
HOUSE BILL 1490

State of Washington

64th Legislature

2015 Regular Session

By Representatives Hudgins, Walkinshaw, Reykdal, Stanford, McBride, Fitzgibbon, Santos, Pollet, and Farrell

Read first time 01/21/15. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to protecting Washington seniors, veterans, and
2 other vulnerable consumers from out-of-state corporations by
3 establishing a fiduciary interest to the consumer on the part of
4 providers of debt adjusting services; amending RCW 18.28.080; adding
5 a new section to chapter 18.28 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that many
8 nonattorney debt adjustors providing their services to Washington
9 consumers are not currently domiciled in Washington state.

10 The legislature further finds that credit card debt significantly
11 affects seniors, military personnel, and low-income consumers.

12 The legislature further finds that Washington consumers have been
13 injured by debt adjuster practices including overcharging of fees and
14 misrepresentation of debt adjusting programs. The attorney general
15 and class action lawsuits on behalf of private citizens have secured
16 restitution for Washington consumers injured by those practices.
17 Certain debt adjusting companies are now barred from accepting new
18 clients in Washington state as a result.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.28
20 RCW to read as follows:

1 A debt adjuster has a fiduciary relationship with the debtor. For
2 the purposes of this section, the fiduciary duty means that the debt
3 adjuster has the following duties:

4 (1) A debt adjuster must act in the debtor's best interest and in
5 the utmost good faith toward the debtor, and shall disclose any and
6 all interests to the debtor including, but not limited to, interests
7 that may lie with the creditor that are used to facilitate a debtor's
8 request. A debt adjuster shall not accept, provide, or charge any
9 undisclosed compensation or realize any undisclosed remuneration that
10 inures to the benefit of the debt adjuster on an expenditure made for
11 the debtor;

12 (2) A debt adjuster must carry out all lawful instructions
13 provided by the debtor;

14 (3) A debt adjuster must disclose to the debtor all material
15 facts of which the debt adjuster has knowledge that might reasonably
16 affect the debtor's rights, interests, or ability to receive the
17 debtor's intended benefit from the debt adjusting services;

18 (4) A debt adjuster must use reasonable care in performing
19 duties; and

20 (5) A debt adjuster must provide an accounting to the debtor for
21 all money and property received from the debtor.

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

24 (1) By contract a debt adjuster may charge a reasonable fee for
25 debt adjusting services. The total fee for debt adjusting services,
26 including, but not limited to, any fee charged by a financial
27 institution or a third-party account administrator, may not exceed
28 fifteen percent of the total debt listed by the debtor on the
29 contract and must be disclosed to the debtor before the contract is
30 signed or services are provided. The fee retained by the debt
31 adjuster from any one payment made by or on behalf of the debtor may
32 not exceed fifteen percent of the payment. The debt adjuster may make
33 an initial charge of up to twenty-five dollars which shall be
34 considered part of the total fee. If an initial charge is made, no
35 additional fee may be retained which will bring the total fee
36 retained to date to more than fifteen percent of the total payments
37 made to date. No fee whatsoever shall be applied against rent and
38 utility payments for housing.

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

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

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

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