

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Seiler offered the following:

2  
3 **Amendment (with title amendment)**

4 On page 30, between lines 9 and 10, insert:

5 Section 21. Subsection (2) of section 817.801, Florida  
6 Statutes, is amended, and subsection (5) is added to said  
7 section, to read:

8 817.801 Definitions.--As used in this part:

9 (2) "Debt management services" means services provided to  
10 a debtor by a credit counseling organization for a fee to:

11 (a) Effect the adjustment, compromise, negotiation,  
12 settlement, or discharge of any unsecured account, note, or  
13 other indebtedness of the debtor; or

14 (b) Receive from the debtor and disburse to a creditor any  
15 money or other thing of value.

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16       (5) "Creditor contribution" means any sum that a creditor  
17 agrees to contribute to a credit counseling agency, whether  
18 directly or by setoff to amounts otherwise payable to the  
19 creditor on behalf of debtors. However, a creditor contribution  
20 may not reduce any sums to be credited to the account of a  
21 debtor making a payment to the credit counseling agency for  
22 further payment to the creditor.

23       Section 22. Section 817.802, Florida Statutes, is amended  
24 to read:

25       817.802 Unlawful fees and costs.--

26       (1) It is unlawful for any person, while engaging in debt  
27 management services or credit counseling services, to charge or  
28 accept from a debtor residing in this state, directly or  
29 indirectly, a fee or contribution greater than \$50 for the  
30 initial setup or initial consultation. Subsequently, the person  
31 may not charge or accept a fee or contribution from a debtor  
32 residing in this state greater than \$120 per year for additional  
33 consultations or, alternatively, if debt management services as  
34 defined in s. 817.801(2)(b) are provided, the person may charge  
35 the greater of 12 7.5 percent of the amount paid monthly by the  
36 debtor to the person or \$25 \$35 per month, not to exceed a total  
37 of \$50 per month.

38       (2) ~~No provision of~~ This section does not prohibit  
39 ~~prohibits~~ any person, while engaging in debt management or  
40 credit counseling services, from imposing upon and receiving  
41 from a debtor a reasonable and separate charge or fee for  
42 insufficient funds transactions.

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43 Section 23. Paragraph (a) of subsection (1) of section  
44 817.804, Florida Statutes, is amended to read:

45 817.804 Requirements; disclosure and financial  
46 reporting.--

47 (1) Any person engaged in debt management services or  
48 credit counseling services shall:

49 (a) Obtain from a certified public accountant licensed  
50 under s. 473.308 an annual audit that shall include ~~of~~ all  
51 accounts of such person in which the funds of debtors are  
52 deposited and from which payments are made to creditors on  
53 behalf of debtors.

54 Section 24. Section 817.805, Florida Statutes, is amended  
55 to read:

56 817.805 Disbursement of funds.--Any person engaged in debt  
57 management or credit counseling services shall disburse to the  
58 appropriate creditors all funds received from a debtor, less any  
59 fees permitted by s. 817.802 and any creditor contributions,  
60 within 30 days after receipt of such funds. Further, any person  
61 engaged in such services shall maintain a separate trust account  
62 for the receipt of any funds from debtors ~~each debtor~~ and the  
63 disbursement of such funds on behalf of such debtors ~~debtor~~.

64  
65 ===== T I T L E A M E N D M E N T =====

66 On page 3, line 19, after the semicolon, insert:

67  
68 amending s. 817.801, F.S.; revising the definition of debt  
69 management services; defining the term "creditor

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HOUSE AMENDMENT

Bill No. CS/CS/SB 370

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70 contribution"; amending s. 817.802, F.S.; revising the  
71 amount of fees or contributions that a debt manager or  
72 credit counselor may charge to certain debtors; amending  
73 s. 817.804, F.S.; revising an audit requirement for debt  
74 managers and credit counselors; amending s. 817.805, F.S.;  
75 excluding creditor contributions from certain funds  
76 disbursement requirements for debt managers and credit  
77 counselors;

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