

FINAL BILL REPORT

SHB 1283

C 167 L 15
Synopsis as Enacted

Brief Description: Concerning nonprofit organizations engaged in debt adjusting.

Sponsors: House Committee on Business & Financial Services (originally sponsored by Representatives Parker, Kirby and Vick).

House Committee on Business & Financial Services
Senate Committee on Financial Institutions & Insurance

Background:

Debt Adjusting Act.

Washington's Debt Adjusting Act (DAA) regulates the provision of debt adjusting services, which are defined as managing, counseling, settling, adjusting, pro-rating, or liquidating a debtor's indebtedness or receiving funds for distribution among creditors in payment of a debtor's obligations. A debt adjuster is a person who engages in debt adjusting for compensation and includes creditor counselors and debt settlement providers.

The contract between the debt adjuster and the debtor must contain various disclosures, including the debt adjuster's fees and must require the debt adjuster to notify the debtor if a creditor refuses to accept payment. The total fee for debt adjusting services is capped at 15 percent of the debtor's total debt; excess fees void the contract. The fee retained by a debt adjuster from any one payment made by a debtor may not exceed 15 percent of the payment. Before retaining the fee, the debt adjuster must notify all creditors that the debtor has engaged the debt adjuster's services.

A debt adjuster may not receive any cash, bonus, reward, or other compensation from a person other than a debtor or a person acting on the debtor's behalf in connection with his or her activities as a debt adjuster.

Violation of the DAA constitutes a misdemeanor offense, as well as an unfair or deceptive act or practice under the Consumer Protection Act. The Office of the Attorney General may investigate debt adjusting businesses and examine their books and records.

Exemptions from the DAA.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Numerous entities are exempt from regulation under the DAA. Among them are nonprofit organizations engaged in debt adjusting that charge debtors a fee of not more than \$15 per month.

Also exempt from the DAA are attorneys, escrow agents, accountants, investment advisors, banks, and consumer loan companies, among others.

Summary:

The prohibition against receiving compensation from any person other than the debtor excludes fair share, defined to mean creditor contributions paid to nonprofit debt adjusters by the creditors whose debtors receive debt adjusting services and pay down their debts accordingly. Fair share does not include grants received for services unrelated to debt adjusting. The fee retained by a debt adjuster from any one payment made by a debtor may not exceed 15 percent of the payment, not including fair share.

Nonprofit debt adjusters or nonprofit organizations exempt from regulation must submit a report to the Department of Financial Institutions (DFI) each year for two years beginning June 30, 2016. The report must contain the following information:

- the number and percentage of debtor clients who terminated or otherwise became inactive in debt adjusting services and what percentage of his or her debt each debtor settled;
- the total fees collected from Washington debtors; and
- the total fair share collected.

The report must also contain the following information for each debtor client:

- the date of contracting;
- the number of debts included in the contract;
- the principal amount of each debt at the time the contract was signed;
- the source of each debtor's obligations (e.g., credit card, student loan, medical debt);
- whether each debt is active, terminated, or settled;
- the settlement amount of the debt, if any, and the number and percentage of debtors who settled certain portions of their debt;
- the total fees charged to the debtor; and
- the organization's Form 990 submitted to the Internal Revenue Service or a statement of the organization's compensation provided to high-earning employees.

The DFI is required to summarize the information received, make the summary report public, and submit it to the Legislature by December 2016 and again by December 2017.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	48	0	(Senate receded)

Effective: July 24, 2015