AADR | American Association for Debt Resolution

Providing Access to Debt Resolution in Oregon

Debt Resolution History in Oregon: In 2009, consumer protections and regulation of debt resolution companies didn't really exist at the state level or the federal level. That's when Oregon passed HB 2191. Legislation included amendments that established a 7.5% rate cap for debt resolution companies. The 7.5% fee cap applies to the percentage of savings that the consumer achieves through debt resolution.

What Changed: A year later, the federal government implemented even stronger protections to regulate the industry and protect consumers across the country. In 2010, under President Obama, the Federal Trade Commission's Telemarketing Sales Rule (TSR) introduced strong consumer protections to regulate the industry. The American Association for Debt Resolution (AADR) supported and participated in the crafting of the regulations. Key changes included the following provisions.

- ✓ Debt resolution companies are barred from assessing their customers any fees whatsoever until a resolution on an account has been reached for a consumer, the consumer has accepted the resolution, and the consumer has made a payment to the creditor towards the resolution.
- ✓ Debt resolution companies are prohibited from controlling or handling any customer funds. Instead, consumers maintain a separate, FDIC-insured bank account that they control at all times throughout a program. The consumer can take their money out of the settlement account at any time if they want to leave a debt resolution program.

Debt resolution is therefore one of the only products in the financial marketplace whose providers, by federal law, must deliver a resolution to their customers before they are legally permitted to collect a fee.

Oregon adopted legislation that may have made sense back in 2009 to protect consumers, but since that time, it has removed the debt resolution industry in the state. Since 2010, Oregon hasn't reviewed or updated legislation to address consumer needs and protections that were put in place at the federal level in 2010.

Why Debt Resolution Reform is Needed in Oregon: Since the adoption of the federal consumer protections, Oregon is one of the few states left that has a fee cap on the amount a debt resolution company can collect for successfully resolving a consumer's unsecured debt. As a result, virtually no debt resolution companies provide services in Oregon. Thousands of consumers with credit card and medical debt don't have assistance navigating that debt from a debt resolution company. This forces consumers in Oregon to turn to bankruptcy before they may be ready to choose such an option.

Oregon Can Solve That Problem and Provide Debt Resolution to Oregonians: Oregon can simply remove the fee cap and put into place consumer protections aligning with the Obama-era regulations that to regulate this industry and ensure access to debt resolution, with protections that work.

How Debt Resolution Reform Would Help Oregonians:

- ✓ Oregon ranks among the worst at helping consumers settle or resolve debt through debt resolution. Most states do not have statutory fee caps for debt resolution services.

- ✓ In Oregon, there were a total of only 343 debts settled through debt resolution in 2022. This number is strikingly low compared to similarly sized states where there are no fee caps. In Colorado there were 15,062 settlements, in Maryland there were 27,799 settlements in Arizona there were 32,280, and in Michigan there were 41,902 settlements.

- ✓ Many consumers find themselves in debt as a result of unforeseen life events. A dissolution of marriage or unexpected medical bills often put consumers in credit card debt. Removing the statutory fee cap on debt resolution services would help Oregonians in similar situations find financial relief.

- ✓ According to a 2022 report, on average debt resolution saves consumers $2.67 for every $1.00 in fees assessed. For example, if a consumer enrolls $25,000 of credit card debt in a debt resolution program, the average amount paid by the consumer including fees, interest, taxes and any programmatic costs is $19,780.

- ✓ By comparison, a consumer who enrolls their debt in credit counseling, which is an alternative to debt resolution that prohibits the reduction in principle, the average cost to a consumer to resolve the $25,000 in debt is $32,087. Alternatively, if that same consumer were to only pay minimum monthly payments, the cost to the consumer would be $57,793.

- ✓ Consumers in Oregon may turn to bankruptcy because debt resolution is not readily offered. Bankruptcy may ultimately be a consumer's best option depending on the individual circumstances, but many consumers would like the option to try debt resolution before getting to that point.

- ✓ Many states that had statutory fee caps in statute repealed the fee caps after the federal rules were adopted in 2010. For example, Colorado repealed its statutory fee cap of 18% of enrolled debt. Colorado subsequently conducted two sunset reviews of the fee cap repeal and declined to recommend putting it back. Additionally, Maryland conducted a study on whether a fee cap would benefit consumers. In a 2014 report to the legislature by the office of the commissioner of financial regulation and the consumer protection division of the Attorney General's Office, it was recommended that statutory fee caps were not necessary to protect consumers and limit access to debt resolution tools.

- ✓ Consumers who complete debt resolution programs have a less than 1 percent rate of falling back into debt again.

- ✓ As an industry, AADR partners with the Council for Economic Education to help advocate for increasing financial literacy.

How Debt Resolution Companies Help Consumers: Since the adoption of 2009, debt resolution hasn't occurred in Oregon. It is unfortunate, as there are thousands of Oregonians who would benefit from the choice of debt resolution as compared to credit counseling or bankruptcy. This is a brief description of how debt resolution works – and how it can help a consumer.

Step 1 -- A consumer applies for a debt resolution program: A consumer contacts a debt resolution company and speaks with an experienced consultant. The typical client owes over $25,000 in unsecured debt and is already behind on at least one and, in many cases, most of the seven or more accounts they hold. Debt resolution consumers are suffering severe financial hardship, such as a household loss of income, a medical event, or a life event like a divorce. Under FTC rules, the consumer pays nothing to enroll in a debt resolution program.

Step 2 -- The consumer is accepted into a debt resolution program: Following an underwriting process, the provider creates a personalized plan for the consumer based on their unique financial position. The consumer creates a separate bank account dedicated to addressing their debts; this account is always under the complete control of the consumer: debt resolution companies never touch consumer funds.

Step 3 -- The debt resolution company negotiates with the consumer's creditors: Once the consumer has set aside sufficient funds in their dedicated account, debt resolution specialists negotiate settlement offers with each of the client's creditors.

Step 4 -- The consumer considers a creditor's offer: When the debt resolution company obtains a settlement offer from a consumer's creditor, the consumer chooses whether to accept it or not. Consumers are not obligated to accept any settlement and, under FTC rules, can reject it without being charged anything. The average consumer's first account is settled four to six months after enrollment.

Step 5 -- The consumer's debt decreases: If the consumer accepts a settlement, payment to that creditor will be made from the consumer's dedicated account. Only when the consumer has made at least one payment in furtherance of a settlement offer will the consumer be charged a fee, and that fee may only be assessed for the one debt for which a settlement has been agreed.

Step 6 -- Repeat the process with the consumer's other creditors: The process restarts for each of the consumer's creditors until each account is settled. No fees are charged until the customer agrees to each settlement. Consumers can withdraw from the debt resolution process at any time, for any reason, without penalty – they are in control throughout the entire process.