
SUBSTITUTE HOUSE BILL 2383

State of Washington

62nd Legislature

2012 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Kelley, Dammeier, Kirby, Bailey, Ladenburg, Zeiger, and Jinkins)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to the definition of debt adjuster; amending RCW
2 18.28.010 and 18.28.080; and adding a new section to chapter 19.230
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 18.28.010 and 1999 c 151 s 101 are each amended to
6 read as follows:

7 Unless a different meaning is plainly required by the context, the
8 following words and phrases as hereinafter used in this chapter shall
9 have the following meanings:

10 (1) "Debt adjusting" means the managing, counseling, settling,
11 adjusting, prorating, or liquidating of the indebtedness of a debtor,
12 or receiving funds for the purpose of distributing said funds among
13 creditors in payment or partial payment of obligations of a debtor.

14 (2) "Debt adjuster", which includes any person known as a debt
15 pooler, debt manager, debt consolidator, debt prorater, or credit
16 counselor, is any person engaging in or holding himself or herself out
17 as engaging in the business of debt adjusting for compensation. The
18 term shall not include:

1 (a) Attorneys-at-law, escrow agents, accountants, broker-dealers in
2 securities, or investment advisors in securities, while performing
3 services solely incidental to the practice of their professions;

4 (b) Any person, partnership, association, or corporation doing
5 business under and as permitted by any law of this state or of the
6 United States relating to banks, consumer finance businesses, consumer
7 loan companies, trust companies, mutual savings banks, savings and loan
8 associations, building and loan associations, credit unions, crop
9 credit associations, development credit corporations, industrial
10 development corporations, title insurance companies, ~~((or))~~ insurance
11 companies, or third-party account administrators that provide payment
12 processing;

13 (c) Persons who, as employees on a regular salary or wage of an
14 employer not engaged in the business of debt adjusting, perform credit
15 services for their employer;

16 (d) Public officers while acting in their official capacities and
17 persons acting under court order;

18 (e) Any person while performing services incidental to the
19 dissolution, winding up or liquidation of a partnership, corporation,
20 or other business enterprise;

21 (f) Nonprofit organizations dealing exclusively with debts owing
22 from commercial enterprises to business creditors;

23 (g) Nonprofit organizations engaged in debt adjusting and which do
24 not assess against the debtor a service charge in excess of fifteen
25 dollars per month.

26 (3) "Debt adjusting agency" is any partnership, corporation, or
27 association engaging in or holding itself out as engaging in the
28 business of debt adjusting.

29 (4) "Financial institution" means any person doing business under
30 the laws of any state or the United States relating to commercial
31 banks, bank holding companies, savings banks, savings and loan
32 associations, trust companies, or credit unions.

33 (5) "Third-party account administrator" means an entity that holds
34 or administers a dedicated bank account for fees and payments to
35 creditors or debt collectors in connection with the renegotiation,
36 settlement, reduction, or other alteration of the terms of payment or
37 other terms of a debt.

1 **Sec. 2.** RCW 18.28.080 and 1999 c 151 s 102 are each amended to
2 read as follows:

3 (1) By contract a debt adjuster may charge a reasonable fee for
4 debt adjusting services. The total fee for debt adjusting services,
5 including any fee charged by a financial institution or a third-party
6 account administrator that provides payment processing, may not exceed
7 fifteen percent of the total debt listed by the debtor on the contract.
8 The fee retained by the debt adjuster from any one payment made by or
9 on behalf of the debtor may not exceed fifteen percent of the payment.
10 The debt adjuster may make an initial charge of up to twenty-five
11 dollars which shall be considered part of the total fee. If an initial
12 charge is made, no additional fee may be retained which will bring the
13 total fee retained to date to more than fifteen percent of the total
14 payments made to date. No fee whatsoever shall be applied against rent
15 and utility payments for housing.

16 In the event of cancellation or default on performance of the
17 contract by the debtor prior to its successful completion, the debt
18 adjuster may collect in addition to fees previously received, six
19 percent of that portion of the remaining indebtedness listed on said
20 contract which was due when the contract was entered into, but not to
21 exceed twenty-five dollars.

22 (2) A debt adjuster shall not be entitled to retain any fee until
23 notifying all creditors listed by the debtor that the debtor has
24 engaged the debt adjuster in a program of debt adjusting.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.230 RCW
26 to read as follows:

27 (1) A third-party account administrator that provides payment
28 processing must be licensed as a money transmitter under this chapter
29 and comply with the following additional requirements:

30 (a) A debtor's funds must be held in an account at an insured
31 financial institution;

32 (b) A debtor owns the funds held in the account and must be paid
33 accrued interest on the account, if any;

34 (c) A third-party account administrator may not be owned or
35 controlled by, or in any way affiliated with, a debt adjuster;

36 (d) A third-party account administrator may not give or accept any

1 money or other compensation in exchange for referrals of business
2 involving a debt adjuster;

3 (e) A debtor may withdraw from the service provided by a third-
4 party account administrator at any time without penalty and must
5 receive all funds in the account, other than funds earned by a debt
6 adjuster in compliance with chapter 18.28 RCW, within seven business
7 days of the debtor's request;

8 (f) A contract between a third-party account administrator and a
9 debtor must disclose in precise terms the rate and amount of all
10 charges and fees;

11 (g) The total fee for debt adjusting services, including any fee
12 charged by a financial institution or a third-party account
13 administrator, may not exceed fifteen percent of the total debt listed
14 by the debtor on the contract with the debt adjuster;

15 (h) A financial institution and third-party account administrator
16 shall distribute to the creditors of the debtor at least once each
17 forty days after receipt of payment at least eighty-five percent of the
18 payment received from the debtor;

19 (i) A financial institution or third-party account administrator
20 may only charge the debtor a fee after the debtor has made at least one
21 payment pursuant to a settlement agreement, debt management plan, or
22 other valid contractual agreement between the debtor and a debt
23 adjuster.

24 (2) A violation of this section constitutes an unfair or deceptive
25 act or practice in the conduct of trade or commerce under chapter 19.86
26 RCW.

27 (3) For purposes of this section:

28 (a) "Debt adjuster" has the same meaning as that term is defined in
29 RCW 18.28.010;

30 (b) "Third-party account administrator" means an entity that holds
31 or administers a dedicated bank account for fees and payments to
32 creditors or debt collectors in connection with the renegotiation,
33 settlement, reduction, or other alteration of the terms of payment or
34 other terms of a debt.

35 NEW SECTION. **Sec. 4.** If any provision of this act or its
36 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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