

**As Introduced**

**129th General Assembly  
Regular Session  
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**H. B. No. 222**

**Representative Mecklenborg**

**Cosponsors: Representatives McKenney, Grossman, Stebelton, Blessing,  
Letson, Balderson, McClain**

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**A B I L L**

To amend section 4710.01 and to enact sections 1  
4710.20 to 4710.41 of the Revised Code to require 2  
the licensure of, and otherwise regulate, 3  
providers of debt settlement services. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 4710.01 be amended and sections 5  
4710.20, 4710.21, 4710.22, 4710.23, 4710.24, 4710.25, 4710.26, 6  
4710.27, 4710.28, 4710.29, 4710.30, 4710.31, 4710.32, 4710.33, 7  
4710.34, 4710.35, 4710.36, 4710.37, 4710.38, 4710.39, 4710.40, and 8  
4710.41 of the Revised Code be enacted to read as follows: 9

**Sec. 4710.01.** As used in this chapter: 10

(A) "Person" includes individuals, partnerships, 11  
associations, corporations, trusts, and other legal entities. 12

(B)(1) "Debt adjusting" means doing business in debt 13  
adjusting, budget counseling, debt management, or debt pooling 14  
service, or holding oneself out, by words of similar import, as 15  
providing services to debtors in the management of their debts, to 16  
do either of the following: 17

~~(1)(a)~~ To effect the adjustment, compromise, or discharge of  
any account, note, or other indebtedness of the debtor; 18  
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~~(2)(b)~~ To receive from the debtor and disburse to the  
debtor's creditors any money or other thing of value. 20  
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(2) "Debt adjusting" does not include debt settlement  
services as defined in section 4710.20 of the Revised Code. 22  
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(C) "Resides" means to live in a particular place on a  
temporary or a permanent basis. 24  
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**Sec. 4710.20.** As used in sections 4710.20 to 4710.41 of the  
Revised Code: 26  
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(A) "Affiliate" means a person that controls, is controlled  
by, or is under common control with the licensee. 28  
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(B) "Agreement" means an agreement between a licensee and an  
individual for the provision of debt settlement services. 30  
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(C) "Business address" means the physical location of a  
business, including the name and number of a street. 32  
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(D) "Concessions" means assent to repayment of a debt on  
terms more favorable to an individual than the terms of the  
contract between the individual and a creditor. 34  
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(E) "Day" means a calendar day. 37

(F) "Debt settlement services" means the services as an  
intermediary between an individual and one or more unsecured  
creditors of the individual for the purpose of obtaining  
concessions under which a creditor accepts less than the balance  
owed as payment in full of the debt, and without receiving money  
from the individual for distribution of that money to the  
individual's creditor. The term does not include any of the  
following: 38  
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(1) Legal services provided in an attorney-client 46

relationship by an attorney licensed or otherwise authorized to 47  
practice law in this state; 48

(2) Accounting services provided in an accountant-client 49  
relationship by a certified public accountant licensed to provide 50  
accounting services in this state; 51

(3) Financial planning services provided in a financial 52  
planner-client relationship by a member of a financial planning 53  
profession who holds current certification by the certified 54  
financial planner board of standards, inc. 55

(G) "Financial institution" means any national bank, any bank 56  
doing business under authority granted by the superintendent of 57  
financial institutions or the regulatory authority of another 58  
state of the United States, any federal savings association, any 59  
savings and loan association or savings bank doing business under 60  
authority granted by the superintendent or the regulatory 61  
authority of another state of the United States, or any credit 62  
union regulated by a state or federal regulatory authority. 63

(H) "Good faith" means honesty in fact and the observance of 64  
reasonable standards of fair dealing. 65

(I) "Licensee" means a person that has been issued a license 66  
to provide debt settlement services under sections 4710.20 to 67  
4710.41 of the Revised Code. 68

(J) "Person" means an individual, corporation, business 69  
trust, estate, trust, partnership, limited liability company, 70  
association, joint venture, or any other legal or commercial 71  
entity. The term does not include a public corporation, 72  
government, or governmental subdivision, agency, or 73  
instrumentality. 74

(K) "Program" means a program or strategy in which a provider 75  
furnishes debt settlement services in contemplation that creditors 76  
will settle debts for less than the full amount of debt owed by an 77

individual. 78

(L) "Record" means information that is inscribed on a 79  
tangible medium or that is stored in an electronic or other medium 80  
and is retrievable in a perceivable form. 81

(M) "Sign" means, with present intent to authenticate or 82  
adopt a record, to do either of the following: 83

(1) Execute or adopt a tangible symbol; 84

(2) Attach to or logically associate with the record an 85  
electronic sound, symbol, or process. 86

(N) "State" means, except when the context indicates the term 87  
is referring to the state of Ohio, a state of the United States, 88  
the District of Columbia, Puerto Rico, the United States Virgin 89  
Islands, or any territory or insular possession subject to the 90  
jurisdiction of the United States. 91

(O) "Settlement" means an arrangement under which a creditor 92  
accepts concessions on an individual's account through a debt 93  
settlement services program and money is paid to the creditor. 94

**Sec. 4710.21.** (A) No person shall provide debt settlement 95  
services for compensation without first having obtained a license 96  
from the director of commerce under sections 4710.20 to 4710.41 of 97  
the Revised Code. 98

(B) Sections 4710.20 to 4710.41 of the Revised Code do not 99  
apply to the following persons or their employees when the person 100  
or the employee is engaged in the regular course of the person's 101  
business or profession: 102

(1) A judicial officer, a person acting under an order of a 103  
court or an administrative agency, or an assignee for the benefit 104  
of creditors; 105

(2) A financial institution, bank holding company, or the 106

subsidiary, agent, or affiliate of either; 107

(3) A title insurer, escrow company, or other person that 108  
provides bill-paying services if the provision of debt settlement 109  
services is incidental to the bill-paying services; 110

(4) An agent or employee of a licensee. 111

**Sec. 4710.22.** (A) Application for an original or renewal 112  
license to provide debt settlement services shall be in writing, 113  
signed under oath, and in the form prescribed by the director of 114  
commerce. The application form shall contain a statement informing 115  
the applicant that a false or dishonest answer to a question may 116  
be grounds for denial or subsequent suspension or revocation of 117  
the applicant's license. The application for an original or 118  
renewal license shall be accompanied by a license fee as 119  
determined by the director by rule, and shall contain all of the 120  
following: 121

(1) The applicant's name, principal business address and 122  
telephone number, and all of the applicant's other business 123  
addresses in this state, electronic mail addresses, and internet 124  
web site addresses; 125

(2) All names under which the applicant conducts business; 126

(3) The address of each location in this state at which the 127  
applicant will provide debt settlement services or a statement 128  
that the applicant does not maintain a physical location in the 129  
state; 130

(4) The name and home address of each officer and director of 131  
the applicant and each person that owns at least ten per cent of 132  
the applicant's business; 133

(5) A statement describing, to the extent it is known or 134  
should be known by the applicant, any material civil or criminal 135  
judgment relating to financial fraud or misuse, any material 136

<u>violation of state or federal securities laws, and any material</u>	137
<u>administrative or enforcement action relating to financial fraud</u>	138
<u>or misuse by a governmental agency in any jurisdiction against the</u>	139
<u>applicant, any of its officers, directors, owners, or agents;</u>	140
<u>(6) A copy of each form of agreement that the applicant will</u>	141
<u>use with individuals who reside in this state;</u>	142
<u>(7) The schedule of fees and charges that the applicant will</u>	143
<u>use with individuals who reside in this state;</u>	144
<u>(8) A copy or description of any ownership interest of at</u>	145
<u>least ten per cent by a director, owner, or employee of the</u>	146
<u>applicant in the applicant's debt settlement services business;</u>	147
<u>(9) A description of any ownership interest of at least ten</u>	148
<u>per cent by a director, owner, or employee of the applicant in:</u>	149
<u>(a) Any affiliate of the applicant; or</u>	150
<u>(b) Any entity that provides products or services to the</u>	151
<u>applicant or any individual relating to the applicant's debt</u>	152
<u>settlement services business.</u>	153
<u>(10) The identity of each director who is an affiliate of the</u>	154
<u>applicant;</u>	155
<u>(11) Evidence that the applicant has a resident agent in the</u>	156
<u>state recorded with the secretary of state;</u>	157
<u>(12) Any other information that the director reasonably</u>	158
<u>requires to perform the director's duties, which the director may</u>	159
<u>require by rule.</u>	160
<u>(B) The director may, upon receipt and review of an</u>	161
<u>application, request additional information that the director</u>	162
<u>reasonably requires to perform the director's duties.</u>	163
<u>(C) The term of any license issued pursuant to sections</u>	164
<u>4710.20 to 4710.41 of the Revised Code shall not be more than one</u>	165
<u>year. Licensees who wish to renew their license must submit an</u>	166

application for renewal at least thirty days, but not more than 167  
sixty days, before the license expiration date. 168

(D) If a person who provides debt settlement services holds a 169  
license or certificate of registration in another state 170  
authorizing it to provide debt settlement services, the person may 171  
submit a copy of that license or certificate and the application 172  
for it instead of the application described in division (A) of 173  
this section if all of the following apply: 174

(1) The application in the other state contains information 175  
substantially similar to or more comprehensive than that required 176  
by division (A) of this section. 177

(2) The applicant provides the information required by 178  
divisions (A)(1), (3), (6), and (7) of this section. 179

(3) The applicant certifies that the information contained in 180  
the application is current, and to the extent it is not current, 181  
supplements the application to make the information current. 182

**Sec. 4710.23.** (A) The director of commerce shall issue an 183  
original or renewal license to the applicant unless the director 184  
finds any of the following: 185

(1) The applicant has not complied with the requirements of 186  
section 4710.22 of the Revised Code. 187

(2) The application contains information that is materially 188  
erroneous or incomplete. 189

(3) An officer, director, or owner of the applicant has been 190  
convicted of a crime, or suffered a civil judgment, involving 191  
dishonesty or the violation of state or federal securities laws. 192

(4) The application is not accompanied by the fee established 193  
by the director. 194

(5) There is reasonable evidence to support the director's 195

opinion that the applicant will not provide debt settlement 196  
services in a lawful, honest, and fair manner. 197

(B) The director shall approve or deny an initial license 198  
within sixty days after an application is filed. If a request for 199  
additional information is made pursuant to division (B) of section 200  
4710.22 of the Revised Code, the director may extend the sixty-day 201  
period for not more than forty-five days. 202

(C) If a licensee has filed a timely and complete application 203  
for license renewal, the license remains in effect until the 204  
director notifies the applicant of a denial. 205

(D) Within seven days after issuing an order denying an 206  
application, the director shall notify the applicant of the 207  
denial, the grounds for the denial, and the applicant's 208  
opportunity for a hearing pursuant to Chapter 119. of the Revised 209  
Code. If the application is denied, the director shall return the 210  
annual license fee. 211

(E) If the director has denied an application for a renewal 212  
license, the licensee, within thirty days after receiving notice 213  
of the denial, may appeal and request a hearing in accordance with 214  
Chapter 119. of the Revised Code. While an appeal is pending, the 215  
licensee may continue to provide debt settlement services to 216  
individuals with whom the licensee has agreements. If the 217  
licensee's appeal fails, the licensee may, with the approval of 218  
the director, continue to provide debt settlement services to 219  
individuals with whom it has agreements until the licensee 220  
transfers the agreements to another licensee. 221

**Sec. 4710.24.** No person licensed under sections 4710.20 to 222  
4710.41 of the Revised Code shall conduct business in this state 223  
unless the licensee has obtained and maintains in effect at all 224  
times a corporate surety bond issued by a bonding company or 225  
insurance company authorized to do business in this state. The 226



bond shall be in favor of the director of commerce and in a penal sum the director determines is warranted by the financial condition and business experience of the licensee, the history of the licensee in providing debt settlement services, the risk to individuals, and any other factor the director considers appropriate. The penal sum shall be at least ten thousand dollars and not more than fifty thousand dollars. 227  
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The term of the bond shall coincide with the term of the license. The licensee shall file a copy of the bond with the director. The bond shall be for the exclusive benefit of any individual injured by a violation of or failure to comply with any provision of sections 4710.20 to 4710.41 of the Revised Code by a licensee or an employee of a licensee. 234  
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**Sec. 4710.25. A licensee shall do all of the following:** 240

(A) Act in good faith when engaging in the business of debt settlement services; 241  
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(B) Maintain a toll-free communication system, staffed at a level that reasonably permits an individual to speak to a customer service representative, as appropriate, during ordinary business hours; 243  
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(C) Provide all disclosures and documents required by sections 4710.20 to 4710.41 of the Revised Code in English and in any other language the licensee has or will use primarily to communicate with the individual. 247  
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**Sec. 4710.26. (A) Before providing debt settlement services,** 251  
a licensee shall give the individual an itemized list of goods and services and the charges for each. The information shall be presented in a clear and conspicuous manner. 252  
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(B) A licensee shall not provide debt settlement services unless the licensee has prepared a financial analysis with respect 255  
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<u>to the income and debts of the individual seeking the services.</u>	257
<u>(C) Before an individual assents to an agreement to engage in a program, a licensee shall do both of the following:</u>	258
<u>(1) Provide the individual with a copy of the financial analysis required by division (B) of this section in a record that identifies the licensee and that the individual may keep whether or not the individual assents to the agreement;</u>	259
<u>(1) Provide the individual with a copy of the financial analysis required by division (B) of this section in a record that identifies the licensee and that the individual may keep whether or not the individual assents to the agreement;</u>	260
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<u>(1) Provide the individual with a copy of the financial analysis required by division (B) of this section in a record that identifies the licensee and that the individual may keep whether or not the individual assents to the agreement;</u>	263
<u>(2) Inform the individual of the availability, at the individual's option, of assistance by a toll-free communication system or in person to discuss the financial analysis required by division (B) of this section.</u>	264
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<u>(D) Before an individual assents to an agreement to engage in a program, the licensee shall inform the individual of all of the following:</u>	268
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<u>(D) Before an individual assents to an agreement to engage in a program, the licensee shall inform the individual of all of the following:</u>	270
<u>(1) Programs are not suitable for all individuals.</u>	271
<u>(2) Participation in a program may adversely affect the individual's credit rating or credit scores.</u>	272
<u>(2) Participation in a program may adversely affect the individual's credit rating or credit scores.</u>	273
<u>(3) Nonpayment of debt may lead creditors to increase finance and other charges or undertake collection activity, including litigation.</u>	274
<u>(3) Nonpayment of debt may lead creditors to increase finance and other charges or undertake collection activity, including litigation.</u>	275
<u>(3) Nonpayment of debt may lead creditors to increase finance and other charges or undertake collection activity, including litigation.</u>	276
<u>(4) If a creditor settles for less than the full amount of the debt, the program may result in the creation of taxable income to the individual, even if the individual does not receive any money.</u>	277
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<u>(5) Specific results cannot be predicted or guaranteed and the licensee cannot force negotiations or settlements with creditors but will advocate solely on behalf of the individual.</u>	281
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<u>(6) Programs require that individuals meet a certain savings goal in order to maximize settlement results.</u>	284
<u>(6) Programs require that individuals meet a certain savings goal in order to maximize settlement results.</u>	285
<u>(7) The licensee does not provide accounting or legal advice</u>	286

to individuals, unless the licensee is professionally licensed to 287  
provide such advice. 288

(8) The licensee does not make payments to the individual's 289  
creditors. 290

(9) The name and business address of the licensee. 291

**Sec. 4710.27.** (A) As used in this section: 292

(1) "Federal act" means the "Electronic Signatures in Global 293  
and National Commerce Act," 114 Stat. 464, 15 U.S.C. 7001 et seq., 294  
as amended. 295

(2) "Consumer" means an individual who seeks or obtains goods 296  
or services that are used primarily for personal, family, or 297  
household purposes. 298

(B) A licensee may satisfy the requirements of sections 299  
4710.26, 4710.28, and 4710.33 of the Revised Code by utilizing the 300  
internet or other electronic means if the licensee obtains a 301  
consumer's consent in the manner provided for in the federal act. 302

(C) The disclosures and materials required by sections 303  
4710.26, 4710.28, and 4710.33 of the Revised Code shall be 304  
presented in a form that is capable of being accurately reproduced 305  
for later reference. 306

(D) With respect to disclosure by means of an internet web 307  
site, the disclosure of the information required by division (D) 308  
of section 4710.26 of the Revised Code must appear on one or more 309  
screens that contain no other information, and the individual must 310  
indicate that the individual has seen the information before 311  
proceeding to assent to the formation of a program. 312

(E) At the time of providing the materials and agreement 313  
required by divisions (C) and (D) of section 4710.26 and sections 314  
4710.28 and 4710.33 of the Revised Code, a licensee shall inform 315  
the individual that upon electronic, telephonic, or written 316

request, it will send the individual a written copy of the 317  
materials and will comply with a request as provided in division 318  
(F) of this section. 319

(F) If a licensee is requested, before the expiration of 320  
ninety days after a program is completed or terminated, to send a 321  
written copy of the materials required by divisions (C) and (D) of 322  
section 4710.26 and sections 4710.28 and 4710.33 of the Revised 323  
Code, the licensee shall send them at no charge within three 324  
business days after the request is made, but the licensee need not 325  
comply with a request more than once per calendar month or if it 326  
reasonably believes the request is made for purposes of 327  
harassment. If a request is made more than ninety days after a 328  
program is completed or terminated, the licensee shall send within 329  
a reasonable time a written copy of the materials requested. 330

(G) A licensee that maintains an internet web site shall 331  
disclose on the home page of its web site or on a page that is 332  
clearly and conspicuously connected to the home page by a link 333  
that clearly reveals its contents, all of the following: 334

(1) Its name and all names under which it does business; 335

(2) Its principal business address, telephone number, and 336  
electronic mail address, if any. 337

(H) Subject to division (I) of this section, if a consumer 338  
who has consented to electronic communication in the manner 339  
provided by section 101 of the federal act withdraws consent as 340  
provided in the federal act, a licensee may terminate its 341  
agreement with the consumer. 342

(I) If a licensee wishes to terminate an agreement with a 343  
consumer pursuant to division (H) of this section, it shall notify 344  
the consumer that it will terminate the agreement unless the 345  
consumer, within thirty days after receiving the notification, 346  
consents to electronic communication in the manner provided in 347

<u>section 101(c) of the federal act.</u>	348
<u>(J) This section modifies, limits, and supersedes the federal act, but does not modify, limit, or supersede section 101(c) of that act or authorize electronic delivery of any of the notices described in section 103(b) of that act.</u>	349 350 351 352
<u>Sec. 4710.28. (A) An agreement shall meet the following requirements:</u>	353 354
<u>(1) Be in a record;</u>	355
<u>(2) Be dated and signed by the individual;</u>	356
<u>(3) Include the name of the individual and the address where the individual resides;</u>	357 358
<u>(4) Include the name, business address, and telephone number of the licensee;</u>	359 360
<u>(5) Be delivered to the individual immediately upon formation of the agreement;</u>	361 362
<u>(6) Disclose all of the following:</u>	363
<u>(a) The services to be provided;</u>	364
<u>(b) The amount or method of determining the amount of all fees, individually itemized, to be paid by the individual;</u>	365 366
<u>(c) How the licensee will comply with its obligations under section 4710.33 of the Revised Code;</u>	367 368
<u>(d) That the individual may contact the director of commerce with any questions or complaints regarding the licensee;</u>	369 370
<u>(e) The address, telephone number, and internet address or web site of the director.</u>	371 372
<u>(B) For purposes of division (A)(5) of this section, delivery of an electronic record occurs when it is made available in a format in which the individual may retrieve, save, and print the</u>	373 374 375

record, and the individual is notified that it is available. 376

(C) If the director supplies the licensee with any 377  
information required under division (A)(6)(e) of this section, the 378  
licensee may comply with that requirement only by disclosing the 379  
information supplied by the director. 380

(D) An agreement shall provide that the individual has a 381  
right to terminate the agreement at any time by giving the 382  
licensee written or electronic notice, in which event all powers 383  
of attorney granted by the individual to the licensee are revoked 384  
and ineffective. 385

(E) An agreement may not do any of the following: 386

(1) Provide for application of the law of any jurisdiction 387  
other than the United States and this state; 388

(2) Except as permitted by Section 2 of the "Federal 389  
Arbitration Act," 61 Stat. 669, 9 U.S.C. 1, et seq., as amended, 390  
contain a provision that modifies or limits otherwise available 391  
forums or procedural rights, including the right to trial by jury, 392  
that are generally available to the individual under law; 393

(3) Contain a provision that restricts the individual's 394  
remedies under sections 4710.20 to 4710.41 of the Revised Code, or 395  
other law; 396

(4) Contain a provision that does the following: 397

(a) Limits or releases the liability of any person for not 398  
performing the agreement or for violating any provision of 399  
sections 4710.20 to 4710.41 of the Revised Code; 400

(b) Indemnifies any person for liability arising under the 401  
agreement or under sections 4710.20 to 4710.41 of the Revised 402  
Code. 403

**Sec. 4710.29.** (A) A licensee shall not impose, directly or 404

indirectly, a fee or other charge on an individual or receive 405  
money from or on behalf of an individual for debt settlement 406  
services, except as permitted by this section. 407

(B) A licensee shall not impose fees or other charges or 408  
receive payment for debt settlement services unless both of the 409  
following conditions are met: 410

(1) The licensee and the individual have signed an agreement 411  
that complies with sections 4710.28 and 4710.32 of the Revised 412  
Code. 413

(2) A settlement has been executed in the form required under 414  
division (C) of section 4710.33 of the Revised Code and at least 415  
one payment has been made by the individual pursuant to that 416  
settlement. 417

(C) The total amount of fees or other charges for debt 418  
settlement services shall be reasonable. A fee or other charge 419  
shall: 420

(1) Bear the same proportional relationship to the total fees 421  
or other charges for renegotiating, settling, reducing, or 422  
altering the terms of the entire debt balance as the individual 423  
debt amount bears to the entire debt balance at the time the 424  
licensee and the individual signed the agreement; or 425

(2) Represent a percentage of the difference between the debt 426  
owed the creditor and the amount the creditor has agreed to accept 427  
as payment in full of the debt. If the fee or other charge for an 428  
individual debt is determined in this manner, the same percentage 429  
shall be used for all of the other individual debts. 430

(D) A licensee may impose a reasonable charge to the 431  
individual, plus any amount passed on from a financial institution 432  
for each check, negotiable order of withdrawal, share draft, or 433  
other negotiable instrument returned or dishonored for any reason, 434

provided that the terms and conditions upon which such 435  
insufficient funds charges will be charged to the individual are 436  
set forth in the agreement. 437

(E) A licensee shall not solicit or accept a voluntary 438  
contribution from an individual or on behalf of an individual. 439

**Sec. 4710.30.** (A) If a licensee imposes a fee or other charge 440  
or receives money or other payments not authorized by section 441  
4710.29 of the Revised Code, the individual may void the agreement 442  
and recover as provided for in section 4710.39 of the Revised 443  
Code. 444

(B) If a person providing debt settlement services is not 445  
licensed as required by section 4710.21 of the Revised Code when 446  
an individual assents to an agreement, the agreement is voidable 447  
by the individual. 448

(C) If an individual voids an agreement under this section, 449  
the licensee or person providing debt settlement services without 450  
a license does not have a claim against the individual for breach 451  
of contract or for restitution. 452

**Sec. 4710.31.** If an individual who has entered into an 453  
agreement fails for sixty days to set aside the savings required 454  
by the agreement, a licensee may terminate the agreement. 455

**Sec. 4710.32.** A licensee shall not do any of the following: 456

(A) Exercise or attempt to exercise a power of attorney after 457  
an individual has terminated an agreement; 458

(B) Initiate a transfer of money from an individual's account 459  
at a financial institution or with another person, unless the 460  
transfer is one of the following: 461

(1) A return of money to the individual; 462



<u>(2) Before termination of an agreement, properly authorized</u>	463
<u>by the agreement for payment of a fee;</u>	464
<u>(3) In payment of a creditor to fund a negotiated settlement</u>	465
<u>authorized by an individual.</u>	466
<u>(C) Structure a settlement in a manner that would result in a</u>	467
<u>negative amortization of any of an individual's debts;</u>	468
<u>(D) Settle a debt or lead an individual to believe that a</u>	469
<u>payment to a creditor is in settlement of a debt to the creditor</u>	470
<u>unless, at the time of settlement, the individual receives a</u>	471
<u>certification or confirmation by the creditor that the payment is</u>	472
<u>in full settlement of the debt, or is part of a payment plan that</u>	473
<u>is in full settlement of the debt;</u>	474
<u>(E) Represent that:</u>	475
<u>(1) The licensee will furnish money to pay bills or prevent</u>	476
<u>attachments;</u>	477
<u>(2) Payment of a certain amount will guarantee satisfaction</u>	478
<u>of a certain amount or range of indebtedness; or</u>	479
<u>(3) Participation in a program will or may prevent</u>	480
<u>litigation, garnishment, attachment, repossession, foreclosure,</u>	481
<u>eviction, or loss of employment.</u>	482
<u>(F) Represent that the licensee is authorized or competent to</u>	483
<u>furnish legal advice or perform legal services, unless such advice</u>	484
<u>or services is provided by a licensed attorney working with the</u>	485
<u>licensee;</u>	486
<u>(G) Represent that it is one of the following:</u>	487
<u>(1) A not-for-profit entity, unless it is organized and</u>	488
<u>properly operating as a not-for-profit entity under the laws of</u>	489
<u>this state;</u>	490
<u>(2) A tax-exempt entity, unless it has received certification</u>	491
<u>of tax-exempt status from the federal internal revenue service.</u>	492

<u>(H) Take a confession of judgment or power of attorney to</u>	493
<u>confess judgment against an individual;</u>	494
<u>(I) Employ an unfair, unconscionable, or deceptive act or</u>	495
<u>practice, including the knowing omission of any material</u>	496
<u>information;</u>	497
<u>(J) Purchase a debt or obligation of the individual;</u>	498
<u>(K) Obtain a mortgage or other security interest from any</u>	499
<u>person in connection with the services provided to the individual;</u>	500
<u>(L) Make statements that are misleading or deceptive.</u>	501
<b><u>Sec. 4710.33. (A) A licensee shall provide the accounting</u></b>	502
<b><u>required by division (B) of this section upon request.</u></b>	503
<u>(B) For each settlement, the licensee shall document in a</u>	504
<u>record an accounting of all of the following:</u>	505
<u>(1) The amount the creditor accepts as settlement in full of</u>	506
<u>the debt and any other terms of the settlement;</u>	507
<u>(2) The amount of the debt when the creditor agreed to the</u>	508
<u>settlement;</u>	509
<u>(3) For licensees using fee agreements that calculate any</u>	510
<u>portion of the fee based on a percentage of savings the individual</u>	511
<u>realizes from a settled debt, the calculation of that fee.</u>	512
<u>(C) A settlement shall be in writing, indicate the assent of</u>	513
<u>the creditor through endorsement, and clearly set forth the amount</u>	514
<u>of the debt, the amount the creditor has agreed to accept as</u>	515
<u>payment in full of the debt, and any other material terms of the</u>	516
<u>settlement. The debtor's authorization of the settlement shall be</u>	517
<u>documented in a record.</u>	518
<u>(D) A licensee shall maintain records for each individual for</u>	519
<u>whom it provides debt settlement services for four years after the</u>	520
<u>final payment made by the individual and produce a copy of them to</u>	521

the individual within a reasonable time after a request is made 522  
for them. The licensee may use electronic or other means of 523  
storage of the records. 524

Sec. 4710.34. (A) The director of commerce may do the 525  
following: 526

(1) Act on the director's own initiative or in response to 527  
complaints and may receive complaints regarding, or take action to 528  
obtain voluntary compliance with, sections 4710.20 to 4710.41 of 529  
the Revised Code; 530

(2) Seek or provide remedies as provided for in section 531  
4710.36 of the Revised Code. 532

(B) The director may investigate and examine, by subpoena or 533  
otherwise, the activities, books, accounts, and records of a 534  
licensee, or a person to which a licensee has delegated its 535  
obligations under an agreement, to determine compliance with 536  
sections 4710.20 to 4710.41 of the Revised Code. Information that 537  
identifies individuals who have agreements with the licensee shall 538  
not be disclosed to the public. In connection with the 539  
investigation, the director may do the following: 540

(1) Charge the person the reasonable expenses necessarily 541  
incurred to conduct the examination; 542

(2) Require or permit a person to file a statement under oath 543  
as to all the facts and circumstances of a matter to be 544  
investigated. 545

(C) The director may adopt rules in accordance with Chapter 546  
119. of the Revised Code to implement the provisions of sections 547  
4710.20 to 4710.41 of the Revised Code. 548

(D) The director may enter into cooperative arrangements with 549  
any other federal or state agency having authority over licensees 550  
and may exchange with any of those agencies information about a 551

licensee, including information obtained during an examination of 552  
the licensee. 553

Sec. 4710.35. (A) As used in this section, "consumer price 554  
index" means the consumer price index prepared by the United 555  
States bureau of labor statistics (U.S. city average for urban 556  
wage earners and clerical workers: all items, 1982-1984=100) or, 557  
if that index is no longer published, a generally available 558  
comparable index. 559

(B) The director of commerce, by rule adopted in accordance 560  
with Chapter 119. of the Revised Code, shall establish reasonable 561  
fees to be paid by licensees for the expense of administering 562  
sections 4710.20 to 4710.41 of the Revised Code. All fees, 563  
charges, and penalties collected under sections 4710.20 to 4710.41 564  
of the Revised Code shall be paid to the director and shall be 565  
deposited by the director into the state treasury to the credit of 566  
the debt settlement services fund, which is hereby created. Funds 567  
in the debt settlement services fund shall be used for 568  
administering sections 4710.20 to 4710.41 of the Revised Code. 569

(C) The director, by rule adopted in accordance with Chapter 570  
119. of the Revised Code, shall establish the dollar amounts for 571  
the license fees under section 4710.22 of the Revised Code. Those 572  
license fees, and the penalties collected under section 4710.36 of 573  
the Revised Code, shall be adjusted to reflect inflation, as 574  
measured by the consumer price index. The director shall adopt a 575  
base year and adjust the dollar amounts, effective on July 1 of 576  
each year, if the change in the index from the base year, as of 577  
December 31 of the preceding year, is at least ten per cent. The 578  
dollar amount shall be rounded to the nearest ten dollars. 579

(D) The director shall notify licensees of any change in 580  
dollar amounts made pursuant to division (C) of this section and 581  
make that information available to the public. 582

Sec. 4710.36. (A) The director of commerce shall enforce sections 4710.20 to 4710.41 of the Revised Code, and any rule adopted thereunder, by taking one or more of the following actions: 583  
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(1) Ordering a licensee or a director, employee, or other agent of a licensee to cease and desist from any violations; 587  
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(2) Ordering a licensee or another person that has caused a violation to correct the violation, or a licensee or another person that has failed to comply with those sections to correct the failure, including making restitution of money or property to a person aggrieved by a violation or failure to comply; 589  
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(3) Imposing on such a licensee or person a civil penalty not exceeding one thousand dollars for each violation or failure to comply; 594  
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(4) Prosecuting a civil action to do either of the following: 597

(a) Enforce an order; 598

(b) Obtain restitution or an injunction or other equitable relief, or both. 599  
600

(5) Intervening in an action brought under section 4710.37 of the Revised Code. 601  
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(B) If a person violates or fails to comply with, or knowingly authorizes, directs, or aids in the violation of or failure to comply with, a final order issued under division (A)(1) or (2) of this section, the director may impose an additional civil penalty not exceeding one thousand dollars for each violation or failure. 603  
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(C) The director may maintain an action to enforce sections 4710.20 to 4710.41 of the Revised Code in any county. 609  
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(D) The director may recover the reasonable costs of actions 611

or proceedings brought pursuant to divisions (A) and (B) of this 612  
section, including attorney's fees based on the hours reasonably 613  
expended and the hourly rates for attorneys of comparable 614  
experience in the community. 615

(E) In determining the amount of a civil penalty to impose 616  
under division (A) or (B) of this section, the director shall 617  
consider the seriousness of the violation or failure, the good 618  
faith of the person committing the violation or failure, any 619  
previous violations or failures by the person, the deleterious 620  
effect of the violation or failure on the public, and any other 621  
factor the director considers relevant to the determination of the 622  
civil penalty. 623

(F) No enforcement action or adjudication order made by the 624  
director under this section shall be valid unless an opportunity 625  
for a hearing is afforded in accordance with Chapter 119. of the 626  
Revised Code. Such opportunity for a hearing shall be given before 627  
taking the enforcement action or making the adjudication order 628  
except in those situations where section 119.06 of the Revised 629  
Code provides otherwise. 630

**Sec. 4710.37.** The director of commerce shall publish and 631  
maintain, on the department of commerce internet web site, a 632  
current list of all licensees. 633

**Sec. 4710.38.** (A) As used in this section, "insolvent" means: 634  
635

(1) Having generally ceased to pay debts in the ordinary 636  
course of business other than as a result of a good-faith dispute; 637

(2) Being unable to pay debts as they become due; 638

(3) Being insolvent within the meaning of the federal 639  
bankruptcy law. 640

(B) The director of commerce may suspend, revoke, or deny 641  
renewal of a license if any of the following apply: 642

(1) A fact or condition exists that, if it had existed when 643  
the licensee applied for a license, it would have been a reason 644  
for denial. 645

(2) The licensee has committed a material violation of or 646  
failure to comply with any provision of sections 4710.20 to 647  
4710.41 of the Revised Code or a rule or order of the director. 648

(3) The licensee is insolvent. 649

(4) The licensee or an employee or affiliate of the licensee 650  
has refused to permit the director to make an examination 651  
authorized by division (B) of section 4710.34 of the Revised Code, 652  
failed to comply with an order to file a statement pursuant to 653  
division (B)(2) of section 4710.34 of the Revised Code within 654  
thirty days after the request, or made a material 655  
misrepresentation or omission with regard to that statement. 656

(5) The licensee has not responded within a reasonable time 657  
and in an appropriate manner to communications from the director. 658

(C) If the director suspends or revokes a license, the 659  
licensee may appeal and request a hearing pursuant to Chapter 119. 660  
of the Revised Code. 661

**Sec. 4710.39.** (A) If an individual voids an agreement 662  
pursuant to section 4710.30 of the Revised Code, the individual 663  
may recover in a civil action all money paid by or on behalf of 664  
the individual pursuant to the agreement, in addition to the 665  
recovery under division (B)(3) of this section. 666

(B) Subject to division (C) of this section, an individual 667  
with respect to whom a licensee or a person providing debt 668  
settlement services without a license violates or fails to comply 669  
with any provision of sections 4710.20 to 4710.41 of the Revised 670

Code may recover in a civil action all of the following from the licensee or person that caused the violation or failure: 671  
672

(1) Compensatory damages for economic injury caused by the violation or failure; 673  
674

(2) Except as otherwise provided in division (C) of this section, with respect to a failure to comply with division (C) of section 4710.25 of the Revised Code, a violation of section 4710.32 of the Revised Code, and a violation of or failure to comply with sections 4710.26, 4710.28, and 4710.29 of the Revised Code, the greater of the amount recovered under division (B)(1) of this section or one thousand dollars; 675  
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(3) For violations of section 4710.21 or 4710.29 of the Revised Code, reasonable attorney's fees and costs. 682  
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(C) In a class action, the minimum damages provided in division (B) of this section do not apply. 684  
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(D) A licensee is not liable under this section for a violation or failure to comply with any provision of sections 4710.20 to 4710.41 of the Revised Code if the licensee proves that the violation or failure was not intentional and resulted from a good-faith error notwithstanding the maintenance of procedures reasonably adapted to avoid the error. If, in connection with a violation or failure, the licensee has received more money than authorized by an agreement or by sections 4710.20 to 4710.41 of the Revised Code, the defense provided by this division is not available unless the licensee refunds the excess within three business days after learning of the violation or failure. 686  
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(E) If a licensee or a person providing debt settlement services without a license violates or fails to comply with any provision of sections 4710.20 to 4710.41 of the Revised Code, an individual may recover under this section or pursuant to section 4710.41 of the Revised Code, but not both for the same act or 697  
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practice. 702

Sec. 4710.40. (A) An action or proceeding brought pursuant to 703  
division (A) or (B) of section 4710.36 of the Revised Code must be 704  
commenced within two years after the conduct that is the basis of 705  
the director of commerce's complaint occurs. 706

(B) An action brought pursuant to section 4710.41 of the 707  
Revised Code must be commenced within two years after the latest 708  
of the following: 709

(1) The individual's last transmission of money to the 710  
licensee; 711

(2) The date on which the individual discovered or reasonably 712  
should have discovered the facts giving rise to the individual's 713  
claim; 714

(3) Termination of actions or proceedings by the director 715  
with respect to a violation of or failure to comply with any 716  
provision of sections 4710.20 to 4710.41 of the Revised Code. 717

(C) The period prescribed in division (B)(2) of this section 718  
is tolled during any period during which the licensee or, if 719  
different, the defendant, has materially and willfully 720  
misrepresented information required by sections 4710.20 to 4710.41 721  
of the Revised Code to be disclosed to the individual, if the 722  
information so misrepresented is material to the establishment of 723  
the liability of the defendant under sections 4710.20 to 4710.41 724  
of the Revised Code. 725

Sec. 4710.41. Any violation of or failure to comply with any 726  
provision of sections 4710.20 to 4710.41 of the Revised Code by a 727  
person providing debt settlement services without a license is 728  
deemed an unfair or deceptive act or practice in violation of 729  
section 1345.02 of the Revised Code. A person injured by such a 730  
violation has a cause of action and is entitled to the same relief 731

available to a consumer under section 1345.09 of the Revised Code, 732  
and all the powers and remedies available to the attorney general 733  
to enforce sections 1345.01 to 1345.13 of the Revised Code are 734  
available to the attorney general to enforce sections 4710.20 to 735  
4710.41 of the Revised Code. 736

**Section 2.** That existing section 4710.01 of the Revised Code 737  
is hereby repealed. 738