

Debt Settlement: Private Right of Action and Fee Cap by State

Note: Some of these fee caps come from laws on “debt management” in states that do not have separate laws regulating debt settlement in particular.

The highlighted states are those in which the American Fair Credit Council claims “debt settlement services are not widely available” in its 2019 Economic Impact report.

For further research: Appendix E from the New York City Bar report has information on state regulation of debt settlement, but the report is from 2012, so not all of the information is current. The National Conference of State Legislatures has a compilation of statutes relating to credit counseling, debt management, and debt settlement, but it is also not entirely current.

<u>Code Section(s) Authorizing PRA</u>	<u>Private Right of Action</u>	<u>State</u>	<u>Fee Limitations</u>	<u>Code Section Regulating Fees</u>
		Arizona	Initial fee: Max \$39 Monthly fee: < lesser of .0075% of the total debt or \$50.	Ariz. Rev. Stat. § 6709
Colo. Rev. Stat. Ann. § 5-19-235	1) All money paid or deposited, 2) punitive damages, 3) reasonable attorney fees and costs, 4) compensatory damages up to \$5K.	Colorado	Total fees cannot exceed savings after settlement.	Colo. Rev. Stat. Ann. § 5- 19-223(d)(2)
		Connecticut	Total fees capped at 10% of savings after settlement.	Conn. Gen. Stat. § 36a- 671b
6 Del. Code § 2435A	1) All money paid or deposited, 2) punitive damages, 3) reasonable attorney fees and costs, 4) compensatory damages up to \$5K.	Delaware	Settlement fee: < 18% of total debt.	6 Del. Code §2423A(d)(2)
Fla. Stat. § 817.806(1); Fla. Stat. § 501.211(1)-(2)	1) Actual damages, 2) reasonable attorney’s fees and costs; 3) plus penalties and remedies provided by the Florida Deceptive and Unfair Trade Practices Act.	Florida	Initial fee: Max \$50 Monthly fee: < greater of 7.5% of amount paid monthly on debts or \$35	Fla. Stat. § 817.802

OCGA § 18-5-4(b)(2)	All fees, charges, or contributions paid by the debtor plus \$5,000.00	Georgia	Monthly fee: < 7.5% of amount paid monthly on debts	OCGA § 18-5-2
		Idaho	Max total fee is 20% of total debt.	Idaho Code § 262229(3)
225 Ill. Comp. Stat. § 429/155(b); 815 Ill. Comp. Stat. § 505/10a	All remedies and rights granted to a consumer by the Consumer Fraud and Deceptive Business Practices Act (actual economic damages and any other relief which the court deems proper).	Illinois	Initial fee: Max \$50 Settlement fee: < 15% of savings after settlement.	225 Ill. Comp. Stat. § 429/125
		Iowa	Initial fee: Max \$50 Max fee is 18% of total debt.	Iowa Code §533A.9(4)
Kan. Stat. § 50-1133	Actual and punitive damages	Kansas	Initial fee: Max \$75 Monthly fee: < lesser of \$5 per creditor or \$40.	Kan. Stat. § 50-1126
Ky. Rev. Stat. § 380.110	1) Actual and punitive damages, 2) equitable relief, 3) attorney's fees and costs.	Kentucky	Initial fee: Max \$75 Monthly fee: < greater of 8.5% of amount paid monthly on debts or \$30.	Ky. Rev. Stat. §380.040(2)
Me. Rev. Stat. Ann. tit. 32 § 6181(2)(E)	1) Actual damages, 2) attorney's fees and costs.	Maine	Initial fee: Max \$75 Settlement fee: < 15% of savings after settlement.	Me. Rev. Stat. Ann. tit. 32 § 6174-A
Md. Code Ann., Fin. Inst. § 12-1016; Md. Code Ann., Fin. Inst. § 13-408	Penalty provisions of Title 13 of the Commercial Law Article (actual damages, reasonable attorney's fees)	Maryland		
		Michigan	Maximum \$50 initiation fee + no more than 15% of total debt.	Mich. Comp. Laws §§ 451.411 et seq.
Minn. Stat. § 332B.13	1) Actual, incidental, consequential damages, 2) statutory damages of up to \$5,000, 3) injunctive relief, 4) other equitable relief.	Minnesota	Max total fee is 15% of total debt or 30% of savings.	Minn. Stat. § 332B.09

Miss. Code Ann. § 81-22-23(2)(d)	1) Actual damages, 2) attorney's fees and costs.	Mississippi	Initial fee: Max \$75 Monthly fee: < \$30	Miss. Code Ann. §8122-13
		Missouri	Settlement fee must be calculated as percentage of saving after settlement.	Mo. Rev. Stat. §425.043(3)
Mont. Code Ann. § 30-14-2104; Mont. Code Ann. § 30-14-133	Any remedy available under the provisions of Title 30, chapter 14, part 1 (actual damages or \$500, whichever is greater; discretion to award up to three times the actual damages sustained and other equitable relief; attorney's fees).	Montana	Initial fee: < 5% of total debt Max total fee is 20% of total debt	Mont. Code Ann. § 30-14-2103(b)
		Nebraska	Max total fee is 15% of total debt.	Neb. Rev. Stat. §691212
Nev. Rev. Stat. § 676A.760; Nev. Rev. Stat. § 598.977	1) Actual, compensatory, punitive damages, 2) attorney's fees and costs, and 3) remedies as a deceptive trade practice (add'l actual and punitive damages and attorney's fees in action brought by elderly person or person w/disability).	Nevada	Settlement fee must be calculated as percentage of savings after settlement.	Nev. Rev. Stat. § 676A.580(6)
		New Hampshire	Max total fee is 15% of total debt.	N.H. Rev. Stat. §399D:16
N.D. Cent. Code § 13-11-29	1) Injunction, restitution, or both; 2) court may award actual restitution or a sum up to \$2,000.00, whichever is greater, 3) reasonable attorney's fees and costs	North Dakota	Max total fee is 30% of savings.	N.D. Cent. Code §1311-21
Ohio Rev. Code § 4710.04(A)	1) Rescind transaction; 2) declaratory relief or injunction; 3) 3x amount of economic damages or \$200, whichever is greater, plus \$5K noneconomic damages (or damages in a class action), attorney's fees).	Ohio	Initial fee: Max \$75 Monthly fee: < greater of 8.5% of amount paid monthly on debts or \$30.	Ohio Rev. Code § 4710.02(B)
Or. Rev. Stat. § 697.718	1) An ascertainable loss of money or property, real or personal, 2) reasonable attorney's fees.	Oregon	Initial fee: Max \$50 Settlement fee: < 7.5% of savings after settlement.	Or. Rev. Stat. §697.692
R.I. Gen. Laws § 19-14.8-35	1) Actual damages, 2) 3x improper fees, 3) compensatory damages up to	Rhode Island	Initial fee: Max 4% of total debt	R.I. Gen. Laws § 19-14.8-23

	\$5K, punitive damages, 4) reasonable attorney's fees and costs.		Monthly fee: < lesser of \$10 per creditor or \$50 total fees capped at 30% of savings.	
S.C. Code Ann. § 37-7-117	1) Actual damages, punitive damages, 2) reasonable attorney's fees and costs.	South Carolina	Initial fee: Max \$60 Monthly fee: < lesser of \$10 per creditor or \$70.	SC Dep't of Consumer Affairs
Tenn. Code Ann. § 47-18-5535	1) Actual, compensatory, punitive damages, 2) reasonable attorney's fees and costs.	Tennessee	Settlement fee must be calculated as percentage of savings after settlement.	Tenn. Code Ann. § 47-18-5523(f)
Tex. Finance Code § 394.215	1) Actual and punitive damages, 2) injunctive and equitable relief, 3) attorney's fees and costs.	Texas	Max total fee of 17% of total debt, or 30% of savings after settlement + initial and monthly fees (together, not to exceed 20% of total debt)	Tex. Finance Code § 394.210(g)
Utah Code § 13-42-135	1) Actual, compensatory, punitive damages, 2) reasonable attorney's fees and costs.	Utah	Settlement fee must be calculated as percentage of savings after settlement.	Utah Code § 13-42123
8 V.S.A. § 2764	Restitution	Vermont	Initial fee: Max \$50.00 Monthly fee: < 10% of amount paid monthly on debts.	Vt. Stat. tit. 8 § 832762
Va. Code § 6.2-2023	1) Action to enforce the provision being violated, 2) attorney's fees and costs	Virginia	Initial fee: Max \$75 Monthly fee: < lesser of 15% of amount paid monthly on debts or \$60.	Va. Code § 6.2-2015
		Washington	Max total fee is 15% of total debt.	Wash. Rev. Code § 18.28.080
		West Virginia	Max total fee is 2% of amount deposited for distribution to creditors.	W. Va. Code § 61-1023
		Wisconsin	Initial fee: Max \$50 Monthly fee: < lesser of 10% of amount paid monthly on debts or \$120.	Wis. Admin. Code DFI-Bkg § 73.01

States that Ban Debt Settlement

Arkansas

Hawaii

Louisiana

Massachusetts

New Jersey

New Mexico

North Carolina

South Dakota

Wyoming