



BBB Process for Evaluating Debt Settlement Businesses

A. Definition: A debt settlement business is a business that offers, for a fee, to assist consumers in establishing a debt settlement plan.

A debt settlement plan is a plan established for a consumer through which the consumer, instead of paying his/her creditors on a monthly basis, accumulates funds in a third party account to pay off the consumer's debt for an amount less than the full amount owed as negotiated by the debt settlement business.

B. Criteria for removing debt settlement business from BBB classification as a type of business likely to generate trade practice concerns and/or a high level of customer dissatisfaction because of the inherent nature of its products/services:

Business must establish, to BBB's satisfaction, that:

1. It has been in business for at least 2 years.
2. A fidelity bond of at least \$1 million is maintained if the business, any of its subcontractors/affiliates, and/or any escrow company required to be used by consumers has control over or access to money (a) paid by consumers to creditors, or (b) held pursuant to a consumer debt settlement plan.

BBB may, at its discretion, reduce the amount of the required fidelity bond to an amount no less than the total amount of money over which there is control/access for the previous three year period.

3. It has substantiated all advertising claims, including claims relating to the benefits or efficacy of debt settlement.
4. It makes adequate disclosures to consumers, including clear and conspicuous disclosure of program fees and the risks of debt settlement.

The following should be clearly and conspicuously disclosed:

- *An explanation of how the debt settlement process works.*
- *The nature of services offered by the business.*
- *Specific results cannot be predicted or guaranteed.*
- *All fees paid by the consumer, including (a) the amount of any setup fee, (b) the amount of any monthly fee and the estimated number of months for which a monthly fee is required, (c) an estimate of the total amount of fees reasonably anticipated to be paid, and (d) the total amount of fees that may be charged.*
- *The consumer may have to pay taxes on debt forgiven by a creditor.*
- *The consumer's failure to make required payments to creditors will have a negative effect on the consumer's credit rating and may also subject the consumer to (a) increased finance or other charges and (b) collection or legal actions by creditors.*
- *What will happen to the consumer's money if paid to the business or a third party trust account.*
- *An explanation of when the business will begin contacting and negotiating with the consumer's creditors.*
- *The business cannot require creditors to negotiate or reach settlements.*
- *A complete description of cancellation terms*
- *A complete description of business' refund policy.*

5. It has adequate procedures for screening out consumers who are not appropriate candidates for debt settlement.

6. A majority of consumers that pay money and enroll in its programs do not cancel or otherwise withdraw from the debt settlement plan prior to completion.

7. A majority of consumers that complete the debt settlement plan show a reduction in debt that is significant and exceeds the fees charged.

C. Information that must be provided by debt settlement business:

1. List of principals and their past associations in any debt settlement or other financial service business.
2. Screenshots of all Web site pages, including all pages seeking information from consumers.
3. All promotional literature.
4. All written agreements with consumers. This includes any power of attorney forms used as well as statement of fees charged.
5. Explanation of how fees are calculated, and all consumer disclosures that explain how fees are calculated and when fees are charged.
6. Scripts for telephone operators and other employees or independent contractors. [Subject to BBB confidentiality agreement]
7. A description of (a) all training given to telephone operators and other employees/independent contractors, (b) all monitoring of sales personnel that is conducted, and (c) all monitoring of debt negotiators. [Subject to BBB confidentiality agreement]
8. Screening procedures and criteria used to determine whether debt settlement is appropriate for each consumer. [Subject to BBB confidentiality agreement]
9. Procedures and guidelines for escrow of funds if applicable. [Subject to BBB confidentiality agreement]
10. Procedures and guidelines for working with creditors. [Subject to BBB confidentiality agreement]
11. Procedures and guidelines for administration of the consumer's debt settlement plan. [Subject to BBB confidentiality agreement]
12. A list of names and addresses of any sub-contractors used in marketing and/or providing services to consumers, including a statement of each sub-contractor's role. [Subject to BBB confidentiality agreement]
13. Data, listed separately for each of the past 3 years, to show:
 - a. The number of consumers that began payment for services in establishing a debt settlement plan;
 - b. For consumers that began payment in that year, the number of debt settlement plans that have been successfully established as of the date the data is submitted;
 - c. For consumers that began payment in that year, the number of debt settlement plans that have been successfully completed as of the date the data is submitted;

- d. For each debt settlement plan that has been successfully completed, the amount of debt reduction; and
 - e. For consumers that began payment in that year, the number of consumers that established a debt settlement plan but – as of the date the data is submitted -- have cancelled or otherwise withdrew prior to completion.
[Subject to BBB confidentiality agreement]
14. For each of the past 3 years, copies of all complaints received from or on behalf of consumers as well as the business' response to those complaints. Personally identifiable information may be redacted.
[Subject to BBB confidentiality agreement]
15. A statement of the business' participation in any trade association and/or third party self-regulation program.
16. A minimum of 10 consumer references. More may be requested based on business volume. [To be contacted by BBB but otherwise subject to BBB confidentiality agreement]
17. A list of states where the business is registered and/or licensed to perform debt settlement/negotiation services, including a copy of any required licenses for debt settlement services.
18. Copy of fidelity bond maintained by business, its subcontractors/affiliates, and any escrow company consumers are required to use.
19. Any other information requested by BBB.

D. Inspection by BBB

Business must agree that BBB may perform a confidential review of any documents in business' possession to confirm representations made by business in submission to BBB, subject to BBB's agreement to keep such information confidential.