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Chapter 4710: DEBT POOLING COMPANIES
[4710.01 Debt pooling company definitions.](#)

As used in this chapter:

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

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

(1) To effect the adjustment, compromise, or discharge of any account, note, or other indebtedness of the debtor;

(2) To receive from the debtor and disburse to the debtor's creditors any money or other thing of value.

(C) "Resides" means to live in a particular place on a temporary or a permanent basis.

Effective Date: 01-01-1958; 11-05-2004

[4710.02 Disbursements to creditors - separate trust accounts - contributions - audit - insurance.](#)

(A) Subject to division (C) of this section, a person engaged in debt adjusting shall do all of the following:

(1) Unless specifically instructed otherwise by a debtor, disburse to the appropriate creditors all funds received from the debtor, less any contributions not prohibited by division (B) of this section, within thirty days of receipt of the funds from the debtor;

(2) Maintain a separate trust account for the receipt of any funds from debtors and the disbursement of the funds to creditors on behalf of the debtors;

(3) Charge or accept only reasonable fees or contributions in accordance with division (B) of this section;

(4) Establish and implement a policy that allows for the waiver or discontinuation of fees or contributions not prohibited by division (B) of this section if the debtor is unable to pay such fees or contributions.

(B) If fees or contributions for providing debt adjusting services are charged or accepted, directly or indirectly, no person providing or engaged in debt adjusting shall do any of the following:

(1) Charge or accept a fee or contribution exceeding seventy-five dollars from a debtor residing in this state for an initial consultation or initial set up of a debt management plan or similar plan;

(2) Charge or accept consultation fees or contributions exceeding one hundred dollars per calendar year from a debtor residing in this state;

(3) Charge or accept a periodic fee or contribution from a debtor residing in this state for administering a debt management plan or similar plan, which fee or contribution exceeds eight and one-half per cent of the amount paid by the debtor each month for distribution to the debtor's creditors or thirty dollars, whichever is greater.

(C) Division (A) or (B) of this section does not prohibit a person engaged in debt adjusting for a debtor who is residing in this state from charging the debtor a reasonable fee for insufficient funds transactions that is in addition to fees or contributions not prohibited by division (B) of this section.

(D) Any person that engages in debt adjusting, annually, shall arrange for and undergo an audit conducted by an independent, third party, certified public accountant of the person's business, including any trust funds deposited and distributed to creditors on behalf of debtors. Both of the following apply to an audit described in this division:

(1) The person shall file the results of the audit and the auditor's opinion with the consumer protection division of the attorney general.

(2) The attorney general shall make available a summary of the results of the audit and the auditor's opinion upon written request of a person and payment of a fee not exceeding the cost of copying the summary and opinion.

(E) A person engaged in debt adjusting shall obtain and maintain at all times insurance coverage for employee dishonesty, depositor's forgery, and computer fraud in the amount of ten per cent of the monthly average for the immediate preceding six months of the aggregate amount of all deposits made with the person by all debtors. The insurance coverage shall comply with all of the following:

(1) The insurance coverage is not less than one hundred thousand dollars.

(2) The insurance coverage includes a deductible that does not exceed ten per cent of the face amount of the policy coverage.

(3) The insurance coverage is issued by an insurer rated at least A- or its equivalent by a nationally recognized rating organization.

(4) The insurance coverage provides that thirty days advance written notice be given to the consumer protection division of the attorney general before coverage is terminated.

(F)

(1) No person engaged in debt adjusting shall fail to comply with division (A) of this section or shall violate division (B) of this section.

(2) No person engaged in debt adjusting shall fail to comply with divisions (D) and (E) of this section.

Effective Date: 11-05-2004; 2006 HB699 03-29-2007

[4710.03 Application of chapter - exclusions.](#)

Nothing in this chapter applies to any of the following:

(A) The federal national mortgage association; the federal home loan mortgage corporation; a bank, bank holding company, trust company, savings and loan association, credit union, savings bank, or credit card bank, that is regulated by the office of the comptroller of currency, office of thrift supervision, federal reserve, federal deposit insurance corporation, national credit union administration, or division of financial institutions; or to subsidiaries of any of these entities;

(B) Debt adjusting incurred in the practice of law in this state;

(C) A person that incidentally engages in debt adjusting to adjust the indebtedness owed to that person;

(D) A registrant as defined in section [1321.51](#) of the Revised Code;

(E) A registrant or licensee as both are defined in section [1322.01](#) of the Revised Code.

Effective Date: 11-05-2004

[4710.04 Certain violations deemed unfair or deceptive acts - fine.](#)

(A) Any violation of division (F)(1) of section [4710.02](#) of the Revised Code is deemed an unfair or deceptive act or practice in violation of section [1345.02](#) of the Revised Code. A person injured by a violation of that division has a cause of action and is entitled to the same relief available to a consumer under section [1345.09](#) of the Revised Code, and all the powers and remedies available to the attorney general to enforce sections [1345.01](#) to [1345.13](#) of the Revised Code are available to the attorney general to enforce division (F) (1) of section [4710.02](#) of the Revised Code.

(B) Any person who violates division (F)(2) of section [4710.02](#) of the Revised Code, in addition to the penalties imposed by section [4710.99](#) of the Revised Code, shall be fined not more than ten thousand dollars for each violation.

Effective Date: 11-05-2004

[4710.99 Penalty.](#)

Whoever violates division (F) of section [4710.02](#) of the Revised Code is guilty of a misdemeanor of the third degree for a first offense and a misdemeanor of the second degree for any subsequent offense.

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