
SUBSTITUTE SENATE BILL 5485

State of Washington

64th Legislature

2015 Regular Session

By Senate Financial Institutions & Insurance (originally sponsored by Senators Hobbs and Benton)

READ FIRST TIME 02/13/15.

1 AN ACT Relating to debt adjusters; amending RCW 18.28.080 and
2 18.28.120; and reenacting and amending RCW 18.28.010.

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

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

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

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

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

17 (b) Any person, partnership, association, or corporation doing
18 business under and as permitted by any law of this state or of the
19 United States relating to banks, consumer finance businesses,
20 consumer loan companies, trust companies, mutual savings banks,
21 savings and loan associations, building and loan associations, credit

1 unions, crop credit associations, development credit corporations,
2 industrial development corporations, title insurance companies,
3 insurance companies, or third-party account administrators;

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

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

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

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

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

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

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

24 (4) "Financial institution" means any person doing business under
25 the laws of any state or the United States relating to commercial
26 banks, bank holding companies, savings banks, savings and loan
27 associations, trust companies, or credit unions.

28 (5) "Third-party account administrator" means an independent
29 entity that holds or administers a dedicated bank account for fees
30 and payments to creditors, debt collectors, debt adjusters, or debt
31 adjusting agencies in connection with the renegotiation, settlement,
32 reduction, or other alteration of the terms of payment or other terms
33 of a debt.

34 (6) "Fair share" means the creditor contributions paid to debt
35 adjusters by the creditors whose consumers receive debt adjusting
36 services from the debt adjusters and pay down their debt accordingly.
37 "Fair share" does not include grants received by debt adjusters for
38 services unrelated to debt adjusting.

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

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

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

23 (2) A debt adjuster who receives fair share must disclose this in
24 writing, along with an explanation of fair share, to the debtor prior
25 to accepting any fair share.

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

29 (~~(3)~~) (4) The department of financial institutions has
30 authority to enforce compliance with this section.

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

33 A debt adjuster shall not:

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

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

39 (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, from any person other than the
19 debtor or a person in the debtor's behalf in connection with his or
20 her activities as a debt adjuster; or

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

--- END ---