

HCS SCS SB 216 -- DEBT SETTLEMENT PROVIDERS

SPONSOR: Scott (Cunningham)

COMMITTEE ACTION: Voted "do pass" by the Committee on Financial Institutions by a vote of 13 to 0.

This substitute changes the laws regarding debt settlement providers. In its main provisions, the substitute:

- (1) Requires a debt settlement provider to only provide debt settlement services for compensation under a debt settlement plan;
- (2) Defines "debt settlement services" as the negotiation, settlement, or alteration of the terms of payment of a consumer's unsecured debt with the consumer's creditor with or without receiving or holding money from a consumer for the purpose of distributing that money to the creditor;
- (3) Exempts debt adjusters from the definition of "debt settlement provider" if the debt settlement service it provides to a debtor contemplates that creditors will settle debts for less than the principal amount of the debt enrolled in a debt settlement plan;
- (4) Prohibits the provider from charging more than 4% of the principal amount of the debt for an enrollment or set-up fee and more than 20% of the principal amount of the debt in aggregate fees. The balance will be collected in equal payments over a period determined by the provider as long as the last payment is due no sooner than the median month in the plan. Upon completion of the plan, the aggregate fees cannot exceed the amount the plan reduces the principal amount of the debt originally enrolled in the plan. The debtor may voluntarily prepay fees, and the provider may collect fees on a pro rata basis once the provider obtains reasonable offers of settlement from any creditors;
- (5) Requires the provider to maintain a separate trust account for handling the funds with a depository institution insured by the Federal Deposit Insurance Corporation when providers establish plans where the provider receives or holds the debtor's money for distribution;
- (6) Requires a provider to carry aggregate liability insurance in the amount of at least \$1 million; and
- (7) Authorizes the Attorney General to enforce the provisions of the substitute and allows injunctions and orders for restitution to be issued for violations.

FISCAL NOTE: No impact on state funds in FY 2010, FY 2011, and FY 2012.

PROPONENTS: Supporters say that the bill will regulate debt settlement providers and help consumers who are having financial difficulties.

Testifying for the bill was Senator Scott.

OPPONENTS: There was no opposition voiced to the committee.