

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

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

14
 15 Section 1. Section 817.801, Florida Statutes, is amended
 16 to read:

17 817.801 Definitions.--As used in this part:

18 ~~(1)-(4)~~ "Credit counseling agency" means any organization
 19 providing debt management services or credit counseling
 20 services.

21 ~~(2)-(1)~~ "Credit counseling services" means confidential
 22 money management, debt reduction, and financial educational
 23 services.

24 (3) "Creditor contribution" means any sum that a creditor
 25 agrees to contribute to a credit counseling agency, whether
 26 directly or by setoff against amounts otherwise payable to the
 27 creditor on behalf of debtors.

28 (4)~~(2)~~ "Debt management services" means services provided
 29 to a debtor by a credit counseling organization for a fee to:

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

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

34 (5)~~(3)~~ "Person" means any individual, corporation,
 35 partnership, trust, association, or other legal entity.

36 Section 2. Section 817.802, Florida Statutes, is amended
 37 to read:

38 817.802 Unlawful fees and costs.--

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

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

55 Section 3. Paragraph (a) of subsection (1) of section
 56 817.804, Florida Statutes, is amended to read:

57 817.804 Requirements; disclosure and financial
 58 reporting.--

59 (1) Any person engaged in debt management services or
 60 credit counseling services shall:

61 (a) Obtain from a licensed certified public accountant
 62 ~~licensed under s. 473.308~~ an annual audit in accordance with
 63 generally accepted auditing standards that shall include ~~of~~ all
 64 accounts of such person in which the funds of debtors are
 65 deposited and from which payments are made to creditors on
 66 behalf of debtors.

67 Section 4. Section 817.805, Florida Statutes, is amended
 68 to read:

69 817.805 Disbursement of funds.--Any person engaged in debt
 70 management or credit counseling services shall disburse to the
 71 appropriate creditors all funds received from a debtor, less any
 72 fees permitted by s. 817.802 and any creditor contributions,
 73 within 30 days after receipt of such funds. However, a creditor
 74 contribution may not reduce any sums to be credited to the
 75 account of a debtor making a payment to the credit counseling
 76 agency for further payment to the creditor. Further, any person
 77 engaged in such services shall maintain a separate trust account
 78 for the receipt of any funds from debtors ~~each debtor~~ and the
 79 disbursement of such funds on behalf of such debtors ~~debtor~~.

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