

332B.09 FEES; WITHDRAWAL OF CREDITORS; NOTIFICATION TO DEBTOR OF SETTLEMENT OFFER.

Subdivision 1. **Choice of fee structure.** A debt settlement services provider may calculate fees on a percentage of debt basis or on a percentage of savings basis. The fee structure shall be clearly disclosed and explained in the debt settlement services agreement.

Subd. 2. **Fees as a percentage of debt.** (a) The total amount of the fees claimed, demanded, charged, collected, or received under this subdivision shall be calculated as 15 percent of the aggregate debt. A debt settlement services provider that calculates fees as a percentage of debt may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

- (i) \$200 on aggregate debt of less than \$20,000; or
- (ii) \$400 on aggregate debt of \$20,000 or more;

(2) charge a monthly fee of:

- (i) no greater than \$50 per month on aggregate debt of less than \$40,000; and
- (ii) no greater than \$60 per month on aggregate debt of \$40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 15 percent of the aggregate debt.

(b) The collection of monthly fees shall cease under this subdivision when the total monthly fees and the origination fee equals 40 percent of the total fees allowable under this subdivision.

(c) In no event may more than 40 percent of the total amount of fees allowable be claimed, demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement.

Subd. 3. **Fees as a percentage of savings.** (a) The total amount of the fees claimed, demanded, charged, collected, or received under this subdivision shall be calculated as 30 percent of the savings actually negotiated by the debt settlement services provider. The savings shall be calculated as the difference between the aggregate debt that is stated in the debt settlement services agreement at the time of its execution and total amount that the debtor actually pays to settle all the debts stated in the debt settlement services agreement, provided that only savings resulting from concessions actually negotiated by the debt settlement services provider may be counted. A debt settlement services provider that calculates fees as a percentage of savings may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

- (i) \$300 on aggregate debt of less than \$20,000; or
- (ii) \$500 on aggregate debt of \$20,000 or more;

(2) charge a monthly fee of:

- (i) no greater than \$65 on aggregate debt of less than \$40,000; and
- (ii) no greater than \$75 on aggregate debt of \$40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide, final written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 30 percent of the savings, as calculated under paragraph (a).

(b) The collection of monthly fees shall cease under this subdivision when the total of monthly fees and the origination fee equals 50 percent of the total fees allowable under this subdivision. For the purposes of this subdivision, 50 percent of the total fees allowable shall assume a settlement of 50 cents on the dollar.

(c) In no event may more than 50 percent of the total amount of fees allowable be claimed, demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide, final written settlement offer consistent with the terms of the debt settlement services agreement.

Subd. 4. **Fees exclusive.** No fees, charges, assessments, or any other compensation may be claimed, demanded, charged, collected, or received other than the fees allowed under this section. Any fees collected in excess of those allowed under this section must be immediately returned to the debtor.

Subd. 5. **Withdrawal of creditor.** Whenever a creditor withdraws from a debt settlement services plan, the debt settlement services provider must promptly notify the debtor of the withdrawal, identify the creditor, and inform the debtor of the right to modify the debt settlement services agreement, unless at least 50 percent of the listed creditors withdraw, in which case the debt settlement services provider must notify the debtor of the debtor's right to cancel. In no case may this notice be provided more than 15 days after the debt settlement services provider learns of the creditor's decision to withdraw from a plan.

Subd. 6. **Timely notification of settlement offer.** A debt settlement services provider must make all reasonable efforts to notify the debtor within 24 hours of a settlement offer made by a creditor.

History: 2009 c 37 art 4 s 26; 2009 c 178 art 1 s 67; 2010 c 382 s 71