CHAPTER 332B

DEBT SETTLEMENT SERVICES

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332B.02 DEFINITIONS.

Subdivision 1. **Scope.** Unless a different meaning is clearly indicated by the context, for the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. MS 2024 [Repealed, 2026 c 124 art 1 s 63]

Subd. 3. **Advertise.** "Advertise" means to solicit business through any means or medium.

Subd. 4. **Aggregate debt.** "Aggregate debt" means the total of principal and interest that is owed by the debtor to the creditors at the time of execution of the debt settlement agreement.

Subd. 5. **Attorney general.** "Attorney general" means the attorney general of the state of Minnesota.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 7. **Controlling or affiliated party.** "Controlling or affiliated party" means any person or entity that controls or is controlled, directly or indirectly, or is under common control with another person. Controlling or affiliated party includes, but is not limited to, employees, officers, independent contractors, corporations, partnerships, and limited liability corporations.

Subd. 8. **Credit counseling.** "Credit counseling" means the provision of counseling and advice on managing household finances, including but not limited to managing credit and debt, budgeting, and personal savings.

Subd. 9. **Creditor.** "Creditor" means:

(1) a party named by the debtor as a creditor in the debt settlement services plan or debt settlement services agreement;

(2) a party that acquires or holds the debt;

(3) a party to whom interactions with the debt settlement services is assigned in relation to the debt listed in the debt settlement services plan or debt settlement services agreement; or

(4) the federal government, state government, or their political subdivisions, to which delinquent taxes are owed.

Subd. 10. **Debt settlement services.** "Debt settlement services" means any one or more of the following activities:

(1) offering to provide advice, or offering to act or acting as an intermediary between a debtor and one or more of the debtor's creditors, where the primary purpose of the advice or action is to obtain a settlement for less than the full amount of debt, whether in principal, interest, fees, or other charges, incurred primarily for personal, family, or household purposes including, but not limited to, offering debt negotiation, debt reduction, or debt relief services;

(2) advising, encouraging, assisting, or counseling a debtor to accumulate funds in an account for future payment of a reduced amount of debt to one or more of the debtor's creditors; or

(3) offering to provide advice, or offering to act or acting as an intermediary between a debtor and the federal government, state government, or their political subdivisions to delay payment of delinquent taxes owed, establish a payment plan for delinquent taxes owed, or obtain a settlement for less than the full amount of delinquent taxes owed.

Any person so engaged or holding out as so engaged is deemed to be engaged in the provision of debt settlement services, regardless of whether or not a fee is charged for such services.

Subd. 11. **Debt settlement services agreement.** "Debt settlement services agreement" means the written contract between the debt settlement services provider and the debtor.

Subd. 12. **Debt settlement services plan.** "Debt settlement services plan" means the debtor's individualized package of debt settlement services set forth in the debt settlement services agreement.

Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" means any person offering or providing debt settlement services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. The term includes any person to whom debt settlement services are delegated. The term shall not include an exempt attorney at law and persons listed in section 332A.02, subdivision 8, clauses (2) to (12), or a debt management services provider.

Subd. 13a. **Exempt attorney at law.** "Exempt attorney at law" means an attorney licensed or otherwise authorized to practice law in this state:

(1) whose exclusive or principal practice does not involve the provision of debt settlement services; and

(2) who does not have a business relationship with a debt settlement services provider that involves the provision of debt settlement services.

Subd. 14. **Lead generator.** "Lead generator" means a person that, without providing debt settlement services: (1) solicits debtors to engage in debt settlement through mail, in person, or electronic website-based solicitation or any other means, (2) acts as an intermediary or referral agent between a debtor and an entity actually providing debt settlement services, or (3) obtains a debtor's personally identifiable information and transmits that information to a debt settlement services provider.

Subd. 15. **Person.** "Person" means an individual, firm, partnership, association, or corporation.

Subd. 16. **Registrant.** "Registrant" means any person registered by the commissioner pursuant to this chapter and, where used in conjunction with an act or omission required or prohibited by this chapter, shall mean any person performing debt settlement services.

History: *2009 c 37 art 4 s 19; 2009 c 178 art 1 s 64; 2013 c 91 s 3,4; 2016 c 100 s 3,4; 2022 c 67 s 4*

332B.03 REQUIREMENT OF REGISTRATION.

On or after August 1, 2009, it is unlawful for any person, whether or not located in this state, to operate as a debt settlement services provider or provide debt settlement services including, but not limited to, offering, advertising, or executing or causing to be executed any debt settlement services or debt settlement services agreement, except as authorized by law, without first becoming registered as provided in this chapter. Debt settlement services providers may continue to provide debt settlement services without complying with this chapter to those debtors who entered into a contract to participate in a debt settlement services plan prior to August 1, 2009, but may not enter into a debt settlement services agreement with a debtor on or after August 1, 2009, without complying with this chapter.

History: *2009 c 37 art 4 s 20; 2009 c 178 art 1 s 65*

332B.04 REGISTRATION.

Subdivision 1. **Form.** Application for registration to operate as a debt settlement services provider in this state must be made in writing to the commissioner, under oath, in the form prescribed by the commissioner, and must contain:

(1) the full name of each principal of the entity applying;

(2) the address, which must not be a post office box, and the telephone number and, if applicable, email address of the applicant;

(3) consent to the jurisdiction of the courts of this state;

(4) the name and address of the registered agent authorized to accept service of process on behalf of the applicant or appointment of the commissioner as the applicant's agent for purposes of accepting service of process;

(5) disclosure of:

(i) whether any controlling or affiliated party has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation, or any violation of a federal or state law or regulation in connection with activities relating to the rendition of debt settlement services or involving any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;

(ii) any judgments, private or public litigation, tax liens, written complaints, administrative actions, or investigations by any government agency against the applicant or any officer, director, manager, or shareholder owning more than five percent interest in the applicant, unresolved or otherwise, filed or otherwise commenced within the preceding ten years;

(iii) whether the applicant or any person employed by the applicant has had a record of having defaulted in the payment of money collected for others, including the discharge of debts through bankruptcy proceedings; and

(iv) whether the applicant's license or registration to provide debt settlement services in any other state has ever been revoked or suspended;

(6) a copy of the applicant's standard debt settlement services agreement that the applicant intends to execute with debtors; and

(7) any other information and material as the commissioner may require.

The commissioner may, for good cause shown, temporarily waive any requirement of this subdivision.

Subd. 2. **Term and scope of registration.** A registration is effective until 11:59 p.m. on December 31 of the year for which the application for registration is filed or until it is surrendered by the registrant or revoked or suspended by the commissioner. The registration is limited solely to the business of providing debt settlement services.

Subd. 3. **Fees; bond.** An applicant for registration as a debt settlement services provider must comply with the requirements of section 332A.04, subdivisions 3, 4, and 5.

Subd. 4. **Right of action on bond.** If the registrant has failed to account to a debtor, or has failed to perform any of the services promised, the registrant is in default. The debtor or the debtor's legal representative or receiver, the commissioner, or the attorney general shall have, in addition to all other legal remedies, a right of action in the name of the debtor on the bond or the security given under this section, for loss suffered by the debtor, not exceeding the face amount of the bond or security, and without the necessity of joining the registrant in the suit or action based on the default.

Subd. 5. **Registrant list.** The commissioner must maintain a list of registered debt settlement services providers. The list must be made available to the public in written form upon request and on the Department of Commerce website.

Subd. 6. **Renewal of registration.** Each year, each registrant under the provisions of this chapter must, not more than 60 nor less than 30 days before its registration is to expire, apply to the commissioner for renewal of its registration on a form prescribed by the commissioner. The application must be signed by the registrant under penalty of perjury, contain current information on all matters required in the original application, and be accompanied by a payment of $250. The registrant must maintain a continuous surety bond that satisfies the requirements of section 332A.04, subdivision 4. The renewal is effective for one year. The commissioner may, for good cause shown, temporarily waive any requirement of this section.

Subd. 7. **Information updates required.** A registrant must update any information required by this chapter the registrant provided in the original or renewal application not later than ten days after the date the events precipitating the update occurred.

Subd. 8. **Records and fees; maintenance and processing.** Section 58A.04, subdivisions 2 and 3, apply to this section.

History: *2009 c 37 art 4 s 21; 2019 c 59 s 9; 2020 c 80 art 1 s 28; 2026 c 124 art 1 s 60*

332B.05 DENIAL, SUSPENSION, REVOCATION, OR NONRENEWAL OF REGISTRATION.

Subdivision 1. **Denial.** The commissioner, with notice to the applicant by certified mail sent to the address listed on the application, may deny an application for a registration for any of the reasons specified under section 332A.08.

Subd. 2. **Suspension, revocation, or nonrenewal.** The commissioner may suspend, revoke, or refuse to renew any registration issued under this chapter, or may levy a civil penalty under section 45.027, or any combination of actions, if the debt settlement services provider or any controlling or affiliated person has committed any act or omission for which the commissioner could have refused to issue an initial registration.

Subd. 3. **Procedure.** Suspension, revocation, or nonrenewal must be upon notice and under the conditions prescribed in section 332A.09, subdivision 1. Upon issuance of an order suspending, revoking, or refusing to renew a registration, the commissioner:

(1) shall follow the procedure established in section 332A.09, subdivision 2; and

(2) may follow the procedure specified in section 332A.09, subdivision 3, concerning the appointment of a receiver for funds of sanctioned registrants.

History: *2009 c 37 art 4 s 22*

332B.06 WRITTEN DEBT SETTLEMENT SERVICES AGREEMENT; DISCLOSURES; TRUST ACCOUNT.

Subdivision 1. **Written agreement required.** (a) A debt settlement services provider may not perform, or impose any charges or receive any payment for, any debt settlement services until the provider and the debtor have executed a debt settlement services agreement that contains all terms of the agreement between the debt settlement services provider and the debtor, and the provider complies with all the applicable requirements of this chapter.

(b) A debt settlement services agreement must:

(1) be in writing, dated, and signed by the debt settlement services provider and the debtor;

(2) conspicuously indicate whether or not the debt settlement services provider is registered with the Minnesota Department of Commerce and include any registration number; and

(3) be written in the debtor's primary language if the debt settlement services provider advertises in that language, or in the language in which the agreement was negotiated, regardless of whether the debt settlement services provider advertises in that language.

(c) The registrant must furnish the debtor with a copy of the signed contract upon execution.

Subd. 2. **Actions prior to executing a written agreement.** No person may provide debt settlement services for a debtor or execute a debt settlement services agreement unless the person first has:

(1) informed the debtor, in writing, that debt settlement is not appropriate for all debtors and that there are other ways to deal with debt, including using credit counseling or debt management services, or filing bankruptcy;

(2) prepared in writing and provided to the debtor, in a form the debtor may keep, an individualized financial analysis of the debtor's financial circumstances, including income and liabilities, and made a determination supported by the individualized financial analysis that:

(i) the debt settlement plan proposed for addressing the debt is suitable for the individual debtor;

(ii) the debtor can reasonably meet the requirements of the proposed debt settlement services plan; and

(iii) based on the totality of the circumstances, there is a net tangible benefit to the debtor of entering into the proposed debt settlement services plan; and

(3) provided, on a document separate from any other document, the total amount and an itemization of fees, including any origination fees, monthly fees, and settlement fees reasonably anticipated to be paid by the debtor over the term of the agreement.

Subd. 3. **Determination concerning creditor participation.** (a) Before executing a debt settlement services agreement or providing any services, a debt settlement services provider must make a determination, supported by sufficient bases, which creditors listed by the debtor are reasonably likely, and which are not reasonably likely, to participate in the debt settlement services plan set forth in the debt settlement services agreement.

(b) A debt settlement services provider has a defense against a claim that no sufficient basis existed to make a determination that a creditor was likely to participate if the debt settlement services provider can produce:

(1) written confirmation from the creditor that, at the time the determination was made, the creditor and the debt settlement services provider were engaged in negotiations to settle a debt for another debtor; or

(2) evidence that the provider and the creditor had entered into a settlement of a debt for another debtor within the six months prior to the date of the determination.

(c) The debt settlement services provider must notify the debtor as soon as practicable after the provider has made a determination of the likelihood of participation or nonparticipation of all the creditors listed for inclusion in the debt settlement services agreement or debt settlement services plan. If not all creditors listed in the debt settlement services agreement are reasonably likely to participate in the debt settlement services plan, the debt settlement services provider must obtain the written authorization from the debtor to proceed with the debt settlement services agreement without the likely participation of all listed creditors.

Subd. 4. **Disclosures.** (a) A person offering to provide or providing debt settlement services must disclose both orally and in writing whether or not the person is registered with the Minnesota Department of Commerce and any registration number.

(b) No person may provide debt settlement services unless the person first has provided, both orally and in writing, on a single sheet of paper, separate from any other document or writing, the following verbatim notice:

"CAUTION

We CANNOT GUARANTEE that you will successfully reduce or eliminate your debt.

If you stop paying your creditors, there is a strong likelihood some or all of the following may happen:

• YOUR WAGES OR BANK ACCOUNT MAY STILL BE GARNISHED.

• YOU MAY STILL BE CONTACTED BY CREDITORS.

• YOU MAY STILL BE SUED BY CREDITORS for the money you owe.

• FEES, INTEREST, AND OTHER CHARGES WILL CONTINUE TO MOUNT UP DURING THE (INSERT NUMBER) MONTHS THIS PLAN IS IN EFFECT.

Even if we do settle your debt, YOU MAY STILL HAVE TO PAY TAXES on the amount forgiven.

Your credit rating may be adversely affected."

(c) The heading, "CAUTION," must be in bold, underlined, 28-point type, and the remaining text must be in 14-point type, with a double space between each statement.

(d) The disclosures and notices required under this subdivision must be provided in the debtor's primary language if the debt settlement services provider advertises in that language, or in the language in which the agreement was negotiated, regardless of whether the debt settlement services provider advertises in that language.

Subd. 5. **Required terms.** (a) Each debt settlement services agreement must contain on the front page of the agreement, segregated by bold lines from all other information on the page and disclosed prominently and clearly in bold print, the total amount and an itemization of fees, including any origination fees, monthly fees, and settlement fees reasonably anticipated to be paid by the debtor over the term of the agreement.

(b) Each debt settlement services agreement must also contain the following:

(1) a prominent statement describing the terms upon which the debtor may cancel the contract as set forth in section 332B.07;

(2) a detailed description of all services to be performed by the debt settlement services provider for the debtor;

(3) the debt settlement services provider's refund policy;

(4) the debt settlement services provider's principal business address, which must not be a post office box, and the name and address of its agent in this state authorized to receive service of process; and

(5) the name of each creditor the debtor has listed and the aggregate debt owed to each creditor that will be the subject of settlement.

Subd. 6. **Prohibited terms.** A debt settlement services agreement may not contain any of the terms prohibited under section 332A.10, subdivision 4.

Subd. 7. **New debt settlement services agreements; modifications of existing agreements.** (a) Separate and additional debt settlement services agreements that comply with this chapter may be entered into by the debt settlement services provider and the debtor, provided that no additional origination fee may be charged by the debt settlement services provider.

(b) Any modification of an existing debt settlement services agreement, including any increase in the number or amount of debts included in the debt settlement services agreement, must be in writing and signed by both parties. No fee may be charged to modify an existing agreement.

Subd. 8. **Funds held in trust.** Debtor funds may be held in trust for the purpose of writing exchange checks for no longer than 42 days. If the registrant holds debtor funds, the registrant must maintain a separate trust account, except that the registrant may commingle debtor funds with the registrant's own funds, in the form of an imprest fund, to the extent necessary to ensure maintenance of a minimum balance, if the financial institution at which the trust account is held requires a minimum balance to avoid the assessment of fees or penalties for failure to maintain a minimum balance.

History: *2009 c 37 art 4 s 23; 2009 c 178 art 1 s 66; 2013 c 91 s 5,6*

332B.07 RIGHT TO CANCEL.

Subdivision 1. **Debtor's right to cancel.** (a) A debtor has the right to cancel a debt settlement services agreement without cause at any time upon ten days' written notice to the debt settlement services provider.

(b) In the event of cancellation, the debt settlement services provider must, within ten days of the cancellation, notify the debtor's creditors with whom the debt settlement services provider is or has been, under the terms of the debt settlement agreement, in communication, of the cancellation and immediately refund all fees paid by the debtor to the debt settlement services provider that exceed the fees allowed under section 332B.09.

(c) Upon cancellation, the debt settlement services provider must cease collection of any monthly fees beginning in the month following cancellation.

(d) Notwithstanding paragraph (c), a debt settlement services provider is entitled to the full amount of the fees provided for in the debt settlement services agreement if the provider can show that:

(1) the provider obtained a settlement offer from the creditor or creditors in accordance with the debt settlement services agreement;

(2) the debtor rejected the settlement offer; or

(3) within the period contemplated in the debt settlement services agreement, the debtor entered into a settlement agreement with the same creditor or creditors for an amount equal to or lower than the settlement offer obtained by the provider.

Subd. 2. **Notice of debtor's right to cancel.** A debt settlement services agreement must contain, on its face, in an easily readable type immediately adjacent to the space for signature by the debtor, the following notice: "Right to Cancel: You have the right to cancel this contract at any time on ten days' written notice."

Subd. 3. **Automatic termination.** Upon the payment of all listed or settled debts and fees, the debt settlement services agreement must automatically terminate, and all funds held by the debt settlement services provider that exceed the fees allowed under section 332B.09 must be immediately returned to the debtor.

Subd. 4. **Debt settlement services provider's right to cancel.** (a) A debt settlement services provider may cancel a debt settlement services agreement with good cause upon 30 days' written notice to the debtor.

(b) Within ten days after the cancellation, the debt settlement services provider must notify the debtor's creditors with whom the debt settlement services provider is or has been, under the terms of the debt settlement services agreement, in communication, of the cancellation.

(c) Upon cancellation, the debt settlement services provider must cease collection of any monthly fees beginning in the month following cancellation.

History: *2009 c 37 art 4 s 24; 2010 c 382 s 69,70*

332B.08 BOOKS, RECORDS, AND INFORMATION.

Subdivision 1. **Records retention; annual report.** Every registrant must keep, and use in the registrant's business, such books, accounts, and records, including electronic records, as will enable the commissioner to determine whether the registrant is complying with this chapter and the rules, orders, and directives adopted by the commissioner under this chapter. Every registrant must preserve such books, accounts, and records for at least six years after making the final entry on any transaction recorded therein. Examinations of the books, records, and method of operations conducted under the supervision of the commissioner shall be done at the cost of the registrant. The cost must be assessed as determined under section 46.131.

Subd. 2. **Annual report.** On or before March 15 of each calendar year, each registrant must file a report with the commissioner containing information the commissioner may require about the preceding calendar year. The report must be in a form the commissioner prescribes.

Subd. 3. **Statements to debtors.** (a) Each registrant must:

(1) maintain and make available records and accounts that will enable each debtor to ascertain the amounts paid to the creditors, if any. A statement showing amounts received from the debtor, disbursements, if any, to each creditor, amounts that any creditor has agreed to as payment in full for any debt owed the creditor by the debtor, fees deducted by the registrant, and other information the commissioner may prescribe must be furnished by the registrant to the debtor at least monthly and, in addition, upon any cancellation or termination of the contract;

(2) include in the statement furnished to debtors a list of all activities conducted pursuant to the contract, including the nature of communications and progress of negotiations with each creditor during the reporting period; and

(3) prepare and retain in the file of each debtor a written analysis of the debtor's income and expenses to substantiate that the plan of payment is feasible and practicable.

(b) Each debtor must have reasonable access, without cost, by electronic or other means, to information in the registrant's files applicable to the debtor. These statements, records, and accounts must otherwise remain confidential, except for duly authorized state and government officials, the commissioner, the attorney general, the debtor, and the debtor's representative and designees.

History: *2009 c 37 art 4 s 25*

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. **Calculation of fees.** The total amount of the fees claimed, demanded, charged, collected, or received under a debt settlement services agreement shall be:

(1) for fees calculated on a percentage of debt basis, no greater than 15 percent of the aggregate debt; and

(2) for fees calculated on a percentage of savings basis, no greater than 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 the total amount that the debtor actually pays to settle all the debts included in the debt settlement services agreement, provided that only savings resulting from concessions actually negotiated by the debt settlement services provider may be counted.

Subd. 3. **Collection of fees.** A debt settlement services provider may not impose or collect any payment pursuant to a debt settlement services agreement before the debt settlement service provider has fully performed all of the following:

(1) the debt settlement services contained in the agreement; and

(2) any additional services the debt settlement services provider has agreed to perform.

If more than one debt is the subject of the debt settlement services agreement, a debt settlement services provider may only charge or collect that proportion of total fees allowable under this section that equals the proportion of the aggregate debt the individual settled debt represents.

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; 2013 c 91 s 7*

332B.10 PROHIBITIONS.

No debt settlement services provider shall:

(1) engage in any activity, act, or omission prohibited under section 332A.14;

(2) promise, guarantee, or directly or indirectly imply, infer, or in any manner represent that any debt will be settled prior to the presentation to the debtor of an offer by the creditors participating in the debt settlement services plan to settle;

(3) misrepresent the timing of negotiations with creditors;

(4) imply, infer, or in any manner represent that:

(i) fees, interest, and other charges will not continue to accrue prior to the time debts are settled;

(ii) wages or bank accounts are not subject to garnishment;

(iii) creditors will not continue to contact the debtor;

(iv) the debtor is not subject to legal action; and

(v) the debtor will not be subject to tax consequences for the portion of any debts forgiven;

(5) execute a power of attorney or any other agreement, oral or written, express or implied, that extinguishes or limits the debtor's right at any time to contract or communicate with any creditor or the creditor's right at any time to communicate with the debtor;

(6) exercise or attempt to exercise a power of attorney after an individual has terminated an agreement;

(7) state, imply, infer, or, in any other manner, indicate that entering into a debt settlement services agreement or settling debts will either have no effect on, or improve, the debtor's credit, credit rating, and credit score;

(8) challenge a debt without the written consent of the debtor;

(9) make any false or misleading claim regarding a creditor's right to collect a debt;

(10) falsely represent that the debt settlement services provider can negotiate better settlement terms with a creditor than the debtor alone can negotiate;

(11) provide or offer to provide legal advice or legal services unless the person providing or offering to provide legal advice is licensed to practice law in the state;

(12) misrepresent that it is authorized or competent to furnish legal advice or perform legal services; and

(13) settle a debt or lead an individual to believe that a payment to a creditor is in settlement of a debt to the creditor unless, at the time of settlement, the individual receives a certification from the creditor that the payment is in full settlement of the debt.

History: *2009 c 37 art 4 s 27*

332B.11 ADVERTISEMENT AND SOLICITATION OF DEBT SETTLEMENT SERVICES.

Subdivision 1. **Advertisement.** No debt settlement services provider or lead generator may:

(1) make any false, deceptive, or misleading statements or omissions about the rates, terms, or conditions of an actual or proposed debt settlement services plan, or create the likelihood of consumer confusion or misunderstanding regarding its services;

(2) represent that the debt settlement services provider is a nonprofit, not-for-profit, or has similar status or characteristics if some or all of the debt settlement services will be provided by a for-profit company that is a controlling or affiliated party to the debt settlement services provider;

(3) make any communication that gives the impression that the debt settlement services provider is acting on behalf of a government agency; or

(4) represent, claim, imply, or infer that secured debts may be settled.

Subd. 2. **Solicitation by lead generators.** (a) In all print, electronic, and nonprint solicitations, including websites and radio or television advertising, a lead generator must prominently make the following verbatim disclosure: "This company does not actually provide any debt settlement, debt consolidation, or other credit counseling services. We ONLY refer you to companies that want to provide some or all of those services."

(b) A lead generator may not, in any advertising or solicitation to debtors:

(1) represent that any service is guaranteed; or

(2) misrepresent the benefits of its services or debt settlement or consolidation in comparison to credit counseling, debt management, or bankruptcy.

History: *2009 c 37 art 4 s 28*

332B.12 DEBT SETTLEMENT SERVICES AGREEMENT RESCISSION.

Any debtor has the right to rescind any debt settlement services agreement with a debt settlement services provider that commits a material violation of this chapter. On rescission, all fees paid to the debt settlement services provider or any other person other than creditors of the debtor must be returned to the debtor entering

into the debt settlement services agreement within ten days of rescission of the debt settlement services agreement.

History: *2009 c 37 art 4 s 29*

332B.13 ENFORCEMENT; REMEDIES.

Subdivision 1. **Violation as deceptive practice.** A violation of any of the provisions of this chapter is considered an unfair or deceptive trade practice under section 8.31, subdivision 1. A private right of action under section 8.31 by an aggrieved debtor is in the public interest.

Subd. 2. **Private right of action.** (a) A debt settlement services provider who fails to comply with any of the provisions of this chapter, or a lead generator who violates section 332B.11, is liable under this section in an individual action for the sum of:

(1) actual, incidental, and consequential damages sustained by the debtor as a result of the failure; and

(2) statutory damages of up to $5,000.

(b) A debt settlement services provider who fails to comply with any of the provisions of this chapter, or a lead generator who violates section 332B.11, is liable to the named plaintiffs under this section in a class action for the amount that each named plaintiff could recover under paragraph (a), clause (1), and to the other class members for such amount as the court may allow.

(c) In determining the amount of statutory damages, the court shall consider, among other relevant factors:

(1) the frequency, nature, and persistence of noncompliance;

(2) the extent to which the noncompliance was intentional; and

(3) in the case of a class action, the number of debtors adversely affected.

(d) A plaintiff or class successful in a legal or equitable action under this section is entitled to the costs of the action, plus reasonable attorney fees.

Subd. 3. **Injunctive relief.** (a) A debtor may sue a debt settlement services provider for temporary or permanent injunctive or other appropriate equitable relief to prevent violations of any provision of this chapter. A court must grant injunctive relief on a showing that the debt settlement services provider has violated any provision of this chapter, or in the case of a temporary injunction, on a showing that the debtor is likely to prevail on allegations that the debt settlement services provider violated any provision of this chapter.

(b) A debtor may sue a lead generator for temporary or permanent injunctive or other appropriate equitable relief to prevent violations of section 332B.11. A court must grant injunctive relief on a showing that the lead generator has violated section 332B.11, or in the case of a temporary injunction, on a showing that the debtor is likely to prevail on allegations that the lead generator violated section 332B.11.

Subd. 4. **Remedies cumulative.** The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

Subd. 5. **Public enforcement.** The attorney general shall enforce this chapter under section 8.31.

History: *2009 c 37 art 4 s 30*

332B.14 INVESTIGATIONS.

At any reasonable time, the commissioner may examine the books and records of every registrant and of any person engaged in the business of providing debt settlement services. The commissioner, once during any calendar year, may require the submission of an audit prepared by a certified public accountant of the books and records of each registrant. If the registrant has, within one year previous to the commissioner's demand, had an audit prepared for some other purpose, this audit may be submitted to satisfy the requirement of this section. The commissioner may investigate any complaint concerning violations of this chapter and may require the attendance and sworn testimony of witnesses and the production of documents.

History: *2009 c 37 art 4 s 31*