

By Senator Aronberg

27-910A-06

See HB 667

1 A bill to be entitled
 2 An act relating to credit counseling services;
 3 amending s. 817.801, F.S.; revising and
 4 providing definitions; amending s. 817.802,
 5 F.S., relating to unlawful fees and costs;
 6 limiting application to certain debtors;
 7 amending s. 817.804, F.S.; revising annual
 8 audit requirements; amending s. 817.805, F.S.;
 9 including creditor contributions within an
 10 authorized deduction from requirements for
 11 disbursement of funds; providing an effective
 12 date.

14 Be It Enacted by the Legislature of the State of Florida:

16 Section 1. Section 817.801, Florida Statutes, is
 17 amended to read:

18 817.801 Definitions.--As used in this part:
 19 ~~(1)(4)~~ "Credit counseling agency" means any
 20 organization providing debt management services or credit
 21 counseling services.
 22 ~~(2)(1)~~ "Credit counseling services" means confidential
 23 money management, debt reduction, and financial educational
 24 services.
 25 (3) "Creditor contribution" means any sum that a
 26 creditor agrees to contribute to a credit counseling agency,
 27 whether directly or by setoff against amounts otherwise
 28 payable to the creditor on behalf of debtors. However, a
 29 creditor contribution may not reduce any sums to be credited
 30 to the account of a debtor making a payment to the credit
 31 counseling agency for further payment to the creditor.

1 ~~(4)(2)~~ "Debt management services" means services
2 provided to a debtor by a credit counseling organization for a
3 fee to:

4 (a) Effect the adjustment, compromise, or discharge of
5 any unsecured account, note, or other indebtedness of the
6 debtor; or

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

9 ~~(5)(3)~~ "Person" means any individual, corporation,
10 partnership, trust, association, or other legal entity.

11 Section 2. Section 817.802, Florida Statutes, is
12 amended to read:

13 817.802 Unlawful fees and costs.--

14 (1) It is unlawful for any person, while engaging in
15 debt management services or credit counseling services, to
16 charge or accept from a debtor residing in this state,
17 directly or indirectly, a fee or contribution greater than \$50
18 for the initial setup or initial consultation. Subsequently,
19 the person may not charge or accept a fee or contribution from
20 a debtor residing in this state greater than \$120 per year for
21 additional consultations or, alternatively, if debt management
22 services as defined in s. 817.801~~(4)(2)~~ (b) are provided, the
23 person may charge the greater of 7.5 percent of the amount
24 paid monthly by the debtor to the person or \$35 per month.

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

30 Section 3. Paragraph (a) of subsection (1) of section
31 817.804, Florida Statutes, is amended to read:

1 817.804 Requirements; disclosure and financial
2 reporting.--

3 (1) Any person engaged in debt management services or
4 credit counseling services shall:

5 (a) Obtain from a certified public accountant licensed
6 under s. 473.308 an annual audit that shall include ~~of~~ all
7 accounts of such person in which the funds of debtors are
8 deposited and from which payments are made to creditors on
9 behalf of debtors.

10 Section 4. Section 817.805, Florida Statutes, is
11 amended to read:

12 817.805 Disbursement of funds.--Any person engaged in
13 debt management or credit counseling services shall disburse
14 to the appropriate creditors all funds received from a debtor,
15 less any fees permitted by s. 817.802 and any creditor
16 contributions, within 30 days after receipt of such funds.
17 Further, any person engaged in such services shall maintain a
18 separate trust account for the receipt of any funds from
19 debtors ~~each debtor~~ and the disbursement of such funds on
20 behalf of such debtors ~~debtor~~.

21 Section 5. This act shall take effect July 1, 2006.
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