
Business & Financial Services Committee

HB 1572

Brief Description: Addressing nonprofit debt adjusters.

Sponsors: Representatives Parker, Kirby, Hudgins, Hurst, Vick, Riccelli, Ryu and Ormsby.

Brief Summary of Bill

- Permits a debt adjuster to receive fair share payments from a debtor's creditors.

Hearing Date: 2/13/13

Staff: Alexa Silver (786-7190).

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.

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.

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.

"Fair Share" Payments to Credit Counseling Agencies.

In addition to providing education and counseling on personal finances, credit counseling agencies develop and administer debt management plans for debtors. The credit counseling agency negotiates with creditors to obtain more favorable terms for the debtor, such as lower interest rates and fees. The debtor makes a monthly payment to the credit counseling agency, and the credit counseling agency distributes the payment to the creditors.

Creditors who participate in debt management plans make voluntary contributions to credit counseling agencies; these are termed "fair share" payments. Fair share payments are generally calculated as a percentage of the debtor's payment through the debt management plan, up to 15 percent. The Internal Revenue Code limits the amount of fair share payments that a nonprofit credit counseling agency may receive to 50 percent of the agency's total revenues.

Summary of Bill:

The prohibition against receiving compensation from any person other than the debtor excludes fair share. 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.

"Fair share" means the creditor contributions paid to nonprofit debt adjusters by the creditors whose consumers receive debt adjusting services and pay down their debts accordingly. "Fair share" does not include grants received for services unrelated to debt adjusting.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.