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Consumer Credit Counseling

You may have bills and debts you can't pay. You are not alone. Many agencies try to help people get out of debt. These are called "credit counseling agencies" or "debt counseling agencies." You should be very careful about consumer credit counseling. Many agencies do more harm than good.

What services does a credit counseling agency offer?

Credit counseling usually offers three services.

• Budget counseling to help you pay your debts on your own.
• A debt management plan, or debt repayment plan, run by the agency.
• Referral to other agencies, such as social, financial and legal services.

What is a debt management plan?

In this plan, the agency arranges lower payments with your creditors. Usually these are your credit cards. Your payments are lower because your creditors agree on lower interest rates. When all the creditors who are in your plan agree, you make one monthly payment to the agency. The agency uses that money to make your lower payments to your creditors.

When should I think about a debt management plan?

You should think about a plan if two things are true. (1) You can't pay all your bills and debts, and can't keep current on all your accounts. (2) You have income or property you could lose to a creditor.

If you can pay all your bills and debts and keep current on all your accounts, you probably don't need credit counseling. You often can get a lower interest rate with your credit card, or with another one, if your interest rate is too high. If you don't have income or property you could lose to a creditor, you probably don't need credit counseling. You are "judgment-proof" if all your income and property is protected.

Your wages can't be garnished unless gross wages minus amounts that must be withheld by law are at least $380.00 per week. (If you support a dependent minor child living with you, and your total household monthly income is no more than $1,750.00, you can claim an additional exemption of $34 per week for one child, $52 per week for two children, and $66 per week for three or more children.) Amounts that must be withheld by law include federal and state taxes. They don't include optional deductions from wages. Government benefits can't be garnished. These benefits also can't be garnished if you keep them separate from any other money you have (for example, in a separate bank account).

However, a garnishment summons could temporarily freeze your bank account. If you don't object in time by filing a garnishment exemption claim, you could lose exempt benefits in a bank account. If a garnishment summons freezes your bank account, get legal help right away.

In Virginia, a creditor can't take any of the following property from you.

• Up to $5,000 worth of household goods.
• Up to $1,000 worth of clothing.
• Up to $3,000 worth of a firearm.
• Medically prescribed health aids.
• Up to $10,000 worth of tools and equipment you need for work or school.
• Up to $6,000 "equity" value in a motor vehicle. "Equity" means the fair market value minus the amount you still owe on the vehicle.
• The portion of an income tax refund due to the Earned Income Tax Credit (EITC).
• Child support and spousal support, whether paid or unpaid.
• Up to $5,000 worth of additional property (up to $10,000 for a married couple, and up to $10,000 for an individual 65 years of age or older) plus $500 for each dependent, if you list it in a Homestead Deed filed with your local Circuit Court.
• An additional $25,000 in real or personal property that serves as your principal residence, which can be claimed every eight years.

How much does a debt management plan cost?

The plan should have very low monthly fees. Under Virginia law, an agency may not charge more than $75.00 for a set-up fee and a monthly fee of 15% of the amount paid out, or $60.00, whichever is less. Creditors pay most of the agency's fees. Because a successful plan may avoid a bankruptcy, creditors are willing to help pay for it.

What types of debts are included in a debt management plan?

Generally, only unsecured debts are included in the plan. Debts either are secured or unsecured. A secured debt means the creditor has a claim on a particular piece of your property. Secured debts usually include home mortgages, mobile home loans, motor vehicle loans, and loans secured by specific items of household goods.

An unsecured debt means the creditor doesn't have a claim on a particular piece of your property. Unsecured debts usually include credit cards, department store cards, gasoline charge cards, hospital, medical, legal and other professional bills, and loans not secured by any property.

Should I include all unsecured debts in a debt management plan?

Yes. If an unsecured debt is not included in the plan, that creditor still can insist on payment in full. If you don't pay in full, that creditor can sue you in court and get a judgment. This could put your income or property at risk, which is what the plan was trying to avoid. The plan should pay off all your unsecured debts. If not, then bankruptcy might be a better choice.

Does the debt management plan have to be in writing?

Yes. The agency must give you a copy of an agreement that says these things.

- Your name and address, and the name and address of the agency.
- All services the agency will do.
- A clear explanation of your fees.
- A statement that you can end the agreement at any time.
- A statement that if you end the agreement, you get a refund of all funds not yet paid to creditors.
- A statement that if you end the agreement within 31 days, you get a refund the set-up fees; and if you end the agreement within 5 days, you get a refund of all fees.
- An explanation of your duties and the agency's duties, and how disputes will be resolved.
- A notice of privacy policies.
- A notice that a debt management plan may have a bad impact on your credit report.

What rules govern a debt management plan?

- The agency promptly must tell you if a creditor will not take payments under the plan.
- The agency must give you a statement at least every three months showing funds received and paid out.
- The agency cannot buy your debt, take a mortgage, take a security interest in your property, lend you money, or operate as a debt collector.
- The agency cannot set up a plan under which you would owe more at the end.
- The agency cannot give you legal advice nor do legal services for you.
- The agency must pay creditors within eight days of getting your money.
- Upon request, the agency must give you dated and signed receipts for money you give them

How long does a debt management plan last?

A debt management plan generally lasts two to four years. Plans that last longer than four years usually aren't realistic and don't succeed. Only about half of the plans are successful.

Can I still buy things on credit during a debt management plan?

Generally not. Part of the plan is sticking to a budget that pays your current and needed living expenses first. Usually, these are food, housing, utilities, payments to secured creditors, and current medical care. You use what's left over to make payments on the plan. You shouldn't get into more debt while you're trying to get out of debt.

How much can a debt management plan save me?

Many agencies promise they can save you 50% to 75% of your debt. These are good signs the agency is not genuine. Creditors who agree to plans usually will lower or get rid of the interest and other fees you owe. They are less likely to lower the principal amount of your debt.

Who can offer a debt management plan?

In Virginia, giving paid advice or services about a debt management plan is the practice of law. Only an attorney licensed by the Virginia State Bar, or an agency licensed by the State Corporation Commission, may offer a debt counseling plan. This applies to anyone inside or outside of Virginia who offers debt counseling services to people in Virginia.

Many credit counseling services are breaking this law. Most credit counseling agencies on the Internet are not licensed in Virginia. They cannot legally offer you their services. A list of the agencies licensed in Virginia is attached.

How can I find out who is licensed to offer a debt management plan?

You may contact the Virginia State Corporation Commission's Bureau of Financial Institutions, 1300 East Main Street, P.O. Box 1197, Richmond, VA. 23219, 804-371-9967, or toll-free 1-800-552-7945. If an agency is not licensed to offer a debt management plan, you should not do business with them.

What happens to my credit record during a debt management plan?

If you need to enter a debt management plan, you probably have a bad credit report anyway. Because a successful plan wipes out many of your debts, you should be better able to pay current bills. This may make you a better risk to a creditor.