



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0917/PL
MDK:lmk&kjf:nwn

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O-NOTE

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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NOTE:
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ANALYSIS

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1 AN ACT *to renumber* 218.02 (9) and 218.02 (10); *to amend* chapter 218 (title),
2 220.02 (2) (b), 220.02 (3) and 422.501 (2) (b) 4.; and *to repeal and recreate*
3 subchapter II (title) of chapter 218 [precedes 218.02], 218.02 (title) and 218.02
4 (1) to (8) of the statutes; **relating to:** adopting the Uniform Debt-Management
5 Services Act, granting rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. Chapter 218 (title) of the statutes is amended to read:

7 CHAPTER 218

8 FINANCE COMPANIES, AUTO DEALERS,

1 **ADJUSTMENT COMPANIES**

2 **DEBT-MANAGEMENT SERVICE PROVIDERS,**

3 **AND COLLECTION AGENCIES**

4 **SECTION 2.** Subchapter II (title) of chapter 218 [precedes 218.02] of the statutes
5 is repealed and recreated to read:

6 **CHAPTER 218**

7 **SUBCHAPTER II**

8 **UNIFORM DEBT-MANAGEMENT**

9 **SERVICES ACT**

10 **SECTION 3.** 218.02 (title) of the statutes is repealed and recreated to read:

11 **218.02 (title) Uniform debt-management services act.**

12 **SECTION 4.** 218.02 (1) to (8) of the statutes are repealed and recreated to read:

13 218.02 (1) **SHORT TITLE.** This section may be cited as the "Uniform
14 Debt-Management Services Act."

15 (2) **DEFINITIONS.** In this section:

16 (a) 1. "Affiliate," with respect to an individual, means any of the following:

17 a. The spouse of the individual.

18 b. A sibling of the individual or the spouse of a sibling.

19 c. An individual or the spouse of an individual who is a lineal ancestor or lineal
20 descendant of the individual or the individual's spouse.

21 d. An aunt, uncle, great aunt, great uncle, first cousin, niece, nephew,
22 grandniece, or grandnephew, whether related by the whole or the half blood or
23 adoption, or the spouse of any of them.

24 e. Any other individual occupying the residence of the individual.

25 2. "Affiliate," with respect to an entity, means any of the following:

1 a. A person that directly or indirectly controls, is controlled by, or is under
2 common control with the entity.

3 b. An officer of, or an individual performing similar functions with respect to,
4 the entity.

5 c. A director of, or an individual performing similar functions with respect to,
6 the entity.

7 d. Subject to adjustment of the dollar amount pursuant to sub. (31) (f), a person
8 that receives or received more than \$25,000 from the entity in either the current year
9 or the preceding year or a person that owns more than 10 percent of, or an individual
10 who is employed by or is a director of, a person that receives or received more than
11 \$25,000 from the entity in either the current year or the preceding year.

12 e. An officer or director of, or an individual performing similar functions with
13 respect to, a person described in subd. 2. a.

14 f. The spouse of, or an individual occupying the residence of, an individual
15 described in subd. 2. a. to e.

16 g. An individual who has the relationship specified in subd. 1. d. to an
17 individual or the spouse of an individual described in subd. 2. a. to e.

18 (b) "Agreement" means an agreement between a provider and an individual for
19 the performance of debt-management services.

20 (c) "Business address" means the physical location of a business, including the
21 name and number of a street.

22 (d) "Certified counselor" means an individual certified by a training program
23 or certifying organization, approved by the division, that authenticates the
24 competence of individuals providing education and assistance to other individuals
25 in connection with debt-management services.

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1 (e) "Concessions" means assent to repayment of a debt on terms more favorable
2 to an individual than the terms of the contract between the individual and a creditor.

3 (f) "Day" means calendar day.

4 (g) "Debt-management services" means services as an intermediary between
5 an individual and one or more creditors of the individual for the purpose of obtaining
6 concessions.

7 (h) "Division" means the division of banking.

8 (i) "Entity" means a person other than an individual.

9 (j) "Financial institution" means a financial institution, including a commercial
10 bank, savings bank, savings and loan association, credit union, and trust company,
11 engaged in the business of banking, chartered under federal or state law, and
12 regulated by a federal or state banking regulatory authority.

13 (k) "Good faith" means honesty in fact and the observance of reasonable
14 standards of fair dealing.

15 (L) "Person" means an individual, corporation, business trust, estate, trust,
16 partnership, limited liability company, association, joint venture, or any other legal
17 or commercial entity. The term does not include a public corporation, government,
18 or governmental subdivision, agency, or instrumentality.

19 (m) "Plan" means a program or strategy in which a provider furnishes debt
20 management services to an individual and which includes a schedule of payments
21 to be made by or on behalf of the individual and used to pay debts owed by the
22 individual.

23 (n) "Principal amount of the debt" means the amount of a debt at the time of
24 an agreement.

1 (o) "Provider" means a person that provides, offers to provide, or agrees to
2 provide debt-management services directly or through others.

3 (p) "Record" means information that is inscribed on a tangible medium or that
4 is stored in an electronic or other medium and is retrievable in perceivable form.

5 (q) "Settlement fee" means a charge imposed on or paid by an individual in
6 connection with a creditor's assent to accept in full satisfaction of a debt an amount
7 less than the principal amount of the debt.

8 (r) "Sign" means, with present intent to authenticate or adopt a record, any of
9 the following:

10 1. To execute or adopt a tangible symbol.

11 2. To attach to or logically associate with the record an electronic sound, symbol,
12 or process.

13 (s) "State" means a state of the United States, the District of Columbia, Puerto
14 Rico, the United States Virgin Islands, or any territory or insular possession subject
15 to the jurisdiction of the United States.

16 (t) "Trust account" means an account held by a provider that is all of the
17 following:

18 1. Established in an insured financial institution.

19 2. Separate from other accounts of the provider or its designee.

20 3. Designated as a trust account or other account designated to indicate that
21 the money in the account is not the money of the provider or its designee.

22 4. Used to hold money of one or more individuals for disbursement to creditors
23 of the individuals.

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1 **(3) EXEMPT AGREEMENTS AND PERSONS.** (a) This section does not apply to an
2 agreement with an individual who the provider has no reason to know resides in this
3 state at the time of the agreement.

4 (b) This section does not apply to a provider to the extent that the provider does
5 any of the following:

6 1. Provides or agrees to provide debt-management, educational, or counseling
7 services to an individual who the provider has no reason to know resides in this state
8 at the time the provider agrees to provide the services.

9 2. Receives no compensation for debt-management services from or on behalf
10 of the individuals to whom it provides the services or from their creditors, unless the
11 services are provided free of charge with the intent of evading the provisions of this
12 section.

13 (c) This section does not apply to any of the following persons or their employees
14 when the person or the employee is engaged in the regular course of the person's
15 business or profession:

16 1. A judicial officer, a person acting under an order of a court or an
17 administrative agency, or an assignee for the benefit of creditors.

18 2. A financial institution.

19 3. An affiliate, as defined in sub. (2) (a) 2. a., of a financial institution if the
20 affiliate is regulated by a federal or state banking regulatory authority.

21 4. A title insurer, escrow company, or other person, that provides bill-paying
22 services, if the provision of debt-management services is incidental to the
23 bill-paying services.

1 5. An attorney licensed or otherwise authorized to practice law in this state who
2 provides legal services in an attorney-client relationship, if the provision of
3 debt-management services is incidental to the provision of legal services.

4 6. A certified public accountant licensed to provide accounting services in this
5 state who provides accounting services in an accountant-client relationship, if the
6 provision of debt-management services is incidental to the provision of accounting
7 services.

8 **(4) LICENSE REQUIRED.** (a) Except as otherwise provided in par. (b), a provider
9 may not provide debt-management services to an individual who it reasonably
10 should know resides in this state at the time it agrees to provide the services, unless
11 the provider is licensed under this section.

12 (b) If a provider is licensed under this section, par. (a) does not apply to an
13 employee or agent of the provider.

14 (c) The division shall maintain and publicize a list of the names of all licensed
15 providers.

16 **(5) APPLICATION FOR LICENSE: FORM, FEE, AND ACCOMPANYING DOCUMENTS.** (a) An
17 application for licensure as a provider must be in a form prescribed by the division.

18 (b) Subject to adjustment of dollar amounts pursuant to sub. (31) (f), an
19 application for licensure as a provider must be accompanied by all of the following:

- 20 1. The fee established by the division.
- 21 2. The bond required by sub. (13).
- 22 3. Identification of all trust accounts required by sub. (21) and an irrevocable
23 consent authorizing the division to review and examine the trust accounts.
- 24 4. Evidence of insurance in the amount of \$250,000 that satisfies all of the
25 following:

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1 a. The insurance is against the risks of dishonesty, fraud, theft, and other
2 misconduct on the part of the applicant or a director, employee, or agent of the
3 applicant.

4 b. The insurance is issued by an insurance company authorized to do business
5 in this state and rated at least "A" by a nationally recognized rating organization.

6 c. The insurance has no deductible.

7 d. The insurance is payable to the applicant, the individuals who have
8 agreements with the applicant, and this state, as their interests may appear.

9 e. The insurance is not subject to cancellation by the applicant without the
10 approval of the division.

11 5. If applicable, proof of compliance with s. 178.45, 180.1501, 181.1501, or
12 183.1002.

13 6. If the applicant is organized as a not-for-profit entity or is exempt from
14 taxation, evidence of not-for-profit and tax-exempt status applicable to the
15 applicant under the Internal Revenue Code, 26 USC 501.

16 7. If the applicant is a corporation or limited liability company organized under
17 the laws of another state, a certificate of good standing issued by the other state.

18 (6) APPLICATION FOR LICENSE: REQUIRED INFORMATION. An application for
19 licensure must be signed and verified under oath or affirmation and include all of the
20 following:

21 (a) The applicant's name, principal business address and telephone number,
22 and all other business addresses in this state, electronic-mail addresses, and
23 Internet Web site addresses.

24 (b) All names under which the applicant conducts business.

1 (c) The address of each location in this state at which the applicant will provide
2 debt-management services or a statement that the applicant will have no such
3 location.

4 (d) The title, name, and home address of each officer and director of the
5 applicant; the percentage ownership, if any, of the applicant held by each officer and
6 director; and the name and home address of each person that owns at least 10 percent
7 of the applicant.

8 (e) Identification of every jurisdiction in which, during the 5 years immediately
9 preceding the application the applicant or any of its officers or directors has been
10 licensed or registered to provide debt-management services, or in which individuals
11 have resided when they received debt-management services from the applicant.

12 (f) A statement describing all of the following, to the extent it is known or should
13 be known by the applicant, in any jurisdiction against the applicant, any of its
14 officers, directors, owners, or agents, or any person who is authorized to have access
15 to the trust account required by sub. (21):

- 16 1. All criminal convictions.
- 17 2. All actions by governmental agencies, and all judgments, relevant to the
18 provision of debt-management services.
- 19 3. All pending charges, actions, suits, and claims, relevant to the provision of
20 debt-management services.

21 (g) The applicant's financial statements, audited by an accountant licensed to
22 conduct audits, for each of the 2 years immediately preceding the application or, if
23 it has not been in operation for the 2 years preceding the application, for the period
24 of its existence.

1 (h) Evidence of accreditation by an independent accrediting organization
2 approved by the division.

3 (i) Evidence that, within 12 months after initial employment, each of the
4 applicant's counselors becomes certified as a certified counselor.

5 (j) A description of the 3 most commonly used educational programs that the
6 applicant provides or intends to provide to individuals who reside in this state and
7 a copy of any materials used or to be used in those programs.

8 (k) A description of the applicant's financial analysis and initial budget plan,
9 including any form or electronic model, used to evaluate the financial condition of
10 individuals.

11 (L) A copy of each form of agreement that the applicant will use with
12 individuals who reside in this state.

13 (m) The schedule of fees and charges that the applicant will use with
14 individuals who reside in this state.

15 (n) At the applicant's expense, the results of a criminal-records check,
16 including fingerprints, conducted within the immediately preceding 12 months,
17 covering all of the following:

18 1. Every officer of the applicant.

19 2. Every employee or agent of the applicant who is authorized to have access
20 to the trust account required by sub. (21).

21 (o) The names and addresses of all employers of each director during the 10
22 years immediately preceding the application.

23 (p) A description of any ownership interest of at least 10 percent by a director,
24 owner, or employee of the applicant in all of the following:

25 1. Any affiliate of the applicant.

1 2. Any entity that provides products or services to the applicant or any
2 individual relating to the applicant's debt-management services.

3 (q) A statement of the amount of compensation of the applicant's 5 most highly
4 compensated employees for each of the 3 years immediately preceding the
5 application or, if it has not been in operation for the 3 years preceding the application,
6 for the period of its existence.

7 (r) The identity of each director who is an affiliate, as defined in sub. (2) (a) 1.
8 or 2. a., 2. b., 2. d., 2. e., or 2. f., of the applicant.

9 (s) Any other information that the division reasonably requires to perform the
10 division's duties under sub. (9).

11 **(7) APPLICATION FOR LICENSE: OBLIGATION TO UPDATE INFORMATION.** An applicant
12 or licensed provider shall notify the division within 10 days after a change in the
13 information specified in sub. (5) (b) 4. or 6. or (6) (a), (c), (f), (L), or (m).

14 **(8) APPLICATION FOR LICENSE: PUBLIC INFORMATION.** Except for the information
15 required by sub. (6) (g), (n), and (q) and the addresses required by sub. (6) (d), which
16 the division shall withhold from inspection and copying under s. 19.35 (1), the
17 division shall make all other information in an application for licensure as a provider
18 available to the public.

19 **(9) LICENSE: ISSUANCE OR DENIAL.** (a) Except as otherwise provided in pars. (b)
20 and (c), the division shall issue a license as a provider to a person that complies with
21 subs. (5) and (6).

22 (b) The division may deny licensure if any of the following apply:

23 1. The application is incomplete or contains erroneous information.

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1 2. An officer, director, or owner of the applicant has been convicted of a crime,
2 or suffered a civil judgment, involving dishonesty or the violation of state or federal
3 securities laws.

4 3. The applicant or any of its officers, directors, or owners has defaulted in the
5 payment of money collected for others.

6 4. The division finds that the financial responsibility, experience, character, or
7 general fitness of the applicant or its owners, directors, employees, or agents does not
8 warrant belief that the business will be operated in compliance with this section.

9 (c) The division shall deny licensure if any of the following apply:

10 1. The application is not accompanied by the fee established by the division.

11 2. The application is not accompanied by a bond under sub. (13).

12 3. With respect to an applicant that is organized as a not-for-profit entity or
13 has obtained tax-exempt status under the Internal Revenue Code, 26 USC 501, the
14 applicant's board of directors is not independent of the applicant's employees and
15 agents.

16 4. The applicant has been certified under s. 73.0301 by the department of
17 revenue as being liable for delinquent taxes.

18 5. If the applicant is an individual, the applicant has failed to comply, after
19 appropriate notice, with a subpoena or warrant issued by the department of
20 workforce development or a county child support agency under s. 59.53 (5) and
21 related to paternity or child support proceedings and is delinquent in making
22 court-ordered payments of child or family support, maintenance, birth expenses,
23 medical expenses or other expenses related to the support of a child or former spouse,
24 as provided in a memorandum of understanding entered into under s. 49.857.

1 (d) Subject to adjustment of the dollar amount pursuant to sub. (31) (f), a board
2 of directors is not independent for purposes of par. (c) if any of the following apply:

3 1. More than one-fourth of its members are affiliates of the applicant, as
4 defined in sub. (2) (a) 1. or 2. a., 2. b., 2. d., 2. e., or 2. f.

5 2. After the date 10 years before first becoming a director of the applicant, more
6 than one-fourth of its members were employed by or directors of a person that
7 received from the applicant more than \$25,000 in either the current year or the
8 preceding year.

9 **(10) LICENSE: TIMING.** (a) The division shall approve or deny an initial license
10 as a provider within 120 days after an application is filed. In connection with a
11 request pursuant to sub. (6) (s) for additional information, the division may extend
12 the 120-day period for not more than 60 days. Within 7 days after denying an
13 application, the division, in a record, shall inform the applicant of the reasons for the
14 denial.

15 (b) If the division denies an application for licensure as a provider or does not
16 act on an application within the time prescribed in sub. (1), the applicant may appeal
17 and request a hearing pursuant to subch. III of ch. 227.

18 (c) Subject to subs. (11) (d) and (33), a license as a provider is valid for one year.

19 **(11) RENEWAL OF LICENSE.** (a) A provider must obtain a renewal of its license
20 annually.

21 (b) An application for renewal of licensure as a provider must be in a form
22 prescribed by the division, signed and verified under oath or affirmation, and must
23 satisfy all of the following:

24 1. Be filed no fewer than 30 and no more than 60 days before the license expires.

1 2. Be accompanied by the fee established by the division and the bond required
2 by sub. (13).

3 3. Contain the matter required for initial licensure as a provider by sub. (6) (h)
4 and (i) and a financial statement, audited by an accountant licensed to conduct
5 audits, for the applicant's fiscal year immediately preceding the application.

6 4. Disclose any changes in the information contained in the applicant's
7 application for licensure or its immediately previous application for renewal, as
8 applicable.

9 5. Supply evidence of insurance in an amount equal to the larger of \$250,000
10 or the highest daily balance in the trust account required by sub. (21) during the 6
11 month period immediately preceding the application and that satisfies all of the
12 following:

13 a. The insurance is against risks of dishonesty, fraud, theft, and other
14 misconduct on the part of the applicant or a director, employee, or agent of the
15 applicant.

16 b. The insurance is issued by an insurance company authorized to do business
17 in this state and rated at least "A" by a nationally recognized rating organization.

18 c. The insurance has no deductible.

19 d. The insurance is payable to the applicant, the individuals who have
20 agreements with the applicant, and this state, as their interests may appear.

21 e. The insurance is not subject to cancellation by the applicant without the
22 approval of the division.

23 6. Disclose the total amount of money received by the applicant pursuant to
24 plans during the preceding 12 months from or on behalf of individuals who reside in

1 this state and the total amount of money distributed to creditors of those individuals
2 during that period.

3 7. Disclose, to the best of the applicant's knowledge, the gross amount of money
4 accumulated during the preceding 12 months pursuant to plans by or on behalf of
5 individuals who reside in this state and with whom the applicant has agreements.

6 8. Provide any other information that the division reasonably requires to
7 perform the division's duties under this subsection.

8 (c) Except for the information required by sub. (6) (g), (n), and (q) and the
9 addresses required by sub. (6) (d), the division shall make the information in an
10 application for renewal of licensure as a provider available to the public.

11 (d) If a licensed provider files a timely and complete application for renewal of
12 licensure, the license remains effective until the division, in a record, notifies the
13 applicant of a denial and states the reasons for the denial.

14 (e) If the division denies an application for renewal of licensure as a provider,
15 the applicant, within 30 days after receiving notice of the denial, may appeal and
16 request a hearing pursuant to subch. III of ch. 227. Subject to sub. (33), while the
17 appeal is pending the applicant shall continue to provide debt-management services
18 to individuals with whom it has agreements. If the denial is affirmed, subject to the
19 division's order and sub. (33), the applicant shall continue to provide
20 debt-management services to individuals with whom it has agreements until, with
21 the approval of the division, it transfers the agreements to another licensed provider
22 or returns to the individuals all unexpended money that is under the applicant's
23 control.

24 **(12) LICENSE OR REGISTRATION IN ANOTHER STATE.** If a provider holds a license or
25 certificate of registration in another state authorizing it to provide

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1 debt-management services, the provider may submit a copy of that license or
2 certificate and the application for it instead of an application in the form prescribed
3 by sub. (5) (a), (6), or (11) (b). The division shall accept the application and the license
4 or certificate from the other state as an application for licensure as a provider or for
5 renewal of licensure as a provider, as appropriate, in this state if all of the following
6 apply:

7 (a) The application in the other state contains information substantially
8 similar to or more comprehensive than that required in an application submitted in
9 this state.

10 (b) The applicant provides the information required by sub. (6) (a), (c), (j), (L),
11 and (m).

12 (c) The applicant, verified under oath or affirmation, certifies that the
13 information contained in the application is current or, to the extent it is not current,
14 supplements the application to make the information current.

15 **(13) BOND REQUIRED.** (a) A provider that is required to be licensed under this
16 section shall file a surety bond with the division, which must satisfy all of the
17 following:

18 1. Be in effect during the period of licensure and for 2 years after the provider
19 ceases providing debt-management services to individuals in this state.

20 2. Run to this state for the benefit of this state and of individuals who reside
21 in this state when they agree to receive debt-management services from the
22 provider, as their interests may appear.

23 (b) Subject to adjustment of the dollar amount pursuant to sub. (31) (f), a surety
24 bond filed pursuant to par. (a) must satisfy all of the following:

1 1. Be in the amount of \$50,000 or other larger or smaller amount that the
2 division determines is warranted by the financial condition and business experience
3 of the provider, the history of the provider in performing debt-management services,
4 the risk to individuals, and any other factor the division considers appropriate.

5 2. Be issued by a bonding, surety, or insurance company authorized to do
6 business in this state and rated at least "A" by a nationally recognized rating
7 organization.

8 3. Have payment conditioned upon noncompliance of the provider or its agent
9 with this section.

10 (c) If the principal amount of a surety bond is reduced by payment of a claim
11 or a judgment, the provider shall immediately notify the division and, within 30 days
12 after notice by the division, file a new or additional surety bond in an amount set by
13 the division. The amount of the new or additional bond must be at least the amount
14 of the bond immediately before payment of the claim or judgment. If for any reason
15 a surety terminates a bond, the provider shall immediately file a new surety bond
16 in the amount of \$50,000 or other amount determined pursuant to par. (b).

17 (d) The division or an individual may obtain satisfaction out of the surety bond
18 procured pursuant to this subsection if any of the following apply:

19 1. The division assesses expenses under sub. (31) (b) 1., issues a final order
20 under sub. (32) (a) 2., or recovers a final judgment under sub. (32) (a) 4. or 5. or (d).

21 2. An individual recovers a final judgment pursuant to sub. (34) (a), (b), or (c)
22 1., 2., or 4.

23 (e) If claims against a surety bond exceed or are reasonably expected to exceed
24 the amount of the bond, the division, on the initiative of the division or on petition

1 of the surety, shall, unless the proceeds are adequate to pay all costs, judgments, and
2 claims, distribute the proceeds in the following order:

3 1. To satisfaction of a final order or judgment under sub. (32) (a) 2., 4., or 5. or
4 (d).

5 2. To final judgments recovered by individuals pursuant to sub. (34) (a), (b), or
6 (c) 1., 2., or 4., pro rata.

7 3. To claims of individuals established to the satisfaction of the division, pro
8 rata.

9 4. If a final order or judgment is issued under sub. (32) (a), to the expenses
10 charged pursuant to sub. (31) (b) 1.

11 **(14) REQUIREMENT OF GOOD FAITH.** A provider shall act in good faith in all
12 matters under this section.

13 **(15) CUSTOMER SERVICE.** A provider that is required to be licensed under this
14 section shall maintain a toll-free communication system, staffed at a level that
15 reasonably permits an individual to speak to a certified counselor or
16 customer-service representative, as appropriate, during ordinary business hours.

17 **(16) PREREQUISITES FOR PROVIDING DEBT-MANAGEMENT SERVICES.** (a) Before
18 providing debt-management services, a licensed provider shall give the individual
19 an itemized list of goods and services and the charges for each. The list must be clear
20 and conspicuous, be in a record the individual may keep whether or not the
21 individual assents to an agreement, and describe all of the following:

22 1. The goods and services the provider offers free of additional charge if the
23 individual enters into an agreement.

24 2. The good and services the provider offers for a charge if the individual does
25 not enter into an agreement.

1 3. The good and services the provider offers for a charge if the individual enters
2 into an agreement, using the following terminology, as applicable, and format:

3 Set-up fee

4 *dollar amount of fee*

5 Monthly service fee

6 *dollar amount of fee or method of determining amount*

7 Settlement fee

8 *dollar amount of fee or method of determining amount*

9 Goods and services in addition to those provided in connection with a plan:

10

11 *(item)* *dollar amount or method of determining amount*

12

13 *(item)* *dollar amount or method of determining amount*

14 (b) A provider may not furnish debt-management services unless the provider,
15 through the services of a certified counselor, has satisfied all of the following:

16 1. The provider provides the individual with reasonable education about the
17 management of personal finance.

18 2. The provider has prepared a financial analysis.

19 3. If the individual is to make regular, periodic payments, the provider has
20 satisfied all of the following:

21 a. The provider has prepared a plan for the individual.

22 b. The provider has made a determination, based on the provider's analysis of
23 the information provided by the individual and otherwise available to it, that the
24 plan is suitable for the individual and the individual will be able to meet the payment
25 obligations under the plan.

1 c. The provider believes that each creditor of the individual listed as a
2 participating creditor in the plan will accept payment of the individual's debts as
3 provided in the plan.

4 (c) Before an individual assents to an agreement to engage in a plan, a provider
5 shall do all of the following:

6 1. Provide the individual with a copy of the analysis and plan required by par.
7 (b) in a record that identifies the provider and that the individual may keep whether
8 or not the individual assents to the agreement.

9 2. Inform the individual of the availability, at the individual's option, of
10 assistance by a toll-free communication system or in person to discuss the financial
11 analysis and plan required by par. (b).

12 3. With respect to all creditors identified by the individual or otherwise known
13 by the provider to be creditors of the individual, provide the individual with a list of
14 all of the following:

15 a. Creditors that the provider expects to participate in the plan and grant
16 concessions.

17 b. Creditors that the provider expects to participate in the plan but not grant
18 concessions.

19 c. Creditors that the provider expects not to participate in the plan.

20 d. All other creditors.

21 (d) Before an individual assents to an agreement to engage in a plan, the
22 provider shall inform the individual, in a record that contains nothing else, that is
23 given separately, and that the individual may keep whether or not the individual
24 assents to the agreement, of all of the following:

25 1. The name and business address of the provider.

1 2. That plans are not suitable for all individuals and the individual may ask
2 the provider about other ways, including bankruptcy, to deal with indebtedness.

3 3. That establishment of a plan may adversely affect the individual's credit
4 rating or credit scores.

5 4. That nonpayment of debt may lead creditors to increase finance and other
6 charges or undertake collection activity, including litigation.

7 5. Unless it is not true, that the provider may receive compensation from the
8 creditors of the individual.

9 6. That, unless the individual is insolvent, if a creditor settles for less than the
10 full amount of the debt, the plan may result in the creation of taxable income to the
11 individual, even though the individual does not receive any money.

12 (e) If a provider may receive payments from an individual's creditors and the
13 plan contemplates that the individual's creditors will reduce finance charges or fees
14 for late payment, default, or delinquency, the provider may comply with par. (d) by
15 providing the following disclosure, surrounded by black lines:

16 **IMPORTANT INFORMATION FOR YOU TO CONSIDER**

17 (1) Debt-management plans are not right for all individuals, and you may ask
18 us to provide information about other ways, including bankruptcy, to deal with your
19 debts.

20 (2) Using a debt-management plan may hurt your credit rating or credit scores.

21 (3) We may receive compensation for our services from your creditors.

22

23 *Name and business address of provider*

24 (f) If a provider will not receive payments from an individual's creditors and the
25 plan contemplates that the individual's creditors will reduce finance charges or fees

1 for late payment, default, or delinquency, a provider may comply with par. (d) by
2 providing the following disclosure, surrounded by black lines:

3 **IMPORTANT INFORMATION FOR YOU TO CONSIDER**

4 (1) Debt-management plans are not right for all individuals, and you may ask
5 us to provide information about other ways, including bankruptcy, to deal with your
6 debts.

7 (2) Using a debt-management plan may hurt your credit rating or credit scores.

8

9 *Name and business address of provider*

10 (g) If a plan contemplates that creditors will settle debts for less than the full
11 principal amount of debt owed, a provider may comply with par. (d) by providing the
12 following disclosure, surrounded by black lines:

13 **IMPORTANT INFORMATION FOR YOU TO CONSIDER**

14 (1) Our program is not right for all individuals, and you may ask us to provide
15 information about bankruptcy and other ways to deal with your debts.

16 (2) Nonpayment of your debts under our program may:

- 17 • hurt your credit rating or credit scores;
- 18 • lead your creditors to increase finance and other charges; and
- 19 • lead your creditors to undertake activity, including lawsuits, to collect the
- 20 debts.

21 (3) Reduction of debt under our program may result in taxable income to you,
22 even though you will not actually receive any money.

23

24 *Name and business address of provider*

25 **(17) COMMUNICATION BY ELECTRONIC OR OTHER MEANS.** (a) In this subsection: