

House Bill No. 667

An act relating to credit counseling services; amending s. 817.801, F.S.; revising and providing definitions; amending s. 817.802, F.S., relating to unlawful fees and costs; limiting application to certain debtors; amending s. 817.804, F.S.; revising annual audit requirements; amending s. 817.805, F.S.; including creditor contributions within an authorized deduction from requirements for disbursement of funds; providing a limitation on creditor contributions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 817.801, Florida Statutes, is amended to read:

817.801 Definitions.—As used in this part:

~~(1)~~~~(4)~~ “Credit counseling agency” means any organization providing debt management services or credit counseling services.

~~(2)~~~~(1)~~ “Credit counseling services” means confidential money management, debt reduction, and financial educational services.

~~(3)~~ “Creditor contribution” means any sum that a creditor agrees to contribute to a credit counseling agency, whether directly or by setoff against amounts otherwise payable to the creditor on behalf of debtors.

~~(4)~~~~(2)~~ “Debt management services” means services provided to a debtor by a credit counseling organization for a fee to:

(a) Effect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor; or

(b) Receive from the debtor and disburse to a creditor any money or other thing of value.

~~(5)~~~~(3)~~ “Person” means any individual, corporation, partnership, trust, association, or other legal entity.

Section 2. Section 817.802, Florida Statutes, is amended to read:

817.802 Unlawful fees and costs.—

(1) It is unlawful for any person, while engaging in debt management services or credit counseling services, to charge or accept from a debtor residing in this state, directly or indirectly, a fee or contribution greater than \$50 for the initial setup or initial consultation. Subsequently, the person may not charge or accept a fee or contribution from a debtor residing in this state greater than \$120 per year for additional consultations or, alternatively, if debt management services as defined in s. 817.801~~(4)~~~~(2)~~(b) are provided, the person may charge the greater of 7.5 percent of the amount paid monthly by the debtor to the person or \$35 per month.

(2) ~~No provision of~~ This section ~~does not prohibit~~ prohibits any person, while engaging in debt management or credit counseling services, from imposing upon and receiving from a debtor a reasonable and separate charge or fee for insufficient funds transactions.

Section 3. Paragraph (a) of subsection (1) of section 817.804, Florida Statutes, is amended to read:

817.804 Requirements; disclosure and financial reporting.—

(1) Any person engaged in debt management services or credit counseling services shall:

(a) Obtain from a licensed certified public accountant ~~licensed under s. 473.308~~ an annual audit in accordance with generally accepted auditing standards that shall include of all accounts of such person in which the funds of debtors are deposited and from which payments are made to creditors on behalf of debtors.

Section 4. Section 817.805, Florida Statutes, is amended to read:

817.805 Disbursement of funds.—Any person engaged in debt management or credit counseling services shall disburse to the appropriate creditors all funds received from a debtor, less any fees permitted by s. 817.802 and any creditor contributions, within 30 days after receipt of such funds. However, a creditor contribution may not reduce any sums to be credited to the account of a debtor making a payment to the credit counseling agency for further payment to the creditor. Further, any person engaged in such services shall maintain a separate trust account for the receipt of any funds from debtors ~~each debtor~~ and the disbursement of such funds on behalf of such debtors ~~debtor~~.

Section 5. This act shall take effect July 1, 2006.

Approved by the Governor June 9, 2006.

Filed in Office Secretary of State June 9, 2006.