2012 Report to the Legislature
on
Debt Adjusting Services in Washington State

November 28, 2012
ESB 6155, Chapter 56, Laws of 2012

Report Contents

I. Introduction

Engrossed Senate Bill 6155 (2012) directed the Department of Financial Institutions ("DFI") to gather the following information from debt adjustment companies offering services to Washington consumers:

- The **percentage of Washington debtors for whom the debt adjuster provides or provided debt adjusting services in the previous three years who canceled, terminated, or otherwise stopped using the debt adjuster's services** without settlement of all the debtor's debts;
- The **total fees collected** from Washington debtors during the previous three years;
- The **number of debts included in the contract between the debt adjuster and debtor;**
- The **principal amount of each debt**;
- Whether the debt is **settled, terminated, or active**;
- If the debt has been settled, **the settlement amount of the debt** and the savings amount; and
- **Total fees charged to the debtor** and how fees were calculated.

a. Background

Debt adjustment services have existed for several decades, generally in two forms of service. The first type, debt management, assists debtors in paying off debts over an extended period in exchange for concessions from creditors, including reduced interest rates, reduced fees, or reduced monthly payments. The second type, debt settlement, focuses on obtaining agreements with creditors to settle on a percentage of debt. The debt is then paid off in a lump sum.

The National Conference on Uniform State Laws adopted a Uniform Debt-Management Services Act, last amended in 2011, which defines debt-management services broadly as

> encompass[ing] the activity of entities that act as an intermediary between an individual and the individual's creditors, for the purpose of changing the terms of the original contract between the individual and those creditors. There is no requirement that the individual's money flow through the provider. Hence, the definition includes the services of credit-counseling agencies and debt-settlement companies even if they do not have control over the individual's money, as when it is in an account managed by the individual or a third party.
>
> The definition encompasses the services of persons that provide one-time assistance to an individual who has accumulated money and wants help negotiating with one or more of his or her creditors. This assistance is within the definition, and if the [debt adjuster] provides this assistance to

> an individual who [the debt adjuster] has reason to know resides in this state, the person must . . . register and comply with the Act.[1]

The definition of "debt adjusters" varies widely by state. Washington adopted the Debt Adjusting Act ("DAA") in 1967, chapter 18.28 RCW, to protect consumers entering into debt management agreements. The DAA defines "debt adjuster" as "any person known as a debt pooler, debt manager, debt consolidator, debt prorater, or credit counselor, [or] any person engaging in or holding himself or herself out as engaging in the business of debt adjusting for compensation." Relevant exemptions to this definition include nonprofit organizations engaged in debt adjusting which do not assess against debtors a service charge in excess of fifteen dollars per month.

Debt adjusters work with consumers to reduce the principal balance or interest rates on outstanding debt, sometimes helping the consumers settle their debt for a reduced percentage of the overall outstanding debt. The debt adjustment industry reported that 66 percent of consumers who begin debt settlement programs drop out prior to satisfying their debt obligations, and 65 percent of those consumers terminate their relationship with the debt adjuster without achieving settlement of even one debt obligation.[2]

Debt management companies charge various fees, including enrollment fees, monthly fees, and in some cases, insufficient funds fees. The DAA provides that debt adjusters may not charge a consumer an initial fee in excess of $25, and that fees retained from any one payment to the company intended for creditors may not exceed 15 percent of the payment. Furthermore, the DAA prevents debt adjusters from charging excessive fees by capping the total fees assessed to a consumer at 15 percent of the debt listed by the debtor on the consumer's initial contract with the debt adjuster.

b. Client Intake Procedures

Respondents to the survey were asked to summarize their protocol for enrolling individuals into their programs. Although there are slight variations between each respondent, the general process is identical: a debtor contacts the debt adjustment company, whose representatives identify the debtor's source of debt, total assets, and monthly budget. Often, the representative will assist the debtor in identifying expenditures that may be reduced in order to create a more efficient budget.

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[1] Uniform Debt-Management Services Act. As of 2012, seven states have adopted the Uniform Debt-Management Services Act (Colorado, Delaware, Rhode Island, North

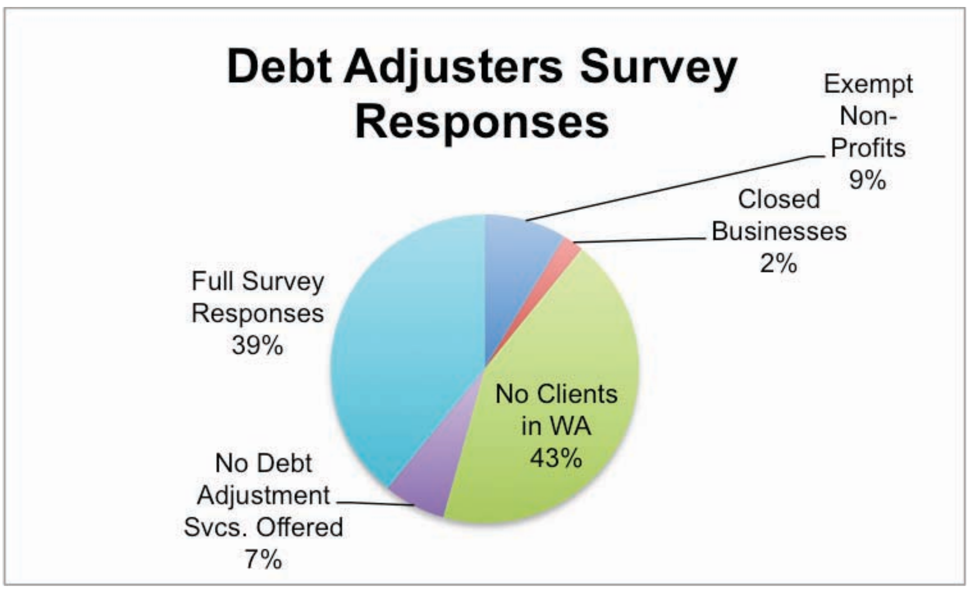
[2] Telemarketing Sales Rule, 75 Fed. Reg. 45,458, 48,472-73 (Aug. 10, 2010). *See also Debt Settlement: Fraudulent, Abusive, and Deceptive Practices Pose Risk to Consumers,* Testimony before the Comm. on Commerce, Science and Transportation, U.S. Senate, GAO-10-593T (Apr. 22, 2010) ("[Federal Trade Commission] and state investigations have typically found that less than 10 percent of consumers successfully complete these programs.")

Using a proprietary formula unique to each debt adjuster, the representative determines the debtor's suitability for a debt management plan. Because the proprietary formula is developed by each individual debt adjuster to reflect their own definition of "suitability" for enrollment into their program and is, in essence, a "trade secret," none of the survey respondents were willing to disclose the particulars of their formula.

If the formula determines the debtor is suitable for enrollment in the debt management or settlement agreement plan, a contract is executed between the debtor and the debt adjuster. Generally, debt management plans and settlement plans are structured to take between three and five years for the debtor to complete.

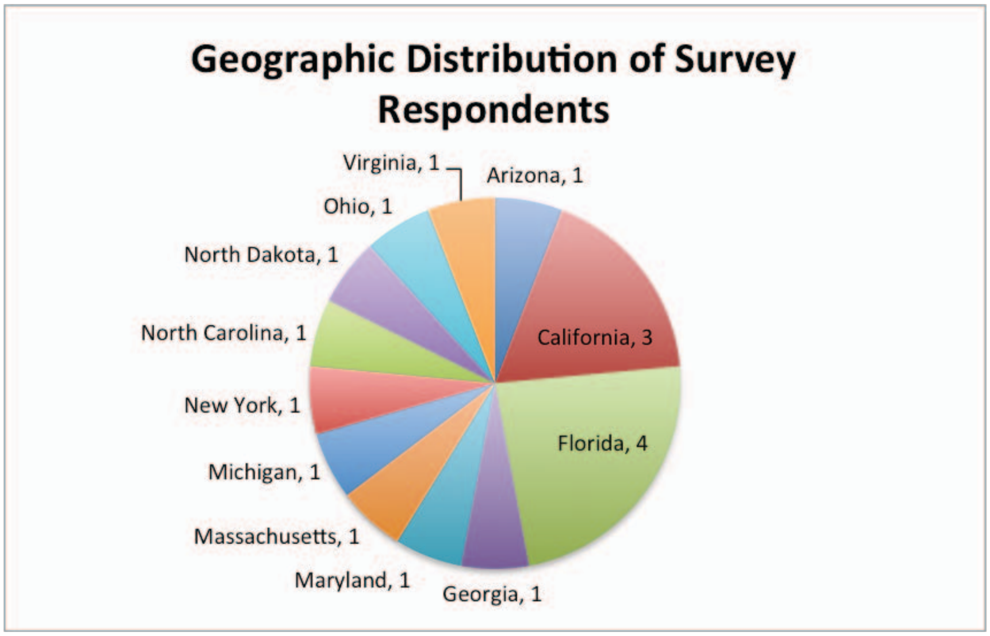
II. Debt Adjuster Survey Results

DFI contacted debt adjustment industry trade groups to obtain the contact information of approximately 230 debt adjustment companies.[3] While DFI received 46 responses, only 17 indicated that they provided debt-adjusting services to Washington citizens in the previous three years. Twenty respondents had not provided such services during the previous three years. Three respondents indicated that their services offered did not include debt adjustment services as defined by statute. Four respondents were non-profit entities exempted from the debt adjuster definition in the DAA. One respondent indicated their business closed more than three years ago.



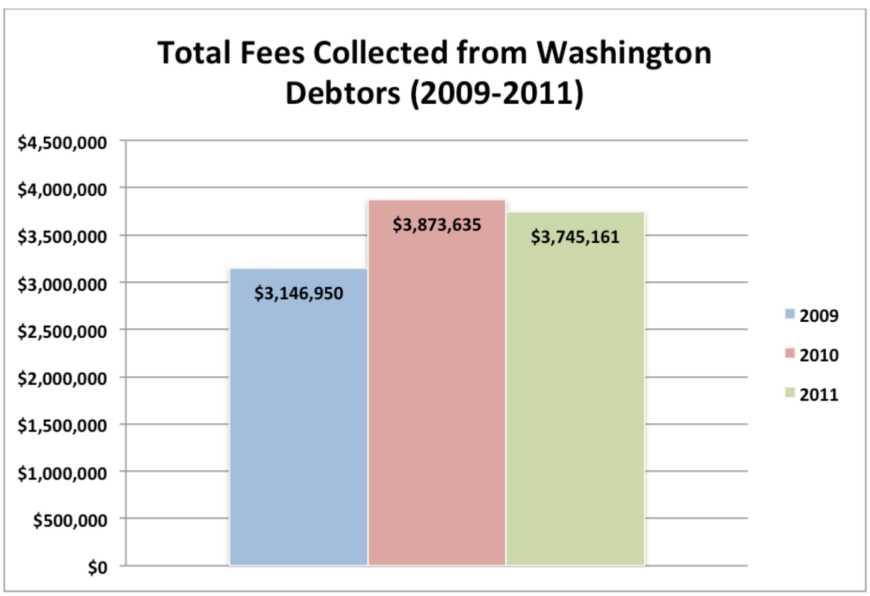
Survey respondents were located in 12 states, with multiple respondents located in Florida and California.

[3] See Appendix C for a list of debt adjustment industry trade associations and their web addresses.

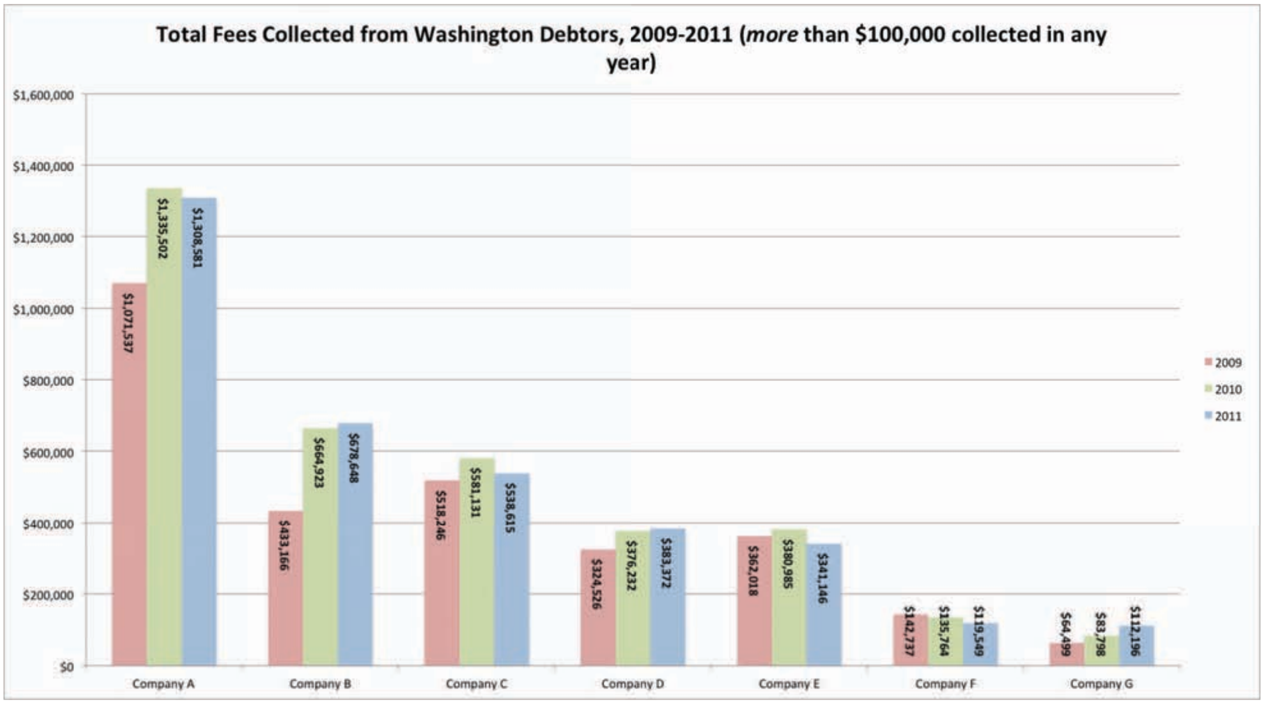


a. Summary of Total Fees Collected from Washington Debtors

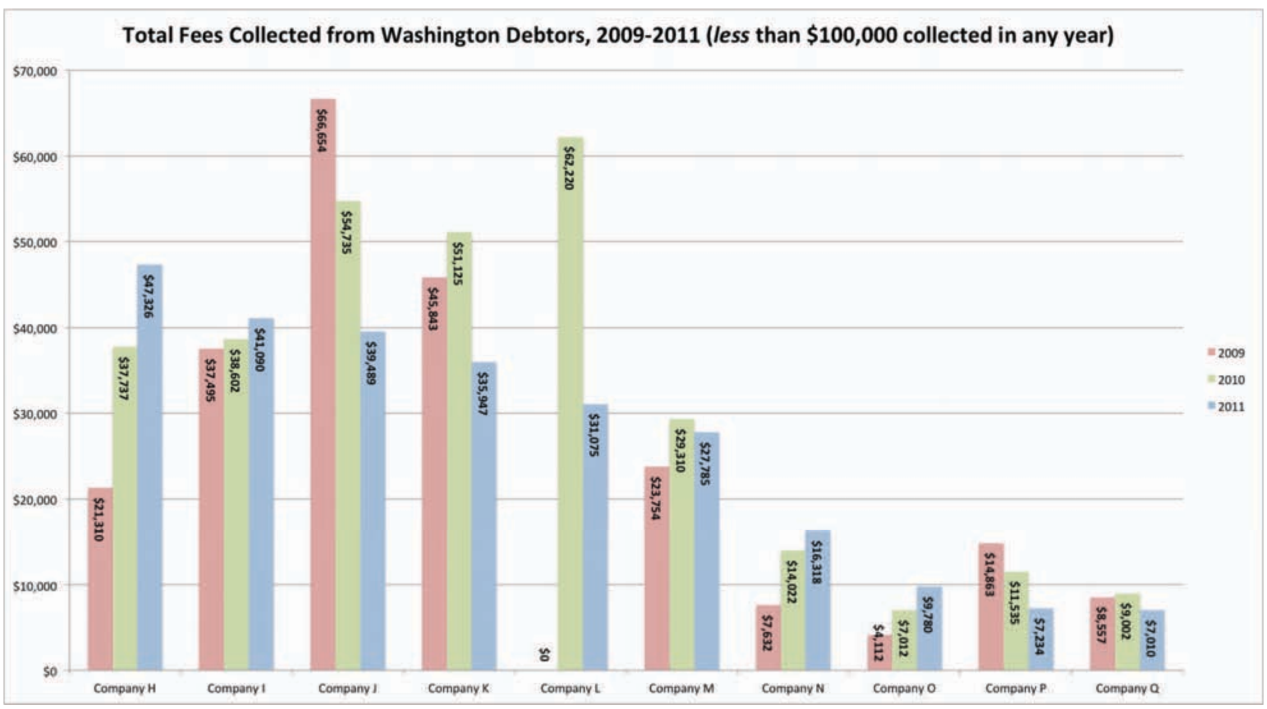
Survey respondents collected $3,745,161 in 2011, down slightly from 2010 but an increase from the 2009 figure.



Of the 17 respondents, seven collected more than $100,000 in fees from Washington debtors in any year between 2009-2011.

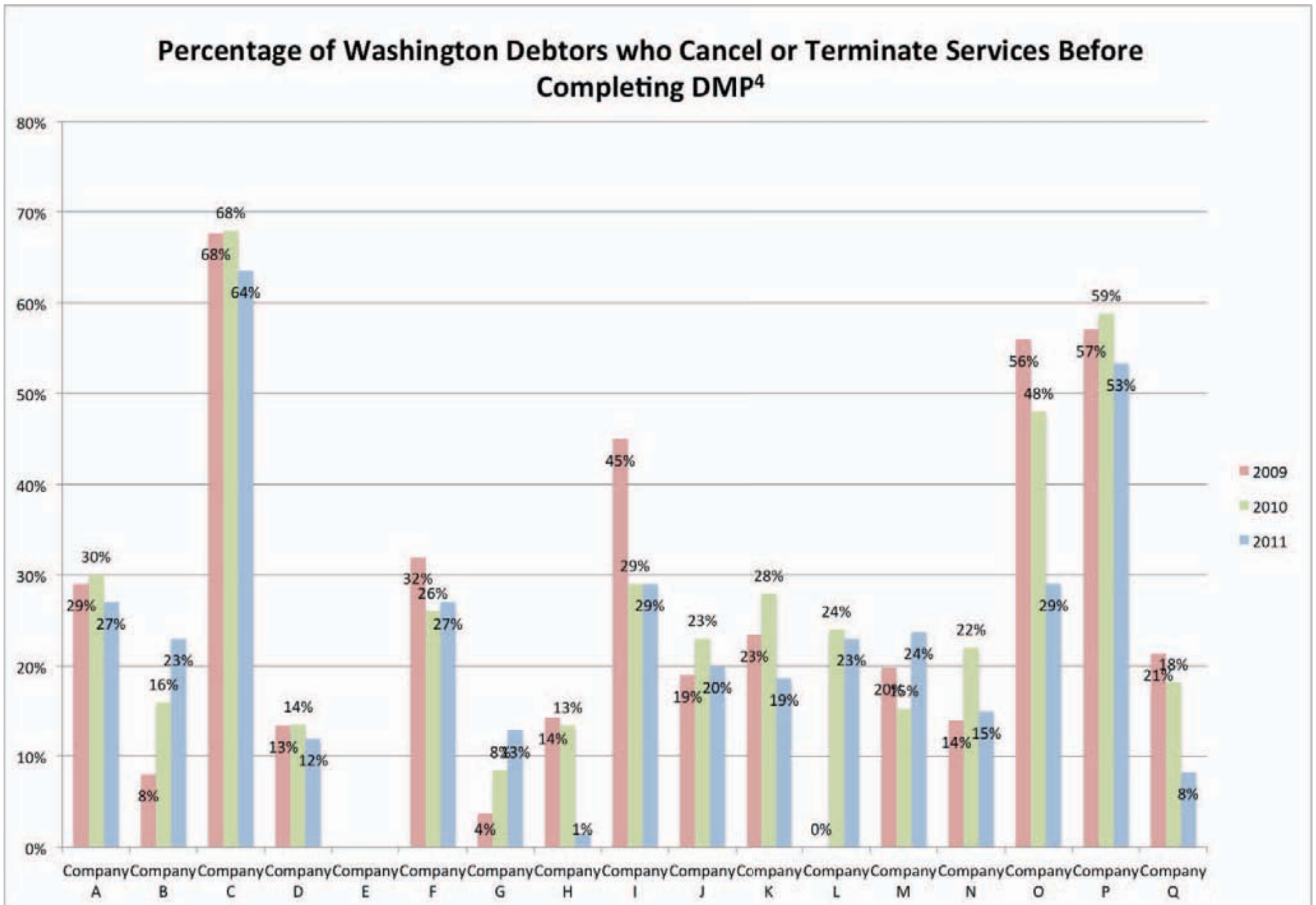


The ten smaller survey respondents (who annually collected less than $100,000 in fees from Washington debtors) have shown the same trend.



b. Percentages of Canceled/Terminated Accounts Before Settlement

The survey also asked respondents to indicate the percentage of Washington debtors who canceled or terminated their relationship with the debt adjustors before satisfaction of their debt. Responses varied widely, likely indicating differences in each particular debt adjuster's methodology for accepting debtors into their programs.



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c. Examination of Fees Assessed to Debtors

Washington debtors who begin a debt adjustment plan are usually charged a small initial enrollment fee, no more than a one-time payment of less than $50. Several of the survey respondents reported that they charge no enrollment fee.

Debt adjusters charge a monthly fee to debtors, usually calculated as either 15 percent of the debtor's payment on their debt during the month, or a maximum payment between $35 and $60, whichever total is less.

Only one respondent reported that they charge a final fee in the event a debtor cancels or terminates their debt servicing contract; that fee is calculated as 0.06 percent of the debtor's outstanding indebtedness, and is capped at $25.

[4] In the chart below, DFI was unable to calculate the percentage of canceled or terminated accounts for Company E.

The chart below summarizes the fees assessed to Washington consumers by each survey respondent. All survey respondents indicated that they were in compliance with RCW 18.28.080(1)'s 15 percent cap on monthly fees.

SUMMARY OF FEE SCHEDULES			
Debt Adjuster	**Enrollment**	**Monthly Fee**	**Final Fee**
Company A	Not Reported	Not Reported	Not Reported
Company B	$35	15% ($35 max)	None
Company C	None	15% ($40 max)	None
Company D	$25 max	15% ($48 max)	None
Company E	$0-49	15% ($0-49 max)	None
Company F	$25	Lesser of 15% of monthly amt. paid, or $15; $20 for insuff. Funds	None
Company G	$25	15% ($50 max)	None
Company H	None	15% ($50 max)	None
Company I	$25	15% ($60 max)	.06% of remaining indebtedness ($25 max)
Company J	None	15% ($50 max)	None
Company K	$35	7.5% ($50 max before June 2012, now $15 max)	None
Company L	None	15% ($50 max)	None
Company M	$25	15% ($50 max)	None
Company N	$25	15%	None
Company O	$25 max	15% ($50 max)	None
Company P	$0	15% ($50 max)	None
Company Q	$25	15% ($50 max)	None

d. Three Examples: Number of Debts in Contracts, Average Principal Amount of Debt, Status of Debts (Settled, Terminated, or Active)

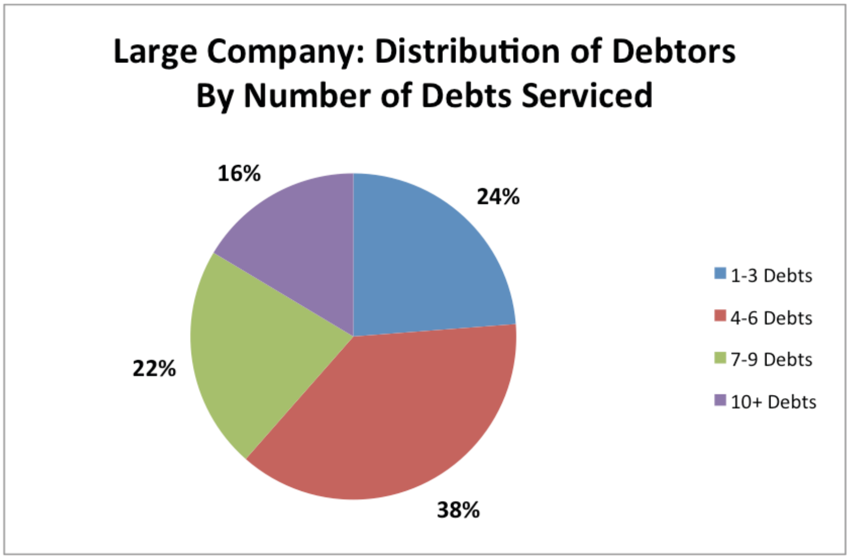
Each respondent provided information regarding their fee schedules, percentages of success or failure, and total fees. The respondents provided differing methods of accounting for the information requested. Below are responses of a representative sample of a small, medium, and large debt adjustment company.

	Small Company	Medium Company	Large Company
Active Debtors	14	200	648
Total Debtors (2009-2011)	154	316	1602
% of Debtors Terminated	26.0%	32.0%	39.8%
% of Debtors Paid in Full	64.3%	4.7%	19.7%
Total Debt Serviced	$1,784,777	$10,571,908	$53,695,421
Avg. Number of Debts per Debtor	3.9	5.7	6.3
Avg. Total Debt per Debtor	$11,589	$33,455	$33,518

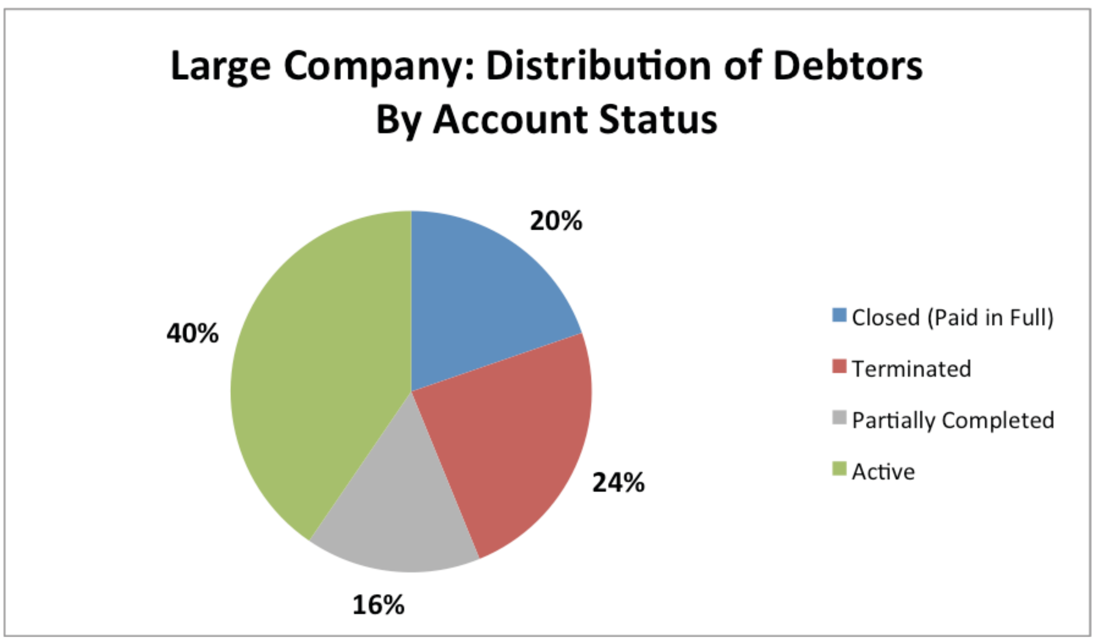
i. Large Company

“Large Company” serviced a total of 1,602 Washington debtors between 2009-2011, with $53,695,421 in principal debt held by Washington debtors. At the end of that period, 648 debtors were still actively participating in the program. Between 2009 and 2011, 39.8 percent of debtors terminated their involvement in the program before completion, while 19.7 percent of debtors completed the program and paid their debts in full.

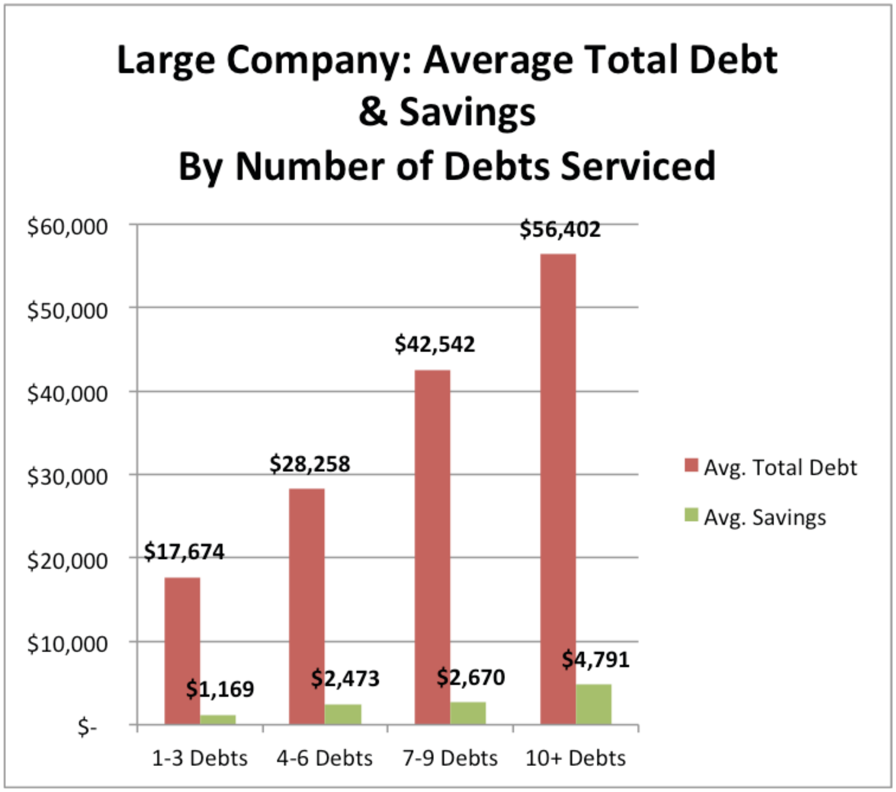
Large Company was more likely to service debtors with multiple outstanding debts than the debtors serviced by the Medium Company and the Small Company. The chart below illustrates the distribution of debtors by number of debts serviced by Large Company. The average Washington debtor serviced by Large Company had 6.3 debts, the principal of which totaled an average of $33,518.



Large Company reported the status of not only each Washington debtor's status in their debt adjustment program, but the status of each individual debt (paid in full/settled, terminated, active). 40 percent of the debtors serviced by Large Company were still actively participating in the program as of 2011, and another 16 percent of debtors had paid off some of their outstanding debts. 20 percent of Large Company's Washington debtors had paid off their debts in full. 24 percent of Large Company's Washington debtors terminated their relationship with Large Company without settling any outstanding debts.



The accounting data provided by Large Company allowed DFI to calculate both the average total debt of each Washington debtor who actually completed Large Company's debt adjustment program, as well as Large Company's estimated total savings each of those successful debtors realized by participating in the entire debt management program. Debtors with between one and three debts serviced would realize a savings on the principal of 6.6 percent through Large Company's interest reduction agreements with creditors. Debtors with between four and six debts realized realized 8.8 percent in savings, while debtors with between seven and nine debts realized 6.3 percent in savings. Debtors holding more than 10 outstanding debts realized 8.5 percent in savings.

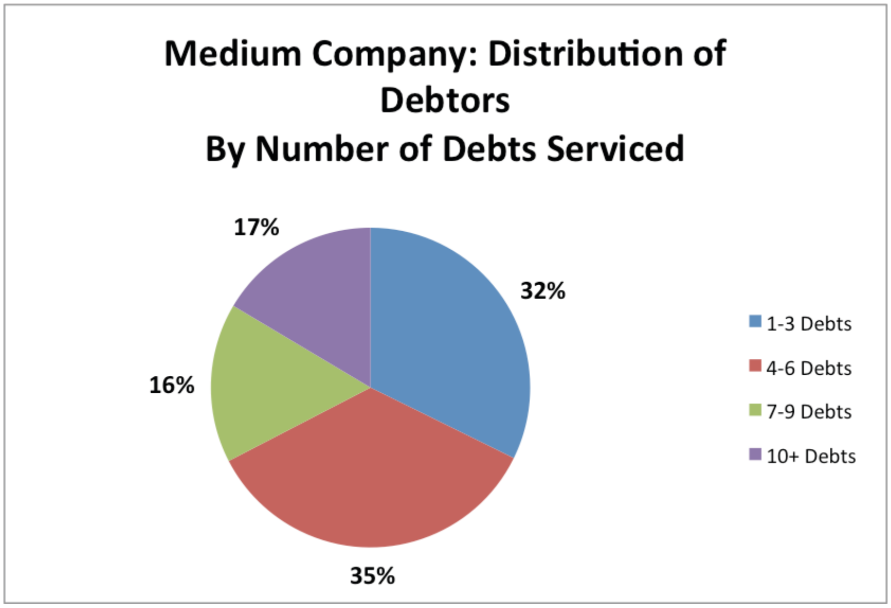


ii. Medium Company

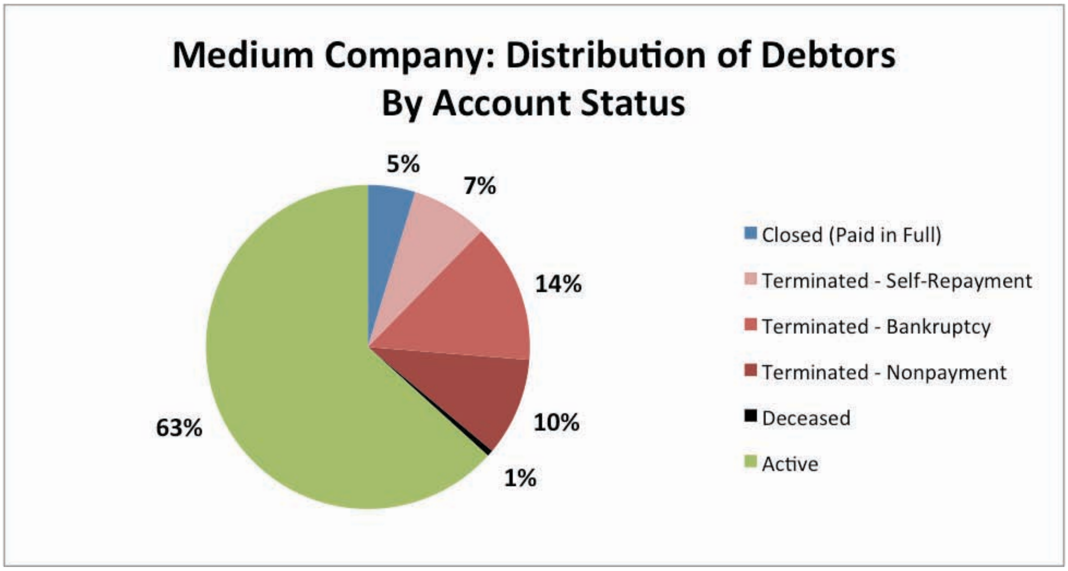
"Medium Company" serviced a total of 316 Washington debtors between 2009-2011, with $10,571,908 in principal debt held by Washington debtors. Medium Company only began enrolling Washington debtors into their programs in January 2009. As of the end of that period, 316 debtors were still actively participating in the debt adjuster's program. Between 2009 and 2011, 32 percent of debtors terminated their involvement in the program before completion, while 4.7 percent of debtors completed the program and paid their debts in full, a lower number reflecting that Washington debtors have only had three years in which to settle their debts.

The chart below illustrates the distribution of debtors by number of debts serviced by Medium Company. The average Washington debtor serviced by Medium Company had 5.7 debts, only slightly lower than the average number of debts held by debtors serviced by Large Company. The principal amount of debts held by Medium Company's

Washington debtors totaled an average of $33,455, almost identical to the average amount of principal debt serviced by Large Company.



Medium Company reported to DFI the status of each Washington debtor's status in their debt adjustment program and the status of each individual debt (paid in full/settled, terminated, active). Moreover, Medium Company reported the reason for termination in each case where a debtor prematurely ended their relationship with Medium Company. 63 percent of the debtors serviced by Medium Company were still actively participating in the program as of 2011. 5 percent of Medium Company's Washington debtors had paid off their debts in full. The remaining accounts had been terminated before settlement: 7 percent were terminated after the debtor paid the debt in full without Medium Company's assistance (self-repayment), 14 percent were terminated after the debtor declared bankruptcy, 10 percent were terminated due to nonpayment on behalf of the debtor, and 1 percent of accounts were terminated when the debtor died before completing Medium Company's debt adjustment program.

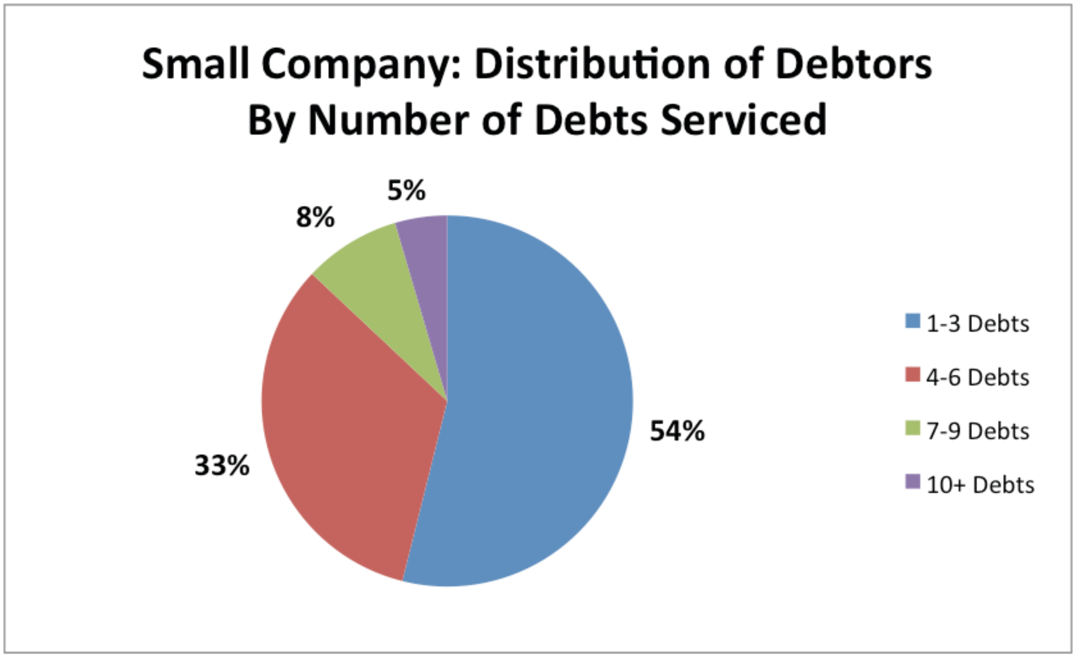


Because Medium Company did not report settlement data for each debtor account (the total amount paid by debtors in the course of completing Medium Company's program), no average settlement amount can be calculated for Medium Company's debtors.

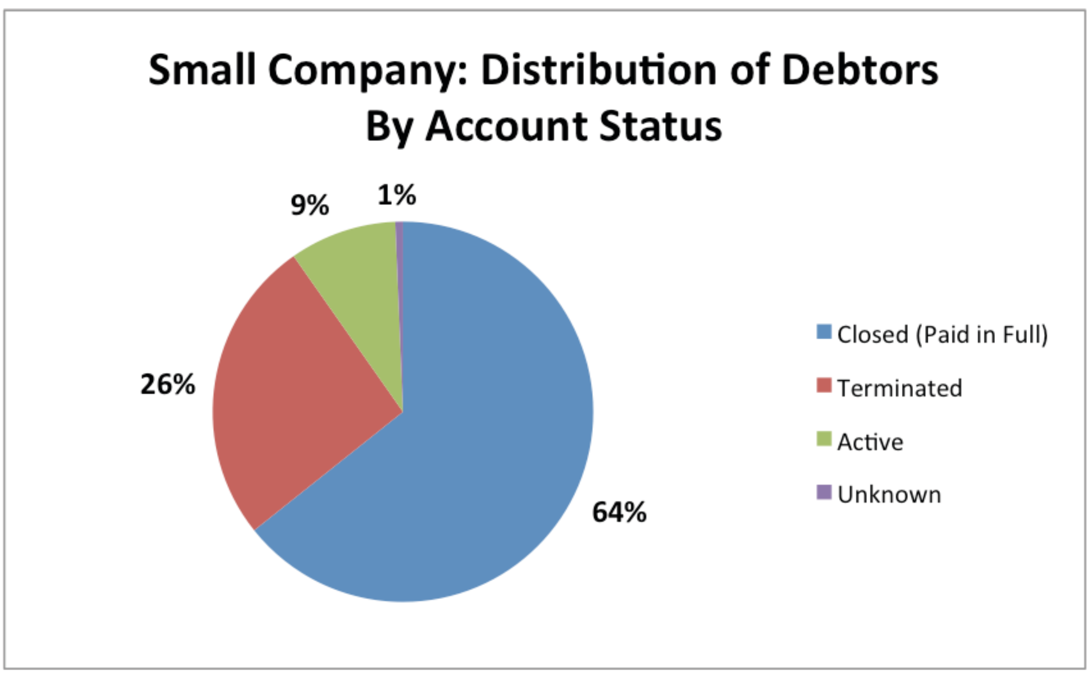
iii. Small Company

"Small Company" serviced a total of 154 Washington debtors between 2009-2011, with $1,784,777 in principal debt held by Washington debtors. As of the end of that period, 14 debtors were still actively participating in the debt adjuster's program. Between 2009 and 2011, 26 percent of debtors terminated their involvement in the program before completion, while 64.3 percent of debtors completed the program and paid their debts in full.

Small Company was much more likely than Medium and Large Companies to service debtors with fewer debts. The chart below illustrates the distribution of debtors by number of debts serviced by Small Company. The average Washington debtor serviced by Small Company had 3.9 debts, the principal of which totaled an average of $11,589.



Small Company only reported to DFI the status of each Washington debtor's status in their debt adjustment (paid in full/settled, terminated, active). 9 percent of the debtors serviced by Small Company were still actively participating in the program as of 2011. 64 percent of Small Company's Washington debtors had paid off their debts in full. The remaining 26 percent of debtors terminated their relationship with Small Company before settling their debts.



Participants in Small Company's debt adjustment program thus experienced a significantly higher success rate than those enrolled in programs at Medium Company and Large Company. This may be due to the fact that debtors enrolled in Small Company's programs carried a much lower average principal of outstanding debt: $11,589, as opposed to the average principal of outstanding debt held by participants in Medium Company's and Large Company's programs, $33,455 and $33,518, respectively.

III. Contact Information

For additional information, please contact the Department of Financial Institution's Division of Consumer Services or the Department's Policy Director.

Deb Bortner
Director, Division of Consumer Services
Department of Financial Institutions
Deb.Bortner@dfi.wa.gov

Catherine Mele-Hetter
Legislative Policy Director
Department of Financial Institutions
Catherine.Mele@dfi.wa.gov

IV. Appendices

a. Survey Respondents

AGENCY	CONTACT INFORMATION
CareOne Services, Inc.	CareOne Services Inc. c/o 3C Incorporated 8930 Stanford Boulevard Columbia, MD 21045
Apprisen	Apprisen 4500 East Broad Street Columbus, OH 43213
ClearPoint Financial Solutions, Inc.	ClearPoint Financial Solutions, Inc. 8000 Franklin Farms Drive Richmond, VA 23229
TakeCharge America Credit Counseling	Take Charge America, Inc. 20620 North 19th Avenue Phoenix, AZ 95027
Consolidated Credit Counseling Services, Inc.	Consolidated Credit Counseling Services, Inc. 5701 W. Sunrise Blvd, Ste. 200 Ft. Lauderdale, FL 33313
InCharge Debt Solutions	InCharge Debt Solutions 5750 Major Blvd, Ste. 175 Orlando, FL 32819

GreenPath, Inc.	GreenPath, Inc. 36500 Corporate Drive Farmington Hills, MI 48331
Cambridge Credit Counseling Corp.	Cambridge Credit Counseling Corp. 67 Hunt Street Agawam, MA 01001
Lighthouse Credit Foundation, Inc.	Lighthouse Credit Foundation, Inc. 2300 Tall Pines Dr., Ste. 120 Largo, FL 33771
Consumer Education Services, Inc.	Consumer Education Services, Inc. 3700 Barrett Drive Raleigh, NC 27609
CredAbility	CredAbility 270 Peachtree Street, NW, Ste. 1800 Atlanta, GA 30303
Consumer Credit and Budget Counseling	Consumer Credit and Budget Counseling 14104 58th Street North Clearwater, FL 33760
Christian Credit Counselors	Christian Credit Counselors, Inc. 5838 Edison Place, Ste. 200 Carlsbad, CA 92008
Springboard Consumer Credit Management	Springboard Consumer Credit Management 4351 Latham Street Riverside, CA 92501
Pioneer Credit Counseling	Pioneer Credit Counseling 1644 Concourse Drive Rapid City, SD 57703
SafeGuard Credit Counseling Services	SafeGuard Credit Counseling Services, Inc. 112 Parkway Drive South Hauppauge, NY 11788
Family Life Credit Services	Family Life Credit Srvices 2345 Meadow Ridge Parkway West Fargo, ND 58078

b. Debt Adjustment Industry Trade Groups

Debt adjustment industry trade groups contacted by DFI included:

- American Fair Credit Council (www.americanfaircreditcouncil.org)
- Association of Credit Counseling Professionals (www.accpros.org)
- Association of Independent Consumer Credit Counseling Agencies (www.aiccca.org)
- National Foundation for Credit Counseling (www.nfcc.org)

- United State Organization for Bankruptcy Alternatives (www.usoba.org)

c. Department of Financial Institutions Survey

See attached survey.

d. Engrossed Senate Bill 6551 (2012)

See attached bill.

Washington Debt Adjusting Survey

Have you provided debt adjusting services to Washington consumers? If no, you need not complete the survey. If yes, please continue.

A. Please describe how you determine whether a client is qualified for your debt adjusting services:

B. Please itemize all the types of fees you charge and indicate when each fee type is charged:

C. Total fees collected from Washington debtors:

Calendar year 2009:

Calendar year 2010:

Calendar year 2011:

D. Percentage of Washington clients who canceled, terminated, or otherwise stopped using your debt adjusting services without settlement:

Calendar year 2009:

Calendar year 2010:

Calendar year 2011:

E. Do you use the services of a third party account administrator? If yes, please indicate the name of the TPAA:

F. Use the chart below to answer F. 1 -5 for each Washington debtor provided services for calendar years 2009 through 2011. Please identify the debtors by number only.

1. The number of debts included in the contract between the debt adjuster and the debtor
2. The principal amount of each debt at the time the contact was signed
3. Whether each debt is Active (A), Terminated (T), or Settled (S)
4. If a debt has been settled, the settlement amount of the debt and the savings amount
    a. Debt settled? Yes or No (Y or N)
    b. If Yes, settlement amount
    c. If Yes, amount saved

5. The total fees charged to the debtor (itemized separately by fee type) and how the fees were calculated
    a. Total Fees Charged
    b. Itemization of fees by type
    c. Calculation

Debtor	1. # of debts	2. Principal amount of each debt	3. (A,T,S)	4. (a) Y or N	4. (b) Settlement amount	4. (c) Amount saved	5.(a) Total fees charged	5.(b) Itemization of fees by type	5.(c) Calculation

Washington Debt Adjusting Survey

Debtor	1. # of debts	2. Principal amount of each debt	3. (A,T,S)	4. (a) Y or N	4. (b) Settlement amount	4. (c) Amount saved	5.(a) Total fees charged	5.(b) Itemization of fees by type	5.(c) Calculation

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G. Please provide your name, address, telephone number, and contact person name.

The department considers the information you provide proprietary under chapter 42.56 RCW.

ENGROSSED SENATE BILL 6155

State of Washington **62nd Legislature** **2012 Regular Session**

By Senators Kilmer, Carrell, Hobbs, Kastama, Regala, Fain, Conway, and Keiser

Read first time 01/12/12. Referred to Committee on Financial Institutions, Housing & Insurance.

AN ACT Relating to third-party account administrators; amending RCW 18.28.010 and 18.28.080; and adding a new section to chapter 19.230 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 18.28.010 and 1999 c 151 s 101 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Debt adjusting" means the managing, counseling, settling, adjusting, prorating, or liquidating of the indebtedness of a debtor, or receiving funds for the purpose of distributing said funds among creditors in payment or partial payment of obligations of a debtor.

(2) "Debt adjuster", which includes any person known as a debt pooler, debt manager, debt consolidator, debt prorater, or credit counselor, is any person engaging in or holding himself or herself out as engaging in the business of debt adjusting for compensation. The term shall not include:

(a) Attorneys-at-law, escrow agents, accountants, broker-dealers in securities, or investment advisors in securities, while performing services solely incidental to the practice of their professions;

(b) Any person, partnership, association, or corporation doing business under and as permitted by any law of this state or of the United States relating to banks, consumer finance businesses, consumer loan companies, trust companies, mutual savings banks, savings and loan associations, building and loan associations, credit unions, crop credit associations, development credit corporations, industrial development corporations, title insurance companies, ((~~or~~)) insurance companies<u>, or third-party account administrators</u>;

(c) Persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt adjusting, perform credit services for their employer;

(d) Public officers while acting in their official capacities and persons acting under court order;

(e) Any person while performing services incidental to the dissolution, winding up or liquidation of a partnership, corporation, or other business enterprise;

(f) Nonprofit organizations dealing exclusively with debts owing from commercial enterprises to business creditors;

(g) Nonprofit organizations engaged in debt adjusting and which do not assess against the debtor a service charge in excess of fifteen dollars per month.

(3) "Debt adjusting agency" is any partnership, corporation, or association engaging in or holding itself out as engaging in the business of debt adjusting.

<u>(4) "Financial institution" means any person doing business under the laws of any state or the United States relating to commercial banks, bank holding companies, savings banks, savings and loan associations, trust companies, or credit unions.</u>

<u>(5) "Third-party account administrator" means an entity that holds or administers a dedicated bank account for fees and payments to creditors or debt collectors in connection with the renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of a debt.</u>

Sec. 2. RCW 18.28.080 and 1999 c 151 s 102 are each amended to read as follows:

(1) By contract a debt adjuster may charge a reasonable fee for debt adjusting services. The total fee for debt adjusting services, including, but not limited to, any fee charged by a financial institution or a third-party account administrator, may not exceed fifteen percent of the total debt listed by the debtor on the contract. The fee retained by the debt adjuster from any one payment made by or on behalf of the debtor may not exceed fifteen percent of the payment. The debt adjuster may make an initial charge of up to twenty-five dollars which shall be considered part of the total fee. If an initial charge is made, no additional fee may be retained which will bring the total fee retained to date to more than fifteen percent of the total payments made to date. No fee whatsoever shall be applied against rent and utility payments for housing.

In the event of cancellation or default on performance of the contract by the debtor prior to its successful completion, the debt adjuster may collect in addition to fees previously received, six percent of that portion of the remaining indebtedness listed on said contract which was due when the contract was entered into, but not to exceed twenty-five dollars.

(2) A debt adjuster shall not be entitled to retain any fee until notifying all creditors listed by the debtor that the debtor has engaged the debt adjuster in a program of debt adjusting.

NEW SECTION. **Sec. 3.** A new section is added to chapter 19.230 RCW to read as follows:

(1) A third-party account administrator must be licensed as a money transmitter under this chapter and comply with the following additional requirements:

(a) A debtor's funds must be held in an account at an insured financial institution;

(b) A debtor owns the funds held in the account and must be paid accrued interest on the account, if any;

(c) A third-party account administrator may not be owned or controlled by, or in any way affiliated with, a debt adjuster;

(d) A third-party account administrator may not give or accept any money or other compensation in exchange for referrals of business involving a debt adjuster;

(e) A debtor may withdraw from the service provided by a third-party account administrator at any time without penalty and must receive all funds in the account, other than funds earned by a debt adjuster in compliance with chapter 18.28 RCW, within seven business days of the debtor's request; and

(f) A contract between a third-party account administrator and a debtor must disclose in precise terms the rate and amount of all charges and fees.

(2) The legislature finds and declares that any violation of this section substantially affects the public interest and is an unfair and deceptive act or practice and unfair method of competition in the conduct of trade or commerce as set forth in RCW 19.86.020. In addition to all remedies available in chapter 19.86 RCW, a person injured by a violation of this section may bring a civil action to recover the actual damages proximately caused by a violation of this section, or one thousand dollars, whichever is greater.

(3) For purposes of this section:

(a) "Debt adjuster" has the same meaning as that term is defined in RCW 18.28.010;

(b) "Third-party account administrator" means an entity that holds or administers a dedicated bank account for fees and payments to creditors or debt collectors in connection with the renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of a debt.

NEW SECTION. **Sec. 4.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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