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**SUBSTITUTE HOUSE BILL 1283**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Business & Financial Services (originally sponsored by Representatives Parker, Kirby, and Vick)

READ FIRST TIME 01/30/15.

1       AN ACT Relating to nonprofit organizations engaged in debt  
2 adjusting; amending RCW 18.28.080 and 18.28.120; reenacting and  
3 amending RCW 18.28.010; and adding a new section to chapter 18.28  
4 RCW.

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

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

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

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

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

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

1 consumer loan companies, trust companies, mutual savings banks,  
2 savings and loan associations, building and loan associations, credit  
3 unions, crop credit associations, development credit corporations,  
4 industrial development corporations, title insurance companies,  
5 insurance 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  
8 credit 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  
17 do not assess against the debtor a service charge in excess of  
18 fifteen 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) "Fair share" means the creditor contributions paid to  
27 nonprofit debt adjusters by the creditors whose consumers receive  
28 debt adjusting services from the nonprofit debt adjusters and pay  
29 down their debt accordingly. "Fair share" does not include grants  
30 received by nonprofit debt adjusters for services unrelated to debt  
31 adjusting.

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

36 ((+5))(6) "Third-party account administrator" means an  
37 independent entity that holds or administers a dedicated bank account  
38 for fees and payments to creditors, debt collectors, debt adjusters,  
39 or debt adjusting agencies in connection with the renegotiation,

1 settlement, reduction, or other alteration of the terms of payment or  
2 other terms of a debt.

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

5 (1) By contract a debt adjuster may charge a reasonable fee for  
6 debt adjusting services. The total fee for debt adjusting services,  
7 including, but not limited to, any fee charged by a financial  
8 institution or a third-party account administrator, may not exceed  
9 fifteen percent of the total debt listed by the debtor on the  
10 contract. The fee retained by the debt adjuster from any one payment  
11 made by or on behalf of the debtor may not exceed fifteen percent of  
12 the payment not including fair share contributions to a nonprofit  
13 debt adjuster. The debt adjuster may make an initial charge of up to  
14 twenty-five dollars which shall be considered part of the total fee.  
15 If an initial charge is made, no additional fee may be retained which  
16 will bring the total fee retained to date to more than fifteen  
17 percent of the total payments made to date. No fee whatsoever shall  
18 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  
36 other promise to pay or receive or accept any mortgage or other  
37 security for any fee, whether as to real or personal property;

38 (3) Lend money or credit;

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

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

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

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

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

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

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.28  
28 RCW to read as follows:

29 (1) Any nonprofit organization engaged in debt adjusting in this  
30 state or exempt from this chapter pursuant to RCW 18.28.010(1)(g)  
31 shall provide the following information to the department of  
32 financial institutions in a form prescribed by the department by June  
33 30, 2016, and again on June 30, 2017:

34 (a) The number and percentage of Washington debtors for whom the  
35 debt adjuster provides or provided debt adjusting services in the  
36 previous year who became inactive in, canceled, or terminated those  
37 services without settlement of all of the debtor's debts, by year of  
38 enrollment;

1 (b) The total fees collected from Washington debtors during the  
2 previous year;

3 (c) The total fair share contributions collected from creditors  
4 of Washington debtors during the previous year;

5 (d) For each debtor for whom the debt adjuster provides debt  
6 adjusting services:

7 (i) The date of contracting;

8 (ii) The number of debts included in the contract between the  
9 debt adjuster and the debtor;

10 (iii) The principal amount of each debt at the time the contract  
11 was signed;

12 (iv) The source of each debtor's obligation, categorized as  
13 credit card, student loans, auto, medical, small loans under chapter  
14 31.45 RCW, other secured debt, and other unsecured debt;

15 (v) Whether each debt is active, terminated, or settled;

16 (vi) If a debt has been settled, the settlement amount of the  
17 debt and the savings amount, calculated by subtracting the amount  
18 paid to settle the debt from the principal amount of the debt at the  
19 time the contract was signed; and

20 (vii) The total fees charged to the debtor and how the fees were  
21 calculated;

22 (e) For Washington debtors who became inactive in, canceled, or  
23 terminated debt adjuster services during the previous year, the  
24 number and percentage of debtors who, as measured by the aggregate  
25 amount of each debtor's enrolled debts:

26 (i) Settled zero percent of their enrolled debt;

27 (ii) Settled up to twenty-five percent of their enrolled debt;

28 (iii) Settled twenty-five percent to fifty percent of their  
29 enrolled debt;

30 (iv) Settled fifty-one percent to seventy-five percent of their  
31 enrolled debt;

32 (v) Settled seventy-six percent to ninety-nine percent of their  
33 enrolled debt;

34 (f) The number and percentage of Washington debtors for whom the  
35 debt adjuster provides or provided debt adjusting services in the  
36 previous three years who fully settled one hundred percent of their  
37 enrolled debt through those debt adjusting services, by year of  
38 enrollment; and

39 (g)(i) The nonprofit organization's form 990 submitted to the  
40 internal revenue service in the preceding year; or

1           (ii) A statement of previous year's base salary and other  
2 compensation of the nonprofit organization's officers, directors,  
3 trustees, and other employees and independent contractors receiving  
4 greater than one hundred fifty thousand dollars in total  
5 compensation, if the form 990 does not contain such information or if  
6 the organization did not submit a form 990 in the preceding year.

7           (2) The department of financial institutions shall make public  
8 and submit to the appropriate committees of the legislature a report  
9 summarizing the information received under subsection (1) of this  
10 section by December 1, 2016, and again on December 1, 2017.

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