



January 13 , 2010

---

## MADIGAN PROPOSES LEGISLATION TO PROHIBIT ABUSIVE DEBT SETTLEMENT PRACTICES

### ***Attorney General Introduces Bill That Bans Upfront Fees, Caps Payments to Firms Promising to Reduce Credit Card Debt***

Springfield — Attorney General Lisa Madigan has moved to end abusive and unfair practices used by the debt settlement industry to wreak havoc on financially strapped consumers who are increasingly desperate to manage their rising debts during the economic downturn. Madigan introduced legislation yesterday to prohibit debt settlement firms from charging upfront fees, base final compensation on the amount saved from settling a debt and ban advising consumers to stop paying their creditors. Rep. Marlow H. Colvin (D-Chicago) will sponsor the bill, which was introduced yesterday as HB 4781. Sen. Jacqueline Collins (D-Chicago) will sponsor the bill in the Senate.

"Consumers seldom, if ever, see all their debts settled when they enroll with these types of programs. In fact, they often end up owing more than the credit card debt they originally incurred," Madigan said. "As consumer debt rates continue to grow, we must put an end to these abusive, deceptive practices and enact comprehensive reforms that require these companies to earn the fees they charge."

Consumers who file complaints about debt settlement companies with the Attorney General's office typically report that, after they enroll in debt settlement programs, the firms charge excessive upfront fees and advise consumers to stop paying their credit card bills. All too often, consumers complain that after paying a debt settlement provider for several months, they have settled little to no debt, and as a result of months of missed payments to creditors, the credit card companies then add interest, fees and penalties to consumers' credit card balances and begin collection efforts to recoup the debt, which in turn negatively impacts consumers' credit reports. In many instances, credit card companies have sued consumers enrolled in debt settlement agreements in an attempt to collect the balance of the consumers' accounts. Madigan has filed three lawsuits in the last year against debt settlement companies that employ these abusive practices.

Attorney General Madigan's legislative proposal seeks to ban all debt settlement companies from operating in Illinois, unless they meet the following requirements:

- Charge no upfront or monthly fees;
- Cap fees at five percent of the savings resulting from settling a debt, rather than a percentage of debt enrolled;
- Cannot advise consumers to stop payments to creditors;
- Allow cancellation of a debt settlement contract at any time, with prompt refund of fees;
- Prohibit deceptive promises of specific results in advertising, marketing, or other communications to consumers;
- Disclose to consumers the risks involved in entering into a debt settlement contract;
- Obtain a license through the Illinois Department of Financial and Professional Regulation; and
- Require a written individualized financial analysis of each consumer's financial situation prior to entering into a written contract with a consumer.

"Financially distressed consumers are lured into these programs by debt settlement companies' deceptive, outrageous promises to eliminate consumers' debt. The reality is that most consumers are left in worse overall financial condition. Many end up filing for bankruptcy protection," Rep. Colvin said. "This legislation will ban up front fees, put an end to these unfair tactics, and ensure consumers are aware of the serious dangers associated with using a debt settlement company. My goal is to have a bill that will be a consumer protection model for other states."

"As the economic crisis continues, it becomes more important to protect people struggling to pay their bills from companies that will only make their situation worse," Sen. Collins said. "I am happy to join the Attorney General and Representative Colvin in passing the strongest protections possible."

The legislation demonstrates Attorney General Madigan's commitment to helping consumers, particularly consumers burdened with crippling credit card debt. In 2009, Madigan received national recognition for her extensive work to crack down on the debt settlement industry from the National Foundation for Credit Counseling, which honored the Attorney General with its "Making the Difference Award" for aggressively enforcing consumer protection laws, raising consumer awareness and financial literacy, and pursuing enforcement actions against debt settlement companies over the last decade.

Along with enforcement and legislative efforts, Madigan's office conducts outreach to educate consumers on how to avoid deceptive debt settlement companies and find legitimate financial assistance. Madigan encourages consumers in financial trouble to consider credit counseling instead of debt settlement services. The Attorney General advises consumers to look for credit counseling services that charge modest fees and provide true financial and budget counseling based on a consumer's personal circumstances.

Madigan provided the following tips on choosing a credit counseling service:

- Find a legitimate credit counseling firm in your area by visiting the National Foundation for Credit Counseling at [www.nfcc.org](http://www.nfcc.org).
- Check with the Illinois Department of Financial and Professional Regulation at [http://www.idfpr.com/dfi/ccd/licensees/Debt\\_Management\\_Licensees.HTM](http://www.idfpr.com/dfi/ccd/licensees/Debt_Management_Licensees.HTM) for a list of credit counseling companies licensed in Illinois.
- Before agreeing to any credit counseling service, ask for and review the terms and conditions of the service in writing. Ask about all fees-the amounts, whether they must be paid upfront, if they are refundable-and what exact services are provided.
- Check with the Attorney General's Consumer Fraud Hotline and the Better Business Bureau to determine if any consumers have filed complaints against the company. Visit [www.illinoisattorneygeneral.gov](http://www.illinoisattorneygeneral.gov) or call:

**Chicago Consumer Fraud Hotline:** 1-800-386-5438

**Springfield Consumer Fraud Hotline:** 1-800-243-0618

**Carbondale Consumer Fraud Hotline:** 1-800-243-0607

**Spanish Language Hotline:** 1-866-310-8398

-30-

[Return to January 2010 Press Releases](#)



[© 2020 Illinois Attorney General](#)

[Home](#) • [Privacy Policy](#) • [Contact Us](#)