

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1283

Chapter 167, Laws of 2015

64th Legislature
2015 Regular Session

DEBT ADJUSTING--NONPROFIT ORGANIZATIONS

EFFECTIVE DATE: 7/24/2015

Passed by the House March 10, 2015
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 21, 2015
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved May 6, 2015 2:28 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1283** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 6, 2015

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1283

Passed Legislature - 2015 Regular Session

State of Washington

64th Legislature

2015 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Parker, Kirby, and Vick)

READ FIRST TIME 01/30/15.

1 AN ACT Relating to nonprofit organizations engaged in debt
2 adjusting; amending RCW 18.28.080 and 18.28.120; reenacting and
3 amending RCW 18.28.010; and adding a new section to chapter 18.28
4 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 18.28.010 and 2012 c 56 s 1 are each reenacted and
7 amended to read as follows:

8 Unless a different meaning is plainly required by the context,
9 the following words and phrases as hereinafter used in this chapter
10 shall have the following meanings:

11 (1) "Debt adjuster," which includes any person known as a debt
12 pooler, debt manager, debt consolidator, debt prorater, or credit
13 counselor, is any person engaging in or holding himself or herself
14 out as engaging in the business of debt adjusting for compensation.
15 The term shall not include:

16 (a) Attorneys-at-law, escrow agents, accountants, broker-dealers
17 in securities, or investment advisors in securities, while performing
18 services solely incidental to the practice of their professions;

19 (b) Any person, partnership, association, or corporation doing
20 business under and as permitted by any law of this state or of the
21 United States relating to banks, consumer finance businesses,

1 consumer loan companies, trust companies, mutual savings banks,
2 savings and loan associations, building and loan associations, credit
3 unions, crop credit associations, development credit corporations,
4 industrial development corporations, title insurance companies,
5 insurance companies, or third-party account administrators;

6 (c) Persons who, as employees on a regular salary or wage of an
7 employer not engaged in the business of debt adjusting, perform
8 credit services for their employer;

9 (d) Public officers while acting in their official capacities and
10 persons acting under court order;

11 (e) Any person while performing services incidental to the
12 dissolution, winding up or liquidation of a partnership, corporation,
13 or other business enterprise;

14 (f) Nonprofit organizations dealing exclusively with debts owing
15 from commercial enterprises to business creditors;

16 (g) Nonprofit organizations engaged in debt adjusting and which
17 do not assess against the debtor a service charge in excess of
18 fifteen dollars per month.

19 (2) "Debt adjusting" means the managing, counseling, settling,
20 adjusting, prorating, or liquidating of the indebtedness of a debtor,
21 or receiving funds for the purpose of distributing said funds among
22 creditors in payment or partial payment of obligations of a debtor.

23 (3) "Debt adjusting agency" is any partnership, corporation, or
24 association engaging in or holding itself out as engaging in the
25 business of debt adjusting.

26 (4) "Fair share" means the creditor contributions paid to
27 nonprofit debt adjusters by the creditors whose consumers receive
28 debt adjusting services from the nonprofit debt adjusters and pay
29 down their debt accordingly. "Fair share" does not include grants
30 received by nonprofit debt adjusters for services unrelated to debt
31 adjusting.

32 (5) "Financial institution" means any person doing business under
33 the laws of any state or the United States relating to commercial
34 banks, bank holding companies, savings banks, savings and loan
35 associations, trust companies, or credit unions.

36 ((+5))(6) "Third-party account administrator" means an
37 independent entity that holds or administers a dedicated bank account
38 for fees and payments to creditors, debt collectors, debt adjusters,
39 or debt adjusting agencies in connection with the renegotiation,

1 settlement, reduction, or other alteration of the terms of payment or
2 other terms of a debt.

3 **Sec. 2.** RCW 18.28.080 and 2012 c 56 s 2 are each amended to read
4 as follows:

5 (1) By contract a debt adjuster may charge a reasonable fee for
6 debt adjusting services. The total fee for debt adjusting services,
7 including, but not limited to, any fee charged by a financial
8 institution or a third-party account administrator, may not exceed
9 fifteen percent of the total debt listed by the debtor on the
10 contract. The fee retained by the debt adjuster from any one payment
11 made by or on behalf of the debtor may not exceed fifteen percent of
12 the payment not including fair share contributions to a nonprofit
13 debt adjuster. The debt adjuster may make an initial charge of up to
14 twenty-five dollars which shall be considered part of the total fee.
15 If an initial charge is made, no additional fee may be retained which
16 will bring the total fee retained to date to more than fifteen
17 percent of the total payments made to date. No fee whatsoever shall
18 be applied against rent and utility payments for housing.

19 In the event of cancellation or default on performance of the
20 contract by the debtor prior to its successful completion, the debt
21 adjuster may collect in addition to fees previously received, six
22 percent of that portion of the remaining indebtedness listed on said
23 contract which was due when the contract was entered into, but not to
24 exceed twenty-five dollars.

25 (2) A debt adjuster shall not be entitled to retain any fee until
26 notifying all creditors listed by the debtor that the debtor has
27 engaged the debt adjuster in a program of debt adjusting.

28 (3) The department of financial institutions has authority to
29 enforce compliance with this section.

30 **Sec. 3.** RCW 18.28.120 and 1999 c 151 s 106 are each amended to
31 read as follows:

32 A debt adjuster shall not:

33 (1) Take any contract, or other instrument which has any blank
34 spaces when signed by the debtor;

35 (2) Receive or charge any fee in the form of a promissory note or
36 other promise to pay or receive or accept any mortgage or other
37 security for any fee, whether as to real or personal property;

38 (3) Lend money or credit;

1 (4) Take any confession of judgment or power of attorney to
2 confess judgment against the debtor or appear as the debtor in any
3 judicial proceedings;

4 (5) Take, concurrent with the signing of the contract or as a
5 part of the contract or as part of the application for the contract,
6 a release of any obligation to be performed on the part of the debt
7 adjuster;

8 (6) Advertise services, display, distribute, broadcast or
9 televise, or permit services to be displayed, advertised,
10 distributed, broadcasted or televised in any manner whatsoever
11 wherein any false, misleading or deceptive statement or
12 representation with regard to the services to be performed by the
13 debt adjuster, or the charges to be made therefor, is made;

14 (7) Offer, pay, or give any cash, fee, gift, bonus, premiums,
15 reward, or other compensation to any person for referring any
16 prospective customer to the debt adjuster;

17 (8) Receive any cash, fee, gift, bonus, premium, reward, or other
18 compensation, other than fair share contributions to a nonprofit debt
19 adjuster, from any person other than the debtor or a person in the
20 debtor's behalf in connection with his or her activities as a debt
21 adjuster; or

22 (9) Disclose to anyone the debtors who have contracted with the
23 debt adjuster; nor shall the debt adjuster disclose the creditors of
24 a debtor to anyone other than: (a) The debtor; or (b) another
25 creditor of the debtor and then only to the extent necessary to
26 secure the cooperation of such a creditor in a debt adjusting plan.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.28
28 RCW to read as follows:

29 (1) Any nonprofit organization engaged in debt adjusting in this
30 state or exempt from this chapter pursuant to RCW 18.28.010(1)(g)
31 shall provide the following information to the department of
32 financial institutions in a form prescribed by the department by June
33 30, 2016, and again on June 30, 2017:

34 (a) The number and percentage of Washington debtors for whom the
35 debt adjuster provides or provided debt adjusting services in the
36 previous year who became inactive in, canceled, or terminated those
37 services without settlement of all of the debtor's debts, by year of
38 enrollment;

1 (b) The total fees collected from Washington debtors during the
2 previous year;

3 (c) The total fair share contributions collected from creditors
4 of Washington debtors during the previous year;

5 (d) For each debtor for whom the debt adjuster provides debt
6 adjusting services:

7 (i) The date of contracting;

8 (ii) The number of debts included in the contract between the
9 debt adjuster and the debtor;

10 (iii) The principal amount of each debt at the time the contract
11 was signed;

12 (iv) The source of each debtor's obligation, categorized as
13 credit card, student loans, auto, medical, small loans under chapter
14 31.45 RCW, other secured debt, and other unsecured debt;

15 (v) Whether each debt is active, terminated, or settled;

16 (vi) If a debt has been settled, the settlement amount of the
17 debt and the savings amount, calculated by subtracting the amount
18 paid to settle the debt from the principal amount of the debt at the
19 time the contract was signed; and

20 (vii) The total fees charged to the debtor and how the fees were
21 calculated;

22 (e) For Washington debtors who became inactive in, canceled, or
23 terminated debt adjuster services during the previous year, the
24 number and percentage of debtors who, as measured by the aggregate
25 amount of each debtor's enrolled debts:

26 (i) Settled zero percent of their enrolled debt;

27 (ii) Settled up to twenty-five percent of their enrolled debt;

28 (iii) Settled twenty-five percent to fifty percent of their
29 enrolled debt;

30 (iv) Settled fifty-one percent to seventy-five percent of their
31 enrolled debt;

32 (v) Settled seventy-six percent to ninety-nine percent of their
33 enrolled debt;

34 (f) The number and percentage of Washington debtors for whom the
35 debt adjuster provides or provided debt adjusting services in the
36 previous three years who fully settled one hundred percent of their
37 enrolled debt through those debt adjusting services, by year of
38 enrollment; and

39 (g)(i) The nonprofit organization's form 990 submitted to the
40 internal revenue service in the preceding year; or

1 (ii) A statement of previous year's base salary and other
2 compensation of the nonprofit organization's officers, directors,
3 trustees, and other employees and independent contractors receiving
4 greater than one hundred fifty thousand dollars in total
5 compensation, if the form 990 does not contain such information or if
6 the organization did not submit a form 990 in the preceding year.
7 (2) The department of financial institutions shall make public
8 and submit to the appropriate committees of the legislature a report
9 summarizing the information received under subsection (1) of this
10 section by December 1, 2016, and again on December 1, 2017.

Passed by the House March 10, 2015.
Passed by the Senate April 21, 2015.
Approved by the Governor May 6, 2015.
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