

ENROLLED  
 HB 667, Engrossed 1

2006 Legislature

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.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

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 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.

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2006 Legislature

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.

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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.