

DEBT SETTLEMENT COMPANIES

In recent years, we have witnessed the development of a new type of “debt-settlement” company, which claims to offer consumers assistance in identifying quick-and-easy routes out of debt. The appearance of these companies has been accompanied by significant legal and ethical concerns about whether they create a tangible benefit for their customers.

Financial institutions are concerned about the possibility that these firms may interfere with their own programs intended to help distressed borrowers settle their debts without incurring significant additional charges. Many so called “debt-settlement” company processes detract from tried-and-tested loss mitigation activities carried out by creditors and could even add to borrowers’ financial burden and associated distress,

This is a real possibility when one considers that it is the routine practice of debt-settlement companies to advise distressed borrowers to stop servicing their loans and instead build up an escrow account of savings to pay off their debt. This tactic is seen by financial institutions as irresponsible, as it increases the size of the loan, with no guarantee that loan terms will be improved or an accommodation reached with the creditor. This practice may utterly destroy a borrower’s credit.

There is a great deal of evidence that “debt-settlement” companies charge significant fees for their services—often 20% of the debt owed. This is often collected whether or not an accommodation is reached with the lender. Even in the very best-case scenarios, these methods can leave borrowers no better off than they were previously.

There is also significant and growing evidence that so-called “debt-settlement” companies often operate in an entirely unscrupulous and predatory manner, collecting fees without ever contacting lenders. As the number of such firms has grown, so has the number of complaints about them. For example, in Maryland, complaints about “debt-settlement” firms rose from 15 complaints in 2014, to 104 in 2016.

AFSA'S POSITION

AFSA believes that the best recourse for a distressed borrower is to work with their creditors to assess the options available and select the one that suits the borrower's personal circumstances. Working with a lender in this way is particularly important in the case of mortgage debt where lenders and borrowers typically share the aim of keeping the borrower in their home. Lenders do not have much to gain on a property being foreclosed upon as they rarely realize profits on foreclosed properties. Borrowers must be made aware of this and understand that financial institutions offer safer and far more effective routes out of debt.

AFSA would like to see debt-settlement firms better regulated and the creation of a formal mechanism for reporting bad actors. AFSA is committed to representing the consumer credit industry in the formation of such oversight.