

SCS HB 661 -- DEBT ADJUSTERS

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

(1) Revises the definition of "debt adjuster" to be a person who provides or offers to provide debt relief services for a consideration. It does not require the person to collect funds from a debtor and deliver them to the debtor's creditors (Section 425.010.1, RSMo);

(2) 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 (Section 425.010.4);

(3) 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 (Section 425.010.5);

(4) 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 (Section 425.020);

(5) Allows any individual or organization to administer a debt management or debt settlement plan free of charge (Section 425.025);

(6) Removes a provision requiring a debt adjuster to provide a blanket bond in an amount of \$100,000 and a copy of the bond to be filed with the Director of the Division of Finance within the Department of Insurance, Financial Institutions and Professional Registration and instead requires each initial license application to be accompanied by a surety bond in the principal sum of \$50,000 if the applicant declares that the operation will handle no consumer moneys or a surety bond of \$100,000 otherwise. A debt adjuster must 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 (Section 425.027);

(7) 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 necessary to achieve the represented results, the amount of money or the percentage of each outstanding debt the debtor needs to accumulate before the 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, excluding any funds earned by the debt adjuster, must be returned to the debtor within seven business days upon request if the debtor withdraws from the debt relief service (Section 425.043.1); and

(8) 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. The fee for settling each individual debt enrolled in a debt settlement plan must be in proportion to the total fee for settling the entire debt or must be a percentage of the amount saved as a result of the settlement (Section 425.043.3).