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CHAMBER ACTION

1 The Economic Development, Trade & Banking Committee recommends
2 the following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

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

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 817.801, Florida Statutes, is amended
20 to read:

21 817.801 Definitions.--As used in this part:

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22 (1)~~(4)~~ "Credit counseling agency" means any organization
23 providing debt management services or credit counseling
24 services.

25 (2)~~(1)~~ "Credit counseling services" means confidential
26 money management, debt reduction, and financial educational
27 services.

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

35 (4)~~(2)~~ "Debt management services" means services provided
36 to a debtor by a credit counseling organization for a fee to:

37 (a) Effect the adjustment, compromise, or discharge of any
38 unsecured account, note, or other indebtedness of the debtor; or

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

41 (5)~~(3)~~ "Person" means any individual, corporation,
42 partnership, trust, association, or other legal entity.

43 Section 2. Section 817.802, Florida Statutes, is amended
44 to read:

45 817.802 Unlawful fees and costs.--

46 (1) It is unlawful for any person, while engaging in debt
47 management services or credit counseling services, to charge or
48 accept from a debtor residing in this state, directly or
49 indirectly, a fee or contribution greater than \$50 for the

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50 initial setup or initial consultation. Subsequently, the person
51 may not charge or accept a fee or contribution from a debtor
52 residing in this state greater than \$120 per year for additional
53 consultations or, alternatively, if debt management services as
54 defined in s. 817.801(4)(2)(b) are provided, the person may
55 charge the greater of 7.5 percent of the amount paid monthly by
56 the debtor to the person or \$35 per month.

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

62 Section 3. Paragraph (a) of subsection (1) of section
63 817.804, Florida Statutes, is amended to read:

64 817.804 Requirements; disclosure and financial
65 reporting.--

66 (1) Any person engaged in debt management services or
67 credit counseling services shall:

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

73 Section 4. Section 817.805, Florida Statutes, is amended
74 to read:

75 817.805 Disbursement of funds.--Any person engaged in debt
76 management or credit counseling services shall disburse to the
77 appropriate creditors all funds received from a debtor, less any

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78 | fees permitted by s. 817.802 and any creditor contributions,
79 | within 30 days after receipt of such funds. Further, any person
80 | engaged in such services shall maintain a separate trust account
81 | for the receipt of any funds from debtors ~~each debtor~~ and the
82 | disbursement of such funds on behalf of such debtors ~~debtor~~.

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