

HB 661 -- DEBT ADJUSTERS (Wells)

COMMITTEE OF ORIGIN: Committee on Financial Institutions

This bill changes the laws regarding debt adjusters. In its main provisions, the bill:

- (1) Defines "debt relief services" as any program or service represented, directly or implied, to renegotiate, alter, or settle the terms of a debt between a debtor and any creditors or debt collectors;
- (2) Defines "debt settlement plan" as a written agreement or contract between a debt adjuster and a debtor where the debt adjuster, in return for payment, provides debt relief services that contemplates that creditors will settle the debt for less than the principal amount;
- (3) Specifies that any person acting as a debt adjuster other than under a debt management or debt settlement plan will be guilty of a misdemeanor upon conviction;
- (4) Allows any individual or organization to administer a debt management or debt settlement plan free of charge;
- (5) Requires a debt adjuster to be bonded for the benefit of any debtor damaged by the debt adjuster's breach of the debt management or debt settlement plan or for his or her failure to properly administer debtor funds;
- (6) Requires a debt adjuster to disclose truthfully, in a clear and conspicuous manner, prior to a debtor consenting to pay for goods or services offered, the amount of time required to complete his or her services, the amount of money the debtor needs to accumulate before a debt adjuster will make a settlement offer to a creditor or collector, that the use of the debt relief service will likely adversely affect the debtor's creditworthiness and cost more money, that any funds required to be placed in an account for payment of debts are the debtor's funds that can be withdrawn from the debt relief service at any time without penalty, and that all funds in a debtor's account must be returned to the debtor within seven business days upon request excluding any funds earned by the debt adjuster;
- (7) Prohibits a debt adjuster from receiving any payment for any services until and unless he or she has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt under a debt management or debt settlement plan and the debtor has made at least one payment under the plan; and

(8) Requires the fee for settling each individual debt enrolled in a debt settlement plan to be in proportion to the total fee for settling the entire debt and to be a percentage of the amount saved as a result of the settlement.

FISCAL NOTE: No impact on state funds in FY 2012, FY 2013, and FY 2014.