

## 2018 Kansas Statutes

**50-1120. Same; duties of licensee.** No person required to be licensed by this act shall engage in debt management services unless:

(a) The licensee has provided the consumer with a credit education program designed to improve the financial literacy of the consumer.

(b) The licensee has:

(1) (A) Taken reasonable steps to identify all creditors of a consumer; and

(B) prepared and provided to the consumer a written financial analysis of an initial budget plan for all of the consumer's debt obligations which indicates the consumer can reasonably meet the requirements set forth in the budget plan. For purposes of the initial budget plan, the licensee shall include all outstanding debt obligations as listed on the consumer's credit report as well as any debt obligations identified by the consumer; and

(2) provided to the consumer a list of each creditor the licensee reasonably expects:

(A) To participate in the debt management services agreement; and

(B) not to participate in the debt management services agreement.

(c) The licensee and the consumer have entered into a written debt management services agreement and a copy of the signed agreement has been provided to the consumer by the licensee. Such agreement shall be in at least 12 point type, signed and dated by the consumer and licensee and include:

(1) The full legal name, doing business as "dba" name, address and phone number of the licensee;

(2) the name, address and phone number of the consumer;

(3) a description of the debt management services to be provided to the consumer and an itemization of any fees to be charged to the consumer;

(4) a notice of the consumer's right to rescind the debt management services agreement at any time by giving written notice of rescission to the licensee;

(5) a schedule of payments, including the amount and due date of each payment, that the consumer must make to the licensee for disbursement to such consumer's creditors;

(6) a list of each participating creditor of the consumer to which payments will be made by the licensee under the debt management services agreement. The listing shall include the:

(A) Amount owed to each creditor;

(B) amount of each payment;

(C) date on which each payment will be made; and

(D) anticipated payoff date for each creditor;

(7) the name of each creditor that the licensee reasonably expects not to participate in the debt management services agreement;

(8) a disclosure that the licensee also may receive compensation from the consumer's creditors for providing debt management services to the consumer;

(9) a disclosure that the licensee may not, as a condition of entering into a debt management services agreement, require a consumer to purchase any other product or service, nor solicit or offer to sell any other product or service to the consumer during the term of the debt management services agreement;

(10) a disclosure that the licensee may not require a voluntary contribution from a consumer for any service provided by the licensee to the consumer;

(11) a disclosure that, by executing the debt management services agreement, the consumer authorizes any financial institution in which the licensee has established a trust account for the deposit of the consumer's funds to disclose to the commissioner any financial records relating to the trust account during the course of any investigation or examination by the commissioner; and

(12) a notice substantially similar to the following: "The Kansas Office of the State Bank Commissioner accepts questions and complaints from consumers regarding (name and license number of licensee) at 700 SW Jackson, Suite 300, Topeka, Kansas, 66603, or by calling toll-free 1-877-387-8523."

(d) All solicitations and published advertisements concerning a credit services organization directed at Kansas residents, including those on the internet or by other electronic means, shall contain the name and license number of the licensee on record with the commissioner. Each licensee shall maintain a record of all solicitations or advertisements for a period of 36 months. For purposes of this subsection, "advertising" does not include business cards or promotional items.

(e) No solicitation or advertisement shall contain false, misleading or deceptive information.

(f) No licensee shall conduct credit services organization business in this state using any name other than the name or names stated on its license.

**History:** L. 2004, ch. 22, § 5; L. 2017, ch. 52, § 16; July 1.