

A bill to be entitled

An act relating to credit counseling services; amending s. 817.801, F.S.; revising and providing definitions; amending s. 817.802, F.S., relating to unlawful fees and costs; limiting application to certain debtors; amending s. 817.804, F.S.; revising annual audit requirements; amending s. 817.805, F.S.; including creditor contributions within an authorized deduction from requirements for disbursement of funds; providing an effective date.

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

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

817.801 Definitions.--As used in this part:

(1)~~(4)~~ "Credit counseling agency" means any organization providing debt management services or credit counseling services.

(2)~~(1)~~ "Credit counseling services" means confidential money management, debt reduction, and financial educational services.

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

29 further payment to the creditor.

30 ~~(4)(2)~~ "Debt management services" means services provided
 31 to a debtor by a credit counseling organization for a fee to:

32 (a) Effect the adjustment, negotiation, settlement,
 33 compromise, or discharge of any unsecured account, note, or
 34 other indebtedness of the debtor; or

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

37 ~~(5)(3)~~ "Person" means any individual, corporation,
 38 partnership, trust, association, or other legal entity.

39 Section 2. Section 817.802, Florida Statutes, is amended
 40 to read:

41 817.802 Unlawful fees and costs.--

42 (1) It is unlawful for any person, while engaging in debt
 43 management services or credit counseling services, to charge or
 44 accept from a debtor residing in this state, directly or
 45 indirectly, a fee or contribution greater than \$50 for the
 46 initial setup or initial consultation. Subsequently, the person
 47 may not charge or accept a fee or contribution from a debtor
 48 residing in this state greater than \$120 per year for additional
 49 consultations or, alternatively, if debt management services as
 50 defined in s. 817.801~~(4)(2)~~(b) are provided, the person may
 51 charge the greater of 7.5 percent of the amount paid monthly by
 52 the debtor to the person or \$35 per month.

53 (2) ~~No provision of~~ This section does not prohibit
 54 ~~prohibits~~ any person, while engaging in debt management or
 55 credit counseling services, from imposing upon and receiving

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56 from a debtor a reasonable and separate charge or fee for
57 insufficient funds transactions.

58 Section 3. Paragraph (a) of subsection (1) of section
59 817.804, Florida Statutes, is amended to read:

60 817.804 Requirements; disclosure and financial
61 reporting.--

62 (1) Any person engaged in debt management services or
63 credit counseling services shall:

64 (a) Obtain from a certified public accountant licensed
65 under s. 473.308 an annual audit that shall include ~~of~~ all
66 accounts of such person in which the funds of debtors are
67 deposited and from which payments are made to creditors on
68 behalf of debtors.

69 Section 4. Section 817.805, Florida Statutes, is amended
70 to read:

71 817.805 Disbursement of funds.--Any person engaged in debt
72 management or credit counseling services shall disburse to the
73 appropriate creditors all funds received from a debtor, less any
74 fees permitted by s. 817.802 and any creditor contributions,
75 within 30 days after receipt of such funds. Further, any person
76 engaged in such services shall maintain a separate trust account
77 for the receipt of any funds from debtors ~~each debtor~~ and the
78 disbursement of such funds on behalf of such debtors ~~debtor~~.

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