

PROPOSED MODEL PROVISIONS / CONSIDERATIONS FOR STATE DEBT SETTLEMENT COMPANY LEGISLATION

There are three hallmarks of bad actors in the debt settlement industry.

- 1) They tell consumers who are current on their account(s) to stop paying their bills. They do this on the theory that it will bring creditors to the table. But in the meantime, if a consumer becomes delinquent when he or she was not, their credit score plummets;
- 2) They tell consumers to cut off communication with their creditors. Creditors will talk to their customers for free. Creditors are inherently incentivized to work out payment plans and other compromises with their customers if they are in financial distress;
- 3) They have a financial interest in the settlement itself. In recent years, the debt resolution industry has increasingly begun to promote debt consolidation loans to consumers.

State legislation relating to the debt settlement industry should:

- Bar DSCs from telling consumers who are current on their loan payments to stop paying their bills;
- Bar DSCs from instructing consumers to not try first to speak to their creditors directly about settlement;
- Bar DSCs from having a financial interest in the settlement itself by a) peddling their own or common interest owners' debt consolidation loans; or b) referring consumers to third parties for debt consolidation loans where the DSC has a pecuniary interest in the subsequent loan.