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HOUSE FLOOR AMENDMENTS

Amendments proposed by Representative Ponti to Engrossed House Bill No. 567 by Representative Ponti

1 AMENDMENT NO. 1

2 On page 3, line 13, after "exceed" and before "dollars." change "one thousand five hundred"
3 to "three thousand"

4 AMENDMENT NO. 2

5 On page 3, line 15, after "funds" and before "for" change "under management" to "held by"
6 "a provider"

7 AMENDMENT NO. 3

8 On page 5, line 27, after "exceed" change "one thousand five hundred" to "three thousand"

9 AMENDMENT NO. 4

10 On page 6, line 2, after "its" and before "application" change "immediately previous" to
11 "most recent prior"

12 AMENDMENT NO. 5

13 On page 7, at the end of line 27, change "interests." to "interest."

14 AMENDMENT NO. 6

15 On page 8, at the end of line 15, after "individual" and before the period "._" insert "and"
16 "perform an individualize financial analysis that considers the individual's monthly income"
17 "and expenses"

18 AMENDMENT NO. 7

19 On page 10, line 17, after "in the" and before "interest" delete "net"

20 AMENDMENT NO. 8

21 On page 10, after line 28, insert the following:

22 "(6) Maintain records detailing the amounts and sources of all
23 compensation received from any third party that are attributable, directly or
24 indirectly, to debt management services provided to individuals. The records
25 shall be subject to disclosure to and examination by the attorney general upon
26 his written request."

27 AMENDMENT NO. 9

28 On page 11, at the end of line 4, after "month." insert the following:

1 "However, the monthly service fee shall be reduced by the pro rata amount
2 of any compensation received from any third party that is attributable,
3 directly or indirectly, to the debt management services provided to the
4 individual."

5 AMENDMENT NO. 10

6 On page 11, between lines 15 and 16, insert the following:

7 "(d) The provider has performed a financial analysis of the
8 individual's financial condition that considers the individual's monthly
9 income and expenses and provided information regarding actions the
10 individual should take."

11 AMENDMENT NO. 11

12 On page 11, at the end of line 21, after "service." insert the following:

13 "This fee shall be limited to thirty percent of the amounts owed at the time
14 the debt was enrolled in the debt relief service."

15 AMENDMENT NO. 12

16 On page 11, at the end of line 26, after "debt." insert the following:

17 "This fee shall be limited to forty-five percent of the amount saved as a result
18 of the settlement of each debt."

19 AMENDMENT NO. 13

20 On page 12, at the end of line 20, after "services" insert a semicolon ";" and insert "recovery"

21 AMENDMENT NO. 14

22 On page 12, at the beginning of line 21, before "An" change "A." to "A.(1)"

23 AMENDMENT NO. 15

24 On page 12, delete lines 24 through 26 in their entirety.

25 AMENDMENT NO. 16

26 On page 12, at the beginning of line 27, before "The" change "C." to "(2)"

27 AMENDMENT NO. 17

28 On page 13, between lines 2 and 3, insert the following:

29 "B.(1) If a provider is not registered pursuant to the provisions of this
30 Chapter when an individual assents to an agreement, the agreement is
31 voidable by the individual.

32 (2) If an individual voids an agreement as provided for in this
33 Subsection, the provider shall not have a claim against the individual for
34 breach of contract or for restitution.

35 (3) If an individual voids an agreement as provided for in this
36 Subsection, the individual may recover, in a civil action, all money paid or
37 deposited by or on behalf of the individual pursuant to the agreement except
38 amounts paid to creditors, the recovery of treble damages, and reasonable
39 attorney fees and costs.

1 C.(1) If a provider imposes a fee or other charge or receives money
2 or other payments not authorized by this Chapter, the individual may void the
3 agreement.

4 (2) If an individual voids an agreement as provided for in this
5 Subsection, the individual may recover, in a civil action, three times the total
6 amount of the fees, charges, money, and payments made by the individual to
7 the provider, and reasonable attorney fees and costs.

8 D. An individual who seeks to recover damages, attorney fees or
9 costs from a provider as provided for in this Section may petition the attorney
10 general for release of the bond to make a claim as provided for in R.S.
11 51:1450.2(C)(2)."

12 AMENDMENT NO. 18

13 On page 14, line 16, after "(12)" and before "that" change "Misrepresent" to "Represent"

14 AMENDMENT NO. 19

15 On page 14, at the end of line 25, after "plan" and before the period "." insert a semicolon
16 ";" and insert "however, a debt relief provider shall not be prevented from advising that a
17 debt relief plan may only be appropriate for individuals who are unable to meet their
18 continuing financial obligations"

19 AMENDMENT NO. 20

20 On page 15, between lines 13 and 14, insert the following:

21 "(d) As requested by the individual."

22 AMENDMENT NO. 21

23 On page 16, between lines 6 and 7, insert the following:

24 "(26) Include in any agreement to enroll an individual in debt relief
25 services any of the following:

26 (a) A provision to provide for the application of law of any
27 jurisdiction other than the United States and the state of Louisiana.

28 (b) Except as permitted by the Louisiana Arbitration Law, R.S.
29 9:4201 et seq, a provision that modifies or limits otherwise available forums
30 or procedural rights, including the right to trial by jury, that are generally
31 available to the individual under state law.

32 (c) A provision that restricts the individual's remedies under this
33 Chapter or any other provision of state law.

34 (d) A provision that limits the liability of, or releases or indemnifies
35 from liability, any provider for violating the agreement or violating the
36 provisions of this Chapter.

37 AMENDMENT NO. 22

38 On page 16, line 11, after "or" and before "affiliate" change "its" to "any"

39 AMENDMENT NO. 23

40 On page 17, at the end of line 12, insert a semicolon ";" and "examinations by attorney
41 general"

42 AMENDMENT NO. 24

1 On page 17, at the end of line 13 and the beginning of line 14, change "unfair trade practice
2 under" to "unfair or deceptive act or practice for the purposes of"

3 AMENDMENT NO. 25

4 On page 17, line 15, after "all" delete the remainder of the line and on line 16, delete
5 "penalties, and criminal fines contained in" and insert "provisions of"

6 AMENDMENT NO. 26

7 On page 17, delete lines 18 through 22 in their entirety and insert the following:

8 "B. The remedies and rights provided by this Chapter are in addition
9 to and do not preclude any remedy otherwise available by law.

10 C. Any person found in violation of this Chapter shall be liable for
11 all reasonable costs, expenses and fees related to any investigation and
12 proceeding associated with the violation, including but not limited to attorney
13 fees. An action to recover reasonable costs, expenses, fees, and attorney fees
14 shall be ancillary to and shall be brought and heard in the same court as a
15 civil action brought pursuant to this Chapter.

16 D.(1) The attorney general may examine, or cause to be examined,
17 the conditions and affairs of any provider subject to this Chapter where the
18 attorney general suspects a violation of this Chapter or upon a complaint
19 made against the provider or any affiliate. The attorney general, or his agent,
20 in connection with the examination may question under oath a provider and
21 any director, officer, employee, customer, creditor, manager, member,
22 partner, or stockholder of a provider concerning the affairs and business of
23 the provider.

24 (2) The provider shall pay the reasonable costs of the examination as
25 determined by the attorney general, which shall be deposited in the state
26 treasury for credit to the office of the attorney general. Failure to pay the
27 reasonable costs of the examination within thirty days after receipt of
28 demand from the attorney general shall automatically suspend the
29 registration of the provider until the costs are paid."