

50-1120. Same; duties of registrant. No credit services organization shall engage in debt management services unless:

(a) The registrant provides the consumer with a credit education program designed to improve the financial literacy of the consumer.

(b) The registrant has:

(1) (A) Taken reasonable steps to identify all creditors of a consumer; and

(B) prepared and provided to the consumer a written financial analysis of and initial budget plan for all of the consumer's debt obligations which indicates the consumer can reasonably meet the requirements set forth in the budget plan; and

(2) provided to the consumer a list of each creditor the registrant reasonably expects:

(A) To participate in the plan; and

(B) not to participate in the plan.

(c) The registrant and the consumer have entered into a written debt management services agreement and a copy of the signed agreement has been provided to the consumer by the registrant. Such agreement shall be in at least 12 point type, signed and dated by the consumer and registrant and include:

(1) The name, address, and phone number of the consumer and the registrant;

(2) a description of the debt management services to be provided to the consumer and an itemization of any fees to be charged to the consumer;

(3) a notice of the consumer's right to rescind the debt management services agreement at any time by giving written notice of rescission to the registrant;

(4) a schedule of payments, including the amount and due date of each payment, that the consumer must make to the registrant for disbursement to such consumer's creditors;

(5) a list of each participating creditor of the consumer to which payments will be made by the registrant under the debt management services agreement. The listing shall include the:

(A) Amount owed to each creditor;

(B) amount of each payment;

(C) date on which each payment will be made; and

(D) anticipated payoff date for each creditor;

(6) the name of each creditor that the registrant reasonably expects not to participate in the debt management plan;

(7) a disclosure that the registrant also may receive compensation from the consumer's creditors for providing debt management services to the consumer;

(8) a disclosure that the registrant may not, as a condition of entering into a debt management services agreement, require a consumer to purchase any other product or service, nor solicit or offer to sell any other product or service to the consumer during the term of the debt management services agreement;

(9) a disclosure that the registrant may not require a voluntary contribution from a consumer for any service provided by the registrant to the consumer;

(10) a disclosure that, by executing the debt management services agreement, the consumer authorizes any financial institution in which the registrant has established a trust account for the deposit of the consumer's funds to disclose to the commissioner any financial records relating to the trust account during the course of any investigation or examination by the commissioner; and

(11) the following notice: "The Kansas Office of the State Bank Commissioner will accept questions and complaints from consumers regarding (name and registration number of registrant) at 700 SW Jackson, Suite 300, Topeka, Kansas, 66603, or by calling toll-free 1-877-387-8523".

History: L. 2004, ch. 22, § 5; July 1.