
HOUSE BILL 1572

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Parker, Kirby, Hudgins, Hurst, Vick, Riccelli, Ryu, and Ormsby

Read first time 01/31/13. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to nonprofit debt adjusters; amending RCW 18.28.080
2 and 18.28.120; and reenacting and amending RCW 18.28.010.

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

4 **Sec. 1.** RCW 18.28.010 and 2012 c 56 s 1 are each reenacted and
5 amended to read as follows:

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

9 (1) "Debt adjuster," which includes any person known as a debt
10 pooler, debt manager, debt consolidator, debt prorater, or credit
11 counselor, is any person engaging in or holding himself or herself out
12 as engaging in the business of debt adjusting for compensation. The
13 term shall not include:

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

17 (b) Any person, partnership, association, or corporation doing
18 business under and as permitted by any law of this state or of the
19 United States relating to banks, consumer finance businesses, consumer

1 loan companies, trust companies, mutual savings banks, savings and loan
2 associations, building and loan associations, credit unions, crop
3 credit associations, development credit corporations, industrial
4 development corporations, title insurance companies, insurance
5 companies, or third-party account administrators;

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

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

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

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

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

19 (2) "Debt adjusting" means the managing, counseling, settling,
20 adjusting, prorating, or liquidating of the indebtedness of a debtor,
21 or receiving funds for the purpose of distributing said funds among
22 creditors in payment or partial payment of obligations of a debtor.

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

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

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

36 (6) "Fair share" means the creditor contributions paid to nonprofit
37 debt adjusters by the creditors whose consumers receive debt adjusting

1 services from the nonprofit debt adjusters and pay down their debt
2 accordingly. "Fair share" does not include grants received by
3 nonprofit debt adjusters for services unrelated to debt adjusting.

4 **Sec. 2.** RCW 18.28.080 and 2012 c 56 s 2 are each amended to read
5 as follows:

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

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

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

28 (3) The department of financial institutions has authority to
29 enforce compliance with this section.

30 **Sec. 3.** RCW 18.28.120 and 1999 c 151 s 106 are each amended to
31 read as follows:

32 A debt adjuster shall not:

33 (1) Take any contract, or other instrument which has any blank
34 spaces when signed by the debtor;

35 (2) Receive or charge any fee in the form of a promissory note or

1 other promise to pay or receive or accept any mortgage or other
2 security for any fee, whether as to real or personal property;

3 (3) Lend money or credit;

4 (4) Take any confession of judgment or power of attorney to confess
5 judgment against the debtor or appear as the debtor in any judicial
6 proceedings;

7 (5) Take, concurrent with the signing of the contract or as a part
8 of the contract or as part of the application for the contract, a
9 release of any obligation to be performed on the part of the debt
10 adjuster;

11 (6) Advertise services, display, distribute, broadcast or televise,
12 or permit services to be displayed, advertised, distributed,
13 broadcasted or televised in any manner whatsoever wherein any false,
14 misleading or deceptive statement or representation with regard to the
15 services to be performed by the debt adjuster, or the charges to be
16 made therefor, is made;

17 (7) Offer, pay, or give any cash, fee, gift, bonus, premiums,
18 reward, or other compensation to any person for referring any
19 prospective customer to the debt adjuster;

20 (8) Receive any cash, fee, gift, bonus, premium, reward, or other
21 compensation, other than fair share, from any person other than the
22 debtor or a person in the debtor's behalf in connection with his or her
23 activities as a debt adjuster; or

24 (9) Disclose to anyone the debtors who have contracted with the
25 debt adjuster; nor shall the debt adjuster disclose the creditors of a
26 debtor to anyone other than: (a) The debtor; or (b) another creditor
27 of the debtor and then only to the extent necessary to secure the
28 cooperation of such a creditor in a debt adjusting plan.

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