sold to other for-profit back office operations.

These new companies did not educate, counsel, or work with communities to get at the root of the problem.

Our concern that credit counseling be opened to for-profit companies is two-fold. First, debt management companies will emerge that will prey on consumers in need. They will place people on a debt management plan whether or not they actually need to be on one and will have no incentive to counsel the consumer or educate the community on financial health. This pattern has already been established by the over 800 companies that are currently out there disguised as non-profits. Debt management plans will become a thing to sell people and without providing education or honest counseling, they can keep their overhead low and profits high. With our commitment to education and higher standards, we would be at a definite disadvantage to compete. In the long-run we would lose clients and contribution revenue.

Second, Congress is well aware of the problems in the credit counseling industry. Staff of the Congressional Joint Committee on Taxation released a report outlining problems with nonprofits in general and specifically about credit counseling. It is very likely there will be sweeping changes to 501(c)(3) regulations and credit counseling. By not requiring credit counseling to be a nonprofit, Montana will create a loophole for unscrupulous companies who do not want to meet the new federal requirements. Montana laws should be prepared for these changes and crafted with these changes in mind.

Though we understand and appreciate the rationale for striking the physical location requirement, we are concerned that credit counselors operating from outside Montana will not meet the financial education needs of Montana communities. Currently, only two credit counseling agencies operate in the state, but consumers are inundated with out of state ads on television, radio, the Yellow Pages, and Internet. None of these out of state companies provide any other services to the consumers in the state besides placing them on debt management plans. We believe that credit counseling is more than debt management plans and these organizations should deliver education and counseling to meet community financial education needs. Otherwise, credit counseling only addresses a symptom of a much larger disease. The mission of credit counseling and education is to provide consumers with education and counseling to help them become and remain financially responsible. Placing people on a DMP without giving them the ongoing support and education will only set them up to fail again. We are also concerned that low-income, our youth, and our elderly can receive the education and services they need. Most of these do not qualify for a DMP and therefore would go without help if credit counselors were not held accountable to them.

We propose the following amendments to HB 140 to address these concerns and make this bill even stronger than it already is ensuring the protection of Montana consumers against the predatory practices of corrupt credit counseling agencies.