

House Research Act Summary

CHAPTER: 91

SESSION: 2013 Regular Session

TOPIC: Provision of Services to Debtors

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Overview

This bill involves two types of businesses that provide services to debtors. Debt *management* services involves receiving funds from a debtor under chapter 332A and distributing them to the debtor's creditors under an agreement to pay off the debts over an extended period of time. Debt *settlement* services under chapter 332B, in contract, involves attempts to negotiate with a debtor's creditors to reduce the amount of debt, rather than just spreading out the payments over time. Sections 1 and 2 involve debt management services, and sections 3 to 8 involve debt settlement services.

Section

- 1** **Definitions.** Adjusts the definition of "debt management services provider" to exclude "exempt attorneys at law."
- 2** **Exempt attorney at law.** Defines an exempt attorney at law as an attorney authorized to practice law in the state whose exclusive or principal practice does not involve providing debt management services and who does not have a business relationship with a debt management services provider that involves providing debt management services.
- 3** **Debt settlement services provider.** Updates current law on debt settlement services by adding a reference to exempt attorneys at law.
- 4** **Exempt attorney at law.** Defines an exempt attorney at law for purposes of debt settlement services as an attorney authorized to practice law in the state whose principal practice does not involve debt settlement services and who does not have a business relationship with a debt settlement services provider.

Section

- 5** **Written agreements.** Amends current law to allow for written agreements for debt settlement services in a language other than the debtor's primary language if mutually agreed upon.
- 6** **Disclosures.** Amends current law to allow for disclosures regarding debt settlement services to be written in a language other than the debtor's primary language if mutually agreed upon.
- 7** **Fees.** Amends current law by requiring that fees negotiated under a debt settlement services agreement be either 15 percent of the aggregate debt calculated under a percentage of debt basis, or 30 percent of the savings actually negotiated by the service provider on a percentage of savings basis. For the latter, savings should be calculated as the difference between the aggregate debt that is stated in the debt settlement services agreement at the time of its execution and the total amount that the debtor actually pays to settle all debts included in the agreement. Only savings actually negotiated by the services provider will be used to calculate this figure.

This section also amends the law regarding collection of fees associated with a contract for debt settlement services agreements. Under this bill, the debt settlement services provider cannot collect any payments under an agreement until the provider has performed all services contained in the agreement, as well as any other services that the provider has agreed to perform. If the agreement contains multiple debts, the provider can collect fees only in proportion to the aggregate debt that the individual settled debt represents.

- 8** **Effective date.** Makes sections 5 to 7 effective for debt settlement services agreements entered into on or after August 1, 2013. The remaining sections are also effective on August 1, 2013.