2017 Report to the Legislature
on
Nonprofit Debt Adjusting Services in Washington State
December 1, 2017

*SHB 1283, Chapter 167, Laws of 2015*
*Effective July 24, 2015*

Report Contents

# I. Introduction

## a. History of the Act and Amendment Creating the Survey

Washington adopted the Debt Adjusting Act ("DAA") in 1967, which is codified at chapter 18.28 RCW, to protect consumers entering into debt management agreements. Debt adjusting in Washington encompasses a wide variety of different services.[1] The Office of the Attorney General has authority to investigate debt adjusting businesses and examine their books and records. Violations of the DAA constitute a misdemeanor offense, as well as an unfair or deceptive act under the Consumer Protection Act.

During the 2015 Legislative Session the Legislature passed SHB 1283 (Chapter 167, Laws of 2015) amending the DAA. The amendments, among other things, required the Department of Financial Institutions ("DFI") to complete a survey of activity by nonprofit debt adjusters for 2015 and 2016 with reports to the Legislature on that activity in 2016 and 2017. DFI gave a report to the Legislature in 2016. This is the second and final report.

## b. Relevant Definitions in the Act; Impact on the Survey

The language in the bill creating the survey used terminology from the "for-profit" debt adjusting industry. This "for-profit" part of the industry operates largely on a debt settlement business model where debts are reduced before they are paid off.[2] This is not the case in the nonprofit part of the industry. Nonprofit debt adjustors do not reduce a debt before it is paid off. Instead, most nonprofit debt adjusters generally help the consumer organize a debt management plan ("DMP") for the consumer's debts. Under DMPs, debt adjusters usually do not negotiate any reduction in the principal amounts the consumer owes; instead, they lower the consumer's overall monthly payment by doing things like getting the creditor to increase the time period over which the consumer can repay the debt or lower the interest rate on the debt.

Last year, in order to gather relevant data, DFI worked with the industry to create guidance ("FAQs") to assist industry in filling out the survey. For example, the FAQs defined "settled" debts differently than it is defined in a "for profit" debt settlement context. In the debt settlement context, "settled" debts are those debts that are included in the reduced payoff agreement with the creditor. As nonprofit debt adjusters do not "settle" debts in that manner, the FAQs instructed the companies to report the status of individual debts as settled only if that individual debt was paid in full. Additionally, the survey requested information about settlement amounts and savings amounts. However, because industry does not reduce the amount of debt owed by the debtors, that data could not be ascertained.

[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. RCW 18.28.010(4).

[2] These for-profit companies were the subject of a 2012 legislatively mandated survey by DFI. See that survey in the Appendices.

This year, instead of utilizing the FAQs again, DFI adjusted the survey to change the term "settled" to "paid in full". Thus, instead of asking for the total number of Washington debtors that went inactive in, canceled, or terminated services in 2016 without settling their debts, the survey asks for the total number of Washington debtors that went inactive in, canceled, or terminated services in 2016 without paying off all their debts. DFI also created a more detailed set of instructions on how to fill out the survey, including examples and step-by-step instructions where needed.

## II. Debt Adjustor Survey Results

DFI contacted 123 nonprofit debt adjustment companies and asked them to respond to the survey if they serviced clients in Washington in 2016. DFI received 29 responses this year, compared to the 26 responses we received last year. This report will provide a summary of the information collected and provide some analysis of the data received.

### a. Status of Accounts

The survey asked respondents to indicate the percentage of Washington debtors who were active, who canceled or who terminated their relationship with the debt adjusters before fully paying off their debt, or who paid off their debt in full. Based on data about individual debtors, about 60.5 percent of the respondents' clients were still actively making payments on their debt. This is down about 1 percent from last year's results.

In 2016 there were 7 companies with a cancellation or termination rate of fewer than 10 percent; 10 companies at 10 to 25 percent; 12 companies at 26 to 50 percent; and no companies above 50 percent. Two companies had an almost 48 percent cancellation or termination rate, the highest in the sample. Last year there were 3 companies with a cancellation rate over 50 percent. The average termination rate in 2016 across all companies was around 24.5 percent, the same as last year. See Chart a-1 below.

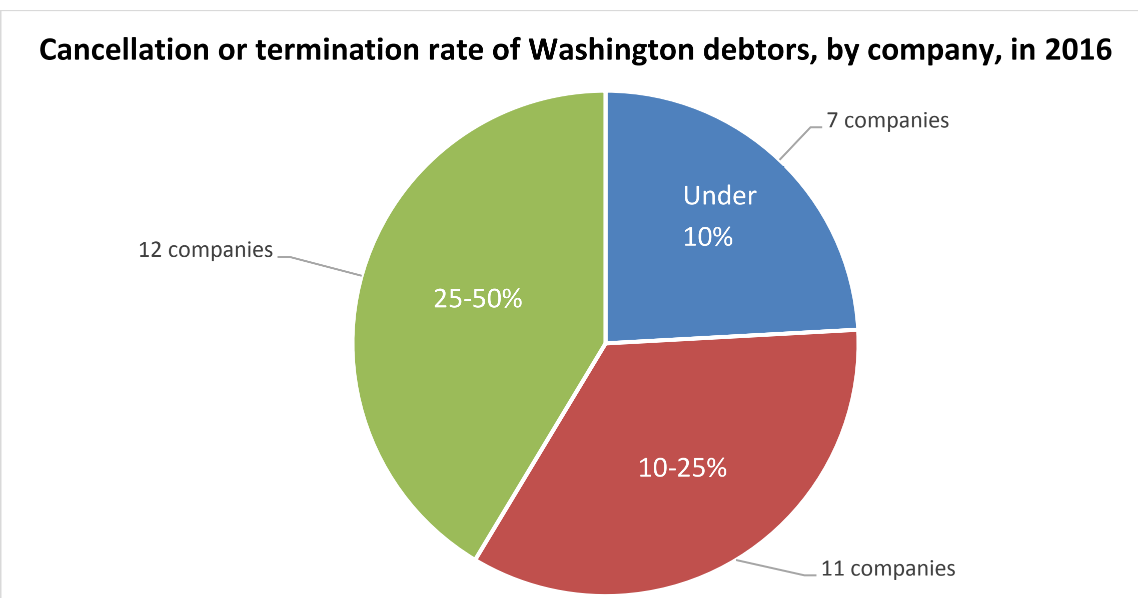


Chart a-1

In 2016 there were 6 companies with a paid in full rate of 0 percent; 7 at fewer than 10 percent; 8 at 10 to 25 percent; and 8 at 26 to 50 percent. The highest paid in full rate by a company was a little over 46 percent. Last year, one company had a paid in full rate of almost 67 percent. The average paid in full rate in 2016 across all companies was around 15 percent, 1 percent higher than 2015. See Chart a-2 below.

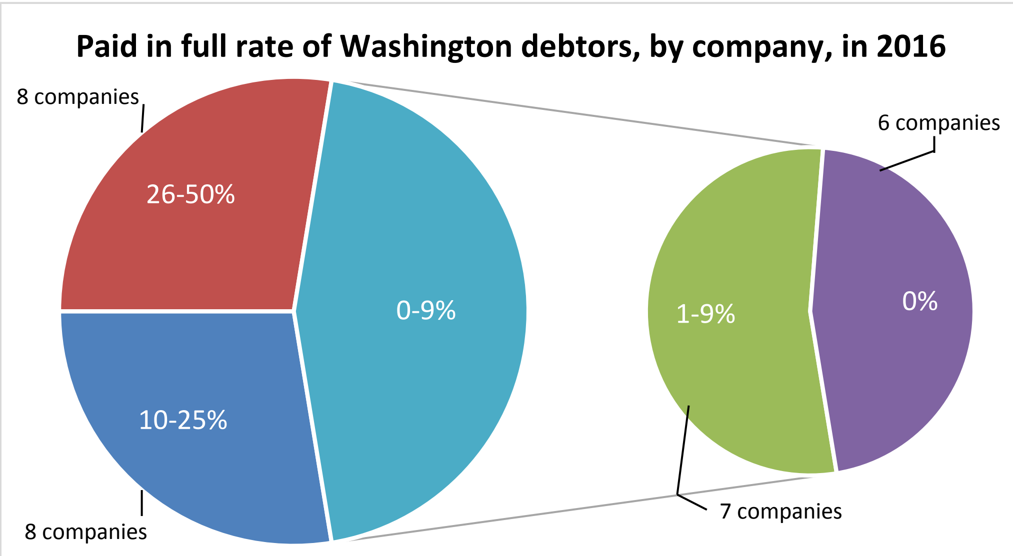


Chart a-2

### b. Summary of Amount of Debt Paid Off

The survey also asked respondents to indicate the number of debtors that went inactive, canceled, or terminated services in 2016 by percentage of debt paid off. In 2016, 2,847 debtors went inactive, canceled, or terminated services without paying off all their debts; of that number, 510 paid off none of their debts, 685 paid off 1 to 24 percent of their debts; 621 paid off 25 to 50 percent of their debts, 501 paid off 51 to 75 percent of their debts, and 530 paid off 76 to 99 percent of their debts. See chart b-1 below.

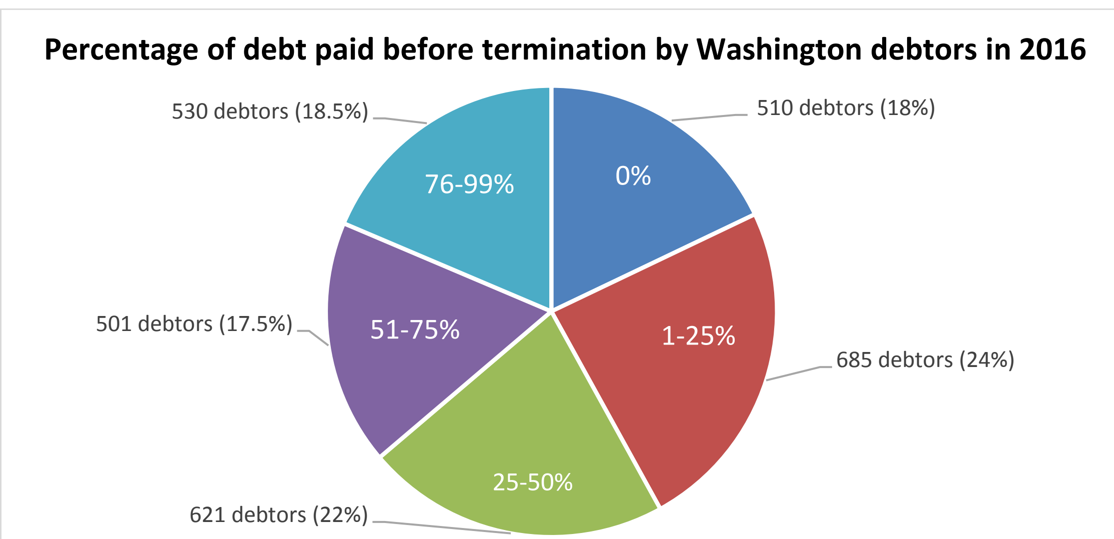


Chart b-1

Respondents were also asked to indicate the number of debtors, by year of enrollment, that fully paid off all debts in the last three years. Between 2014 and 2016, 2,847 Washington debtors fully paid off all their debts; of that number, 30 enrolled in 2016, 163 enrolled in 2015, 345 enrolled in 2014, 590 enrolled in 2013, 906 enrolled in 2012, 1032 enrolled in 2011, and 453 enrolled between the years of 1998 and 2009. See chart b-2 below.

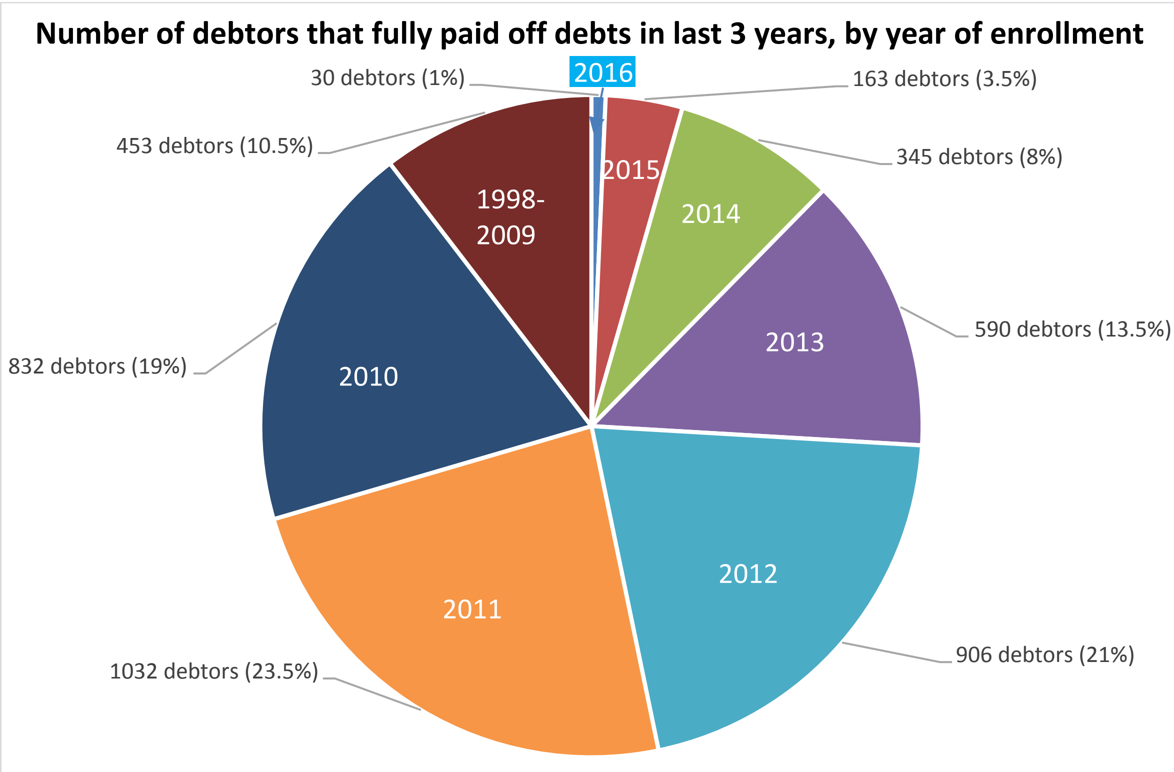


Chart b-2

### c. Review of Fees Assessed to Washington Consumers

Debt management companies charge various fees, including initial or enrollment fees and monthly fees. Washington law 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 the creditors may not exceed 15 percent of the payment. Furthermore, the total fees assessed to a consumer are capped at 15 percent of the total debt listed by the debtor on the consumer's initial contract with the debt adjuster. Nonprofit organizations that charge debtors a fee of not more than $15 per month are exempt from regulation.

As indicated by the data below, the amount of fees charged by the companies that responded to the survey varied across the board. In addition, 3 companies responded that they charge more than the $25 allowed in the statute for an initial fee. However, all companies that responded to the survey stated they do not charge more than 15 percent of the monthly payment, as required by the statute.

## Enrollment Fees

Twenty companies reported that they charge an enrollment fee to Washington consumers, ranging from $16 to $75 – most charged $25. Last year, only 7 companies reported charging an enrollment fee, ranging from $19 to $39 – with most charging $25. See chart c-1 below.

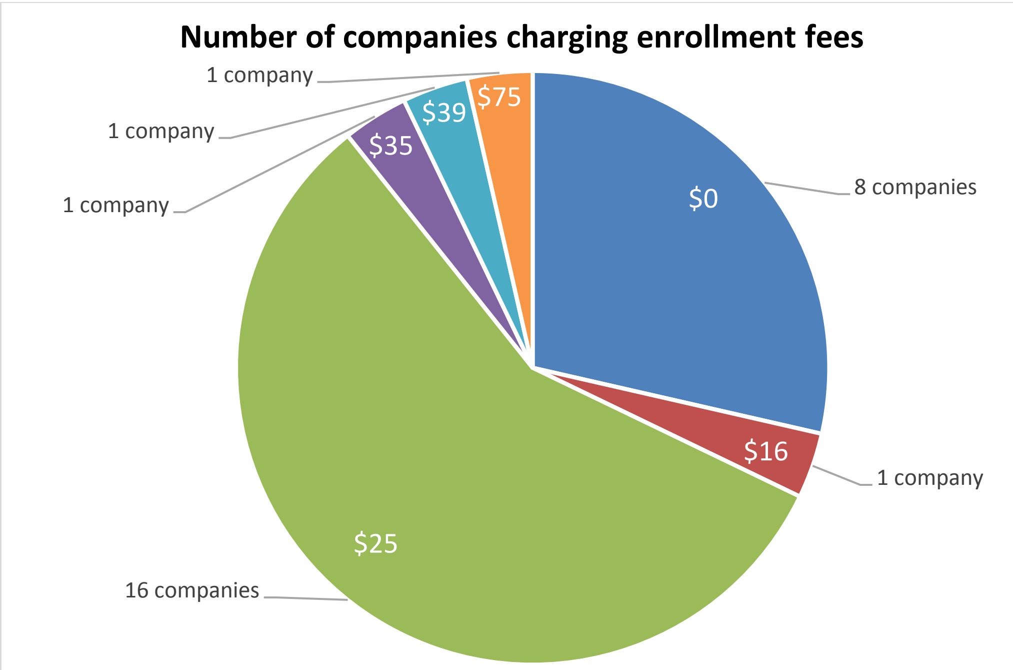


Chart c-1

## Monthly Fees

Fee calculations for Washington consumers varied across companies. Some charged flat fees each month, while others charged based on the percentage of the monthly DMP payment. Like last year, a majority of companies charged 15% of the monthly DMP payment but varied on whether they capped the payment. Six companies did not cap the monthly payment while the others used a maximum charge limit. The lowest maximum charge was $15 and the highest was $75. Still, other companies charged fees based on the number of accounts (debts) a consumer had in their DMP. Chart c-2 below summaries the fees assessed to Washington consumers by each company.

**Number of companies based on calculation of monthly fees**

| Calculation of payment per month | Maximum charge | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | $10 | $15 | $25 | $35 | $45 | $50 | $75 | No Max |
| 7.5% of DMP payment | | 1 company | | | | | | |
| 8% of DMP payment | | | | 1 company | | | | |
| 9% of DMP payment | | | | | | 1 company | | |
| 15% of DMP payment | | 2 companies | | 1 company | 2 companies | 5 companies | 4 companies | 6 companies |
| $5 per account | | | | 1 company | | | | |
| $10-$35 flat fee | 1 company | 2 companies | 1 company | 1 company | | | | |

Chart c-2

### d. Summary of Total Fees Collected from Washington Consumers

The survey requested the total fees collected for all Washington consumers that were active in 2016 as well as the fair share contributions obtained from creditors for that same year. Fair share is defined as creditor contributions paid to nonprofit debt adjusters by the creditors whose debtors receive debt adjusting services and pay down their debts accordingly. Fair share does not include grants received by debt adjusters for services unrelated to debt adjusting.[3] The fair share fees are not included in the 15 percent maximum amount the debt adjuster may retain from each payment.

In 2016, debt adjustors collected almost $2 million in fees from Washington consumers, up from about $1.7 million last year. Over $1 million in total fair share compensation was also collected in 2016, which was about the same amount as last year. The average collected in fees from Washington consumers, per company, was $67,000, up $1,000 from last year. The average fair share contributions collected per company was almost $41,000, up $2,000 from last year. The lowest total amount of fees collected by a company in 2016 was about $900, the highest was over $500,000. The lowest total collected last year was $3,825, and the highest was over $400,000.

**Fees Collected from Washington Consumers**
The average fees collected from Washington consumers, per company, in 2016 was almost $67,000, over $7,500 less than last year. Five companies collected under $5,000 from Washington debtors, 14 collected between $5,000 and $50,000, 5 collected between $50,000 and $100,000, and 5 collected more than $100,000. The lowest fees collected from Washington debtors by a company were just over $500, the highest fees were over $341,000. The lowest collected last year were just over $1,300, the highest were just over $237,000. See Chart d-1 below.

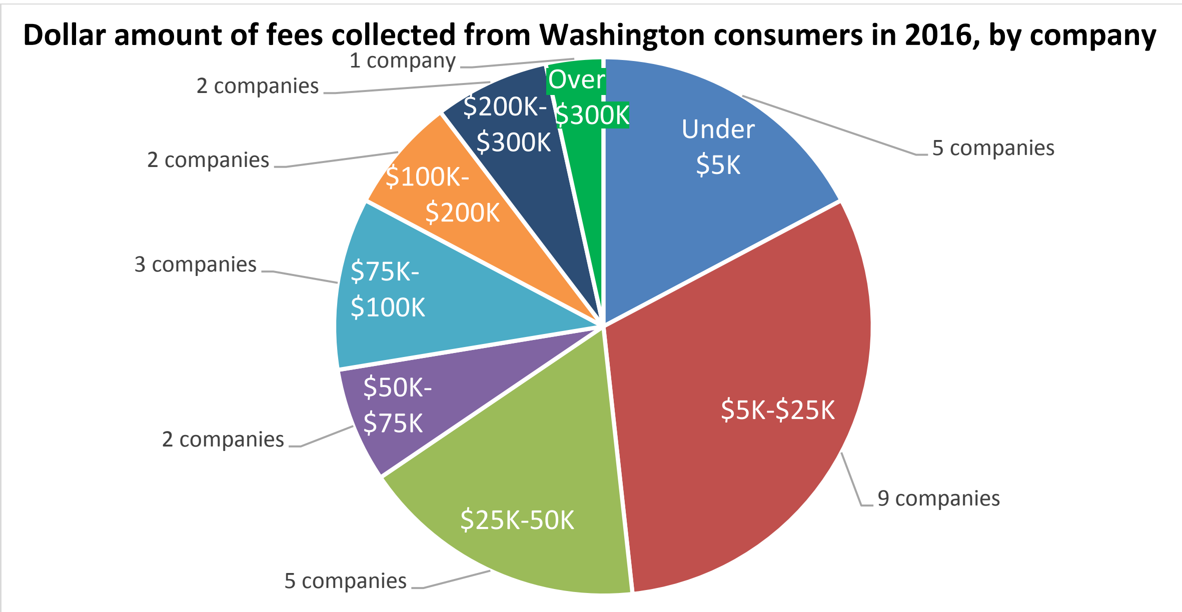


Chart d-1

[3] *See* RCW 18.28.010(4).

**Fair Share Contribution Collected**

The average fair share contribution collected, per company, in 2016 was almost $41,000, almost $5,000 less than last year. Nine companies collected under $5,000 from fair share contributions, 8 collected between $5,000 and $25,000, 3 collected between $25,000 and $50,000, 5 collected between $50,000 and $100,000, and 4 collected more than $100,000. In 2016, the lowest fair share contribution collected by a company was just under $400, only $25 higher than last year, and the highest was just over $174,000, only $1,000 more than last year. See Chart d-2 below.

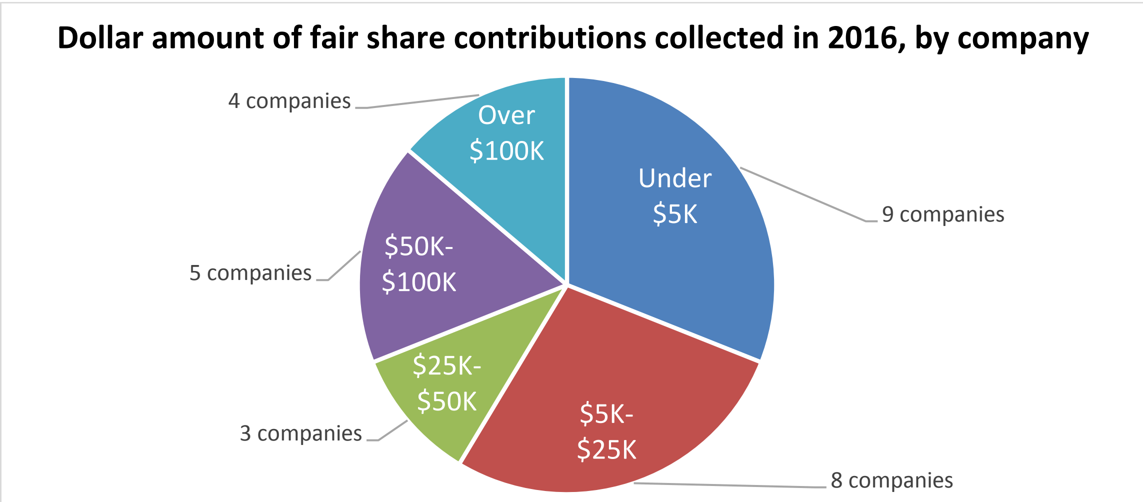


Chart d-2

### e. Average Number and Amount of Debt per Debtor

The number of debts a client had in their DMP varied significantly across the companies. On average, Washington consumers had 6 debts enrolled in a DMP in 2016, the same as in 2015. The highest number of debts an individual debtor had in 2016 was 58 debts, compared to 45 debts in 2015. See Chart e-1 below.

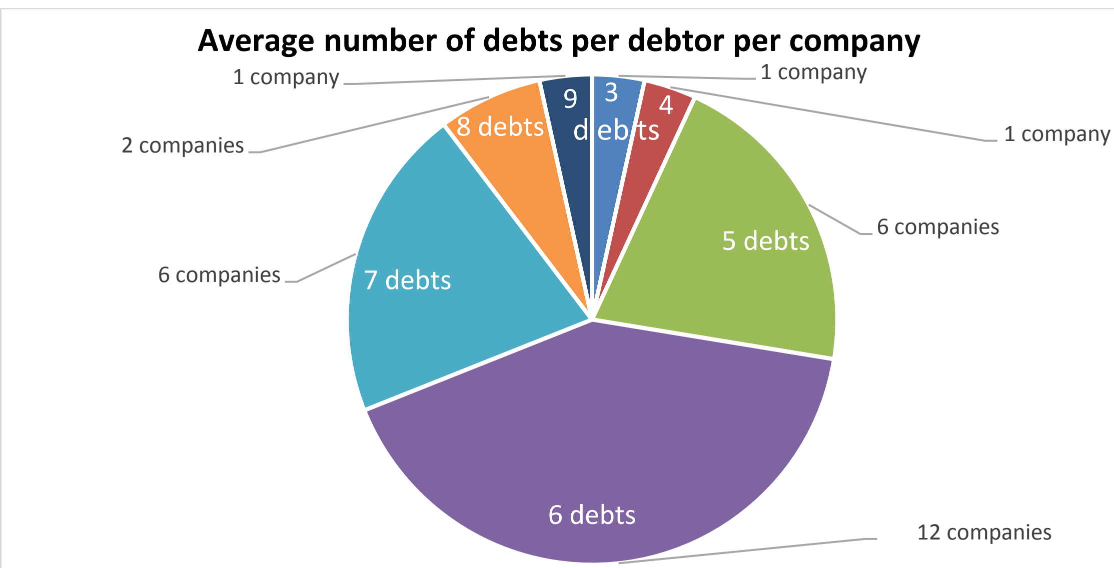


Chart e-1

The average principal amount of debt each client carried varied widely among the companies. On average, the debtors had an average of almost $18,500 in debt in 2016 versus the almost $20,000 average in 2015. See Chart e-2 below.

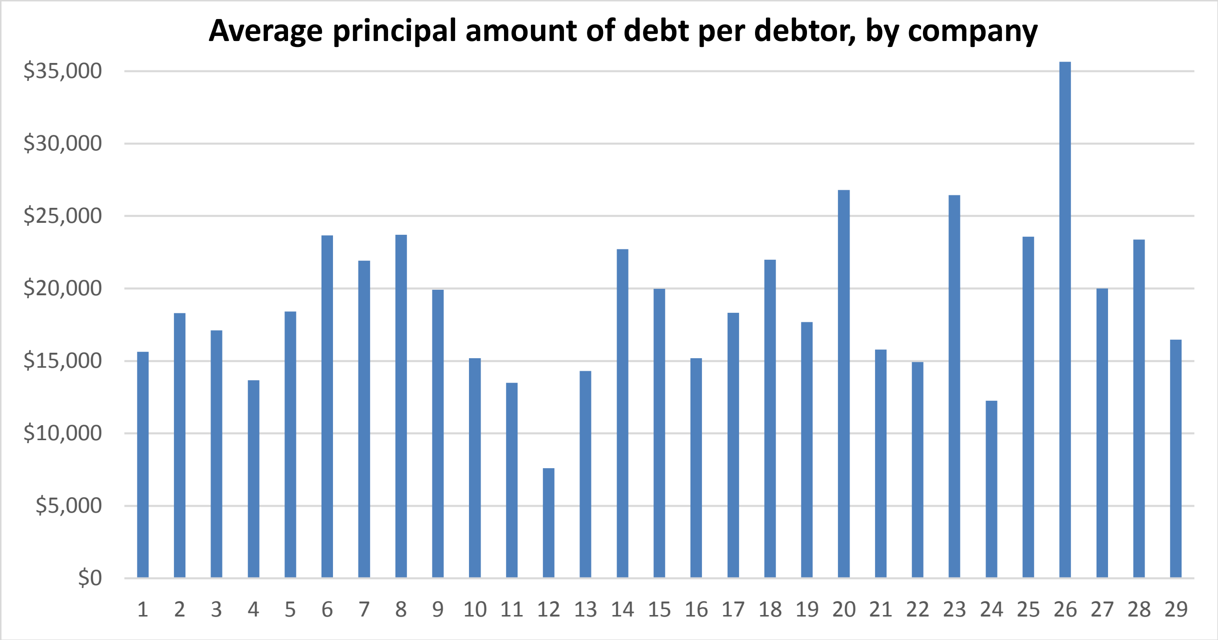


Chart e-2

The average principal amount per debt also varied widely among the companies. On average, the principal amount per debt was almost $3,150 in 2016, over $200 less than 2015's average. See Chart e-3 below.

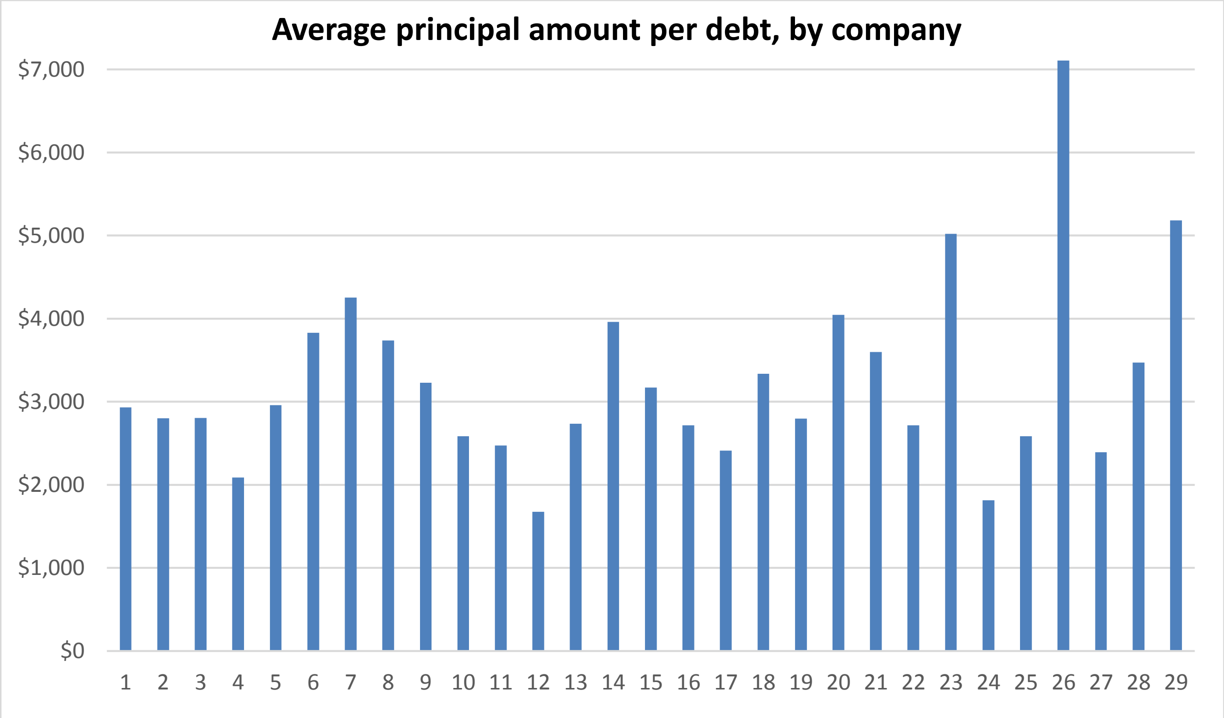


Chart e-3

### f. Types of Debt

The survey asked for the type of each debt in a debtor's DMP. Almost 80 percent of the debt in a DMP is credit card debt, up a little from 76 percent last year. Of the remainder, 18 percent is classified as "other unsecured" (primarily debts owed to a debt collector), down almost 2 percent from 2015. The next most prevalent debt is medical debt at just under 2 percent of the debts reported, compared to 2.5 percent last year. The remaining categories ("other secured", auto loan, student loan, and small loan) were each around or under one-half percent, which was very similar to last year's totals. See Chart f-1 below.

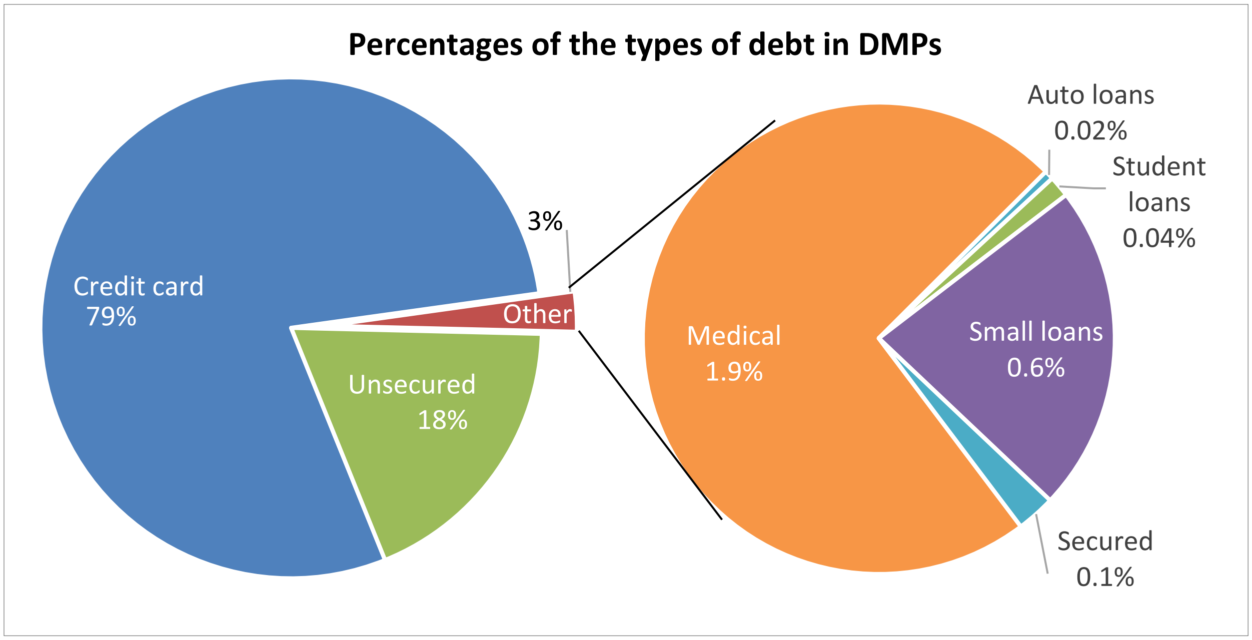


Chart f-1

### g. Three Examples of Company Data

Each entity that responded to the survey provided information about individual debtors. Sampled below are the responses of a representative small, medium, and large company.

| | Small Company | Medium Company | Large Company |
|---|---|---|---|
| Total # of Debtors | 98 | 515 | 1073 |
| - Active | 68 | 249 | 760 |
| - Terminated | 25 | 200 | 283 |
| - Settled | 5 | 66 | 30 |
| Total # of Debts Serviced | 661 | 2881 | 6310 |
| - Active debts | 331 | 1168 | 4551 |
| - Terminated debts | 203 | 1120 | 1599 |
| - Settled debts | 127 | 593 | 160 |
| Average # of debts per debtor | 6.7 | 5.6 | 5.9 |

Chart g-1

### i. Large Company

"Large company" (Large Co.) serviced a total of 1,073 Washington debtors in 2016. At the end of 2016, about 71 percent were still actively participating in the program, 26 percent terminated their involvement in the program before completion, and 3 percent completed the program by paying their debts in full. Large Co. also reported the status of each individual debt. Of the 6,310 debts reported, 72 percent of the debt was still active, 25 percent had been terminated, and 3 percent had been paid in full. See Chart g-i-1 below.

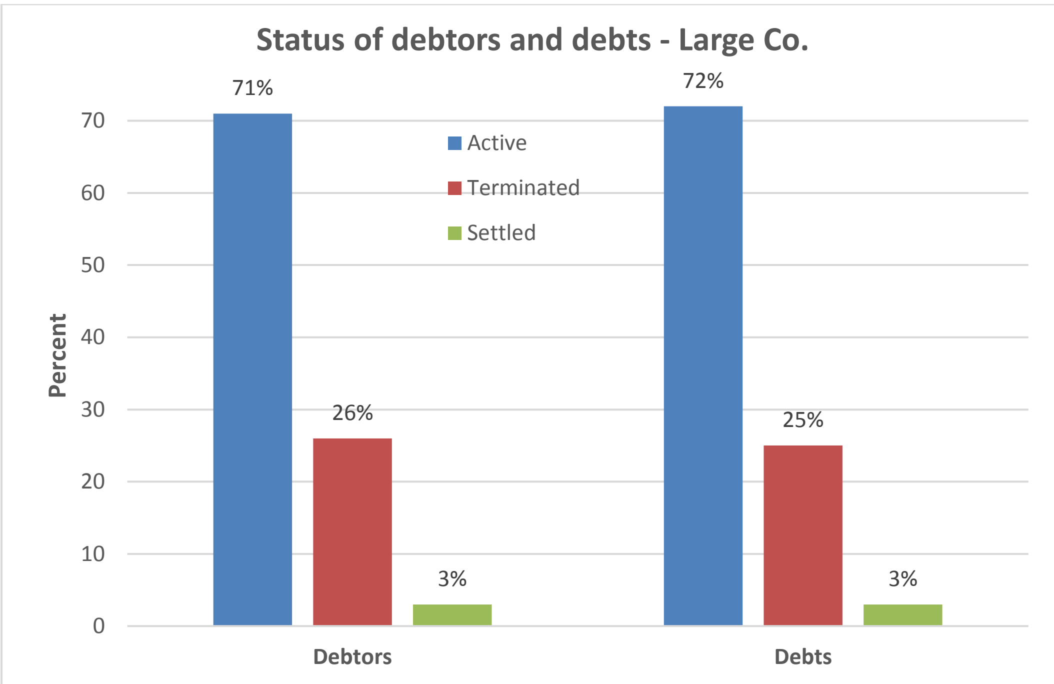


Chart g-i-1

The average Washington debtor in Large Co. had 5.9 debts. See chart g-i-2 below.

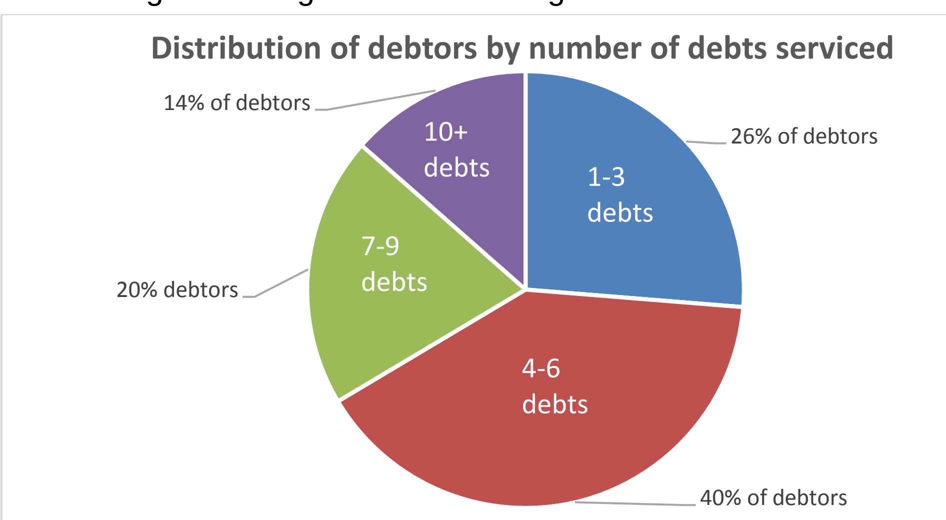


Chart g-i-2

### ii. Medium Company

"Medium company" (Medium Co.) serviced a total of 515 Washington debtors in 2016. At the end of 2016, 48 percent were still actively participating in the program, 39 percent terminated their involvement in the program before completion, and 13 percent completed the program by paying their debts in full. Medium Co. also reported the status of each individual debt. Of the 2,881 debts reported, 41 percent of the debt was still active, 39 percent had been terminated, and 21 percent had been paid in full. See Chart g-ii-1 below.

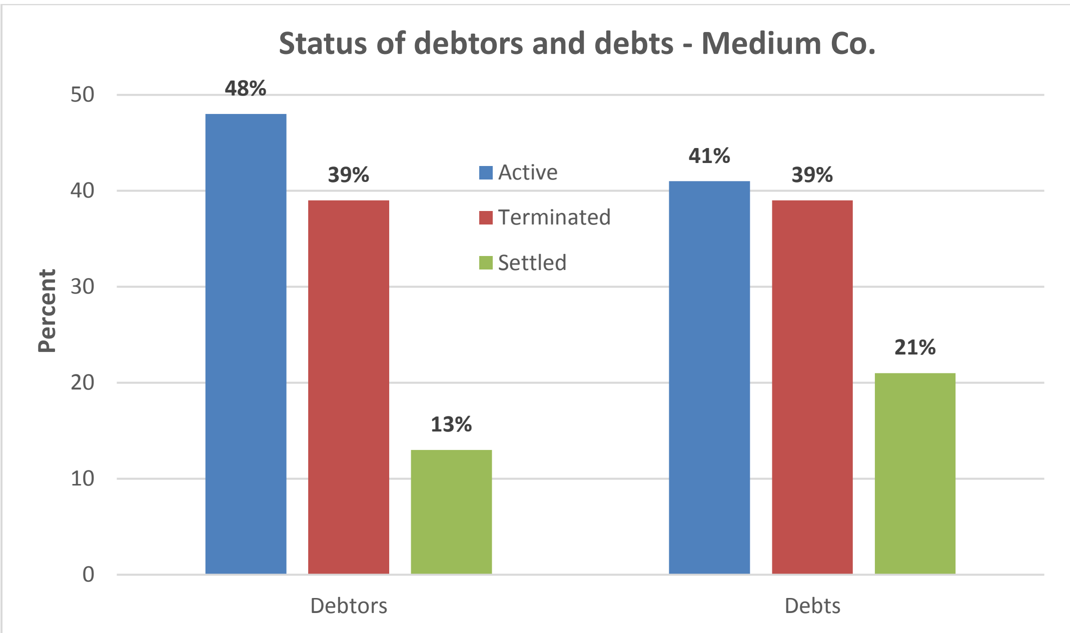


Chart g-ii-1

The average Washington debtor in Medium, Co. had 5.6 debts. See Chart g-ii-2 below.

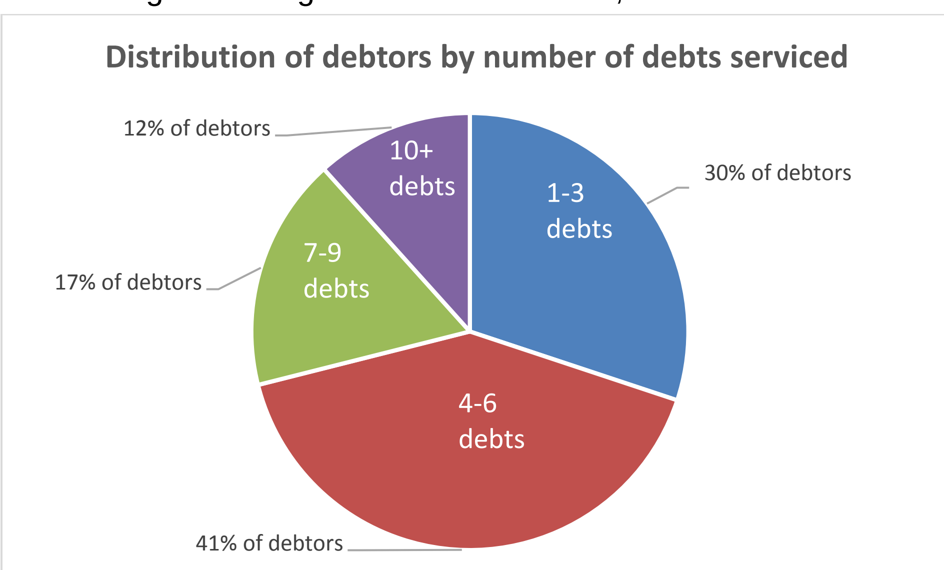


Chart g-ii-2

### iii. Small Company

"Small company" (Small Co.) serviced a total of 98 Washington debtors in 2016. At the end of 2016, about 69 percent were still actively participating in the program, 26 percent terminated their involvement in the program before completion, and 5 percent completed the program by paying their debts in full. Small Co. also reported the status of each individual debt. Of the 661 debts reported, 50 percent of the debt was still active, 31 percent had been terminated, and 19 percent had been paid in full. See Chart g-iii-1 below.

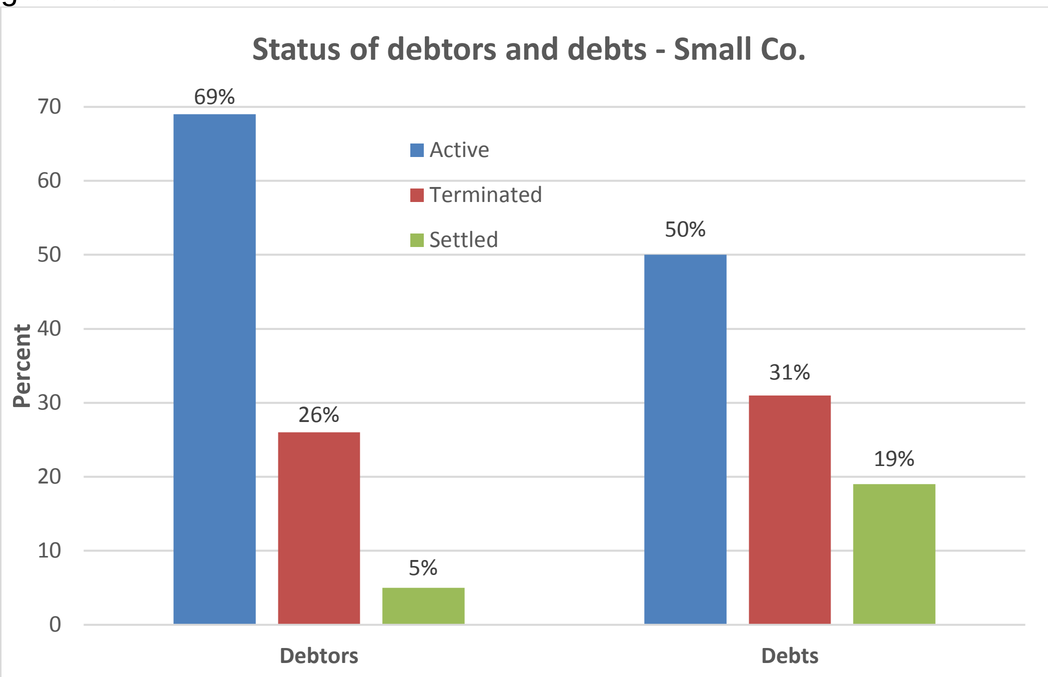


Chart g-iii-1

The average Washington debtor in Small Co. had 6.7 debts. See Chart g-iii-2 below.

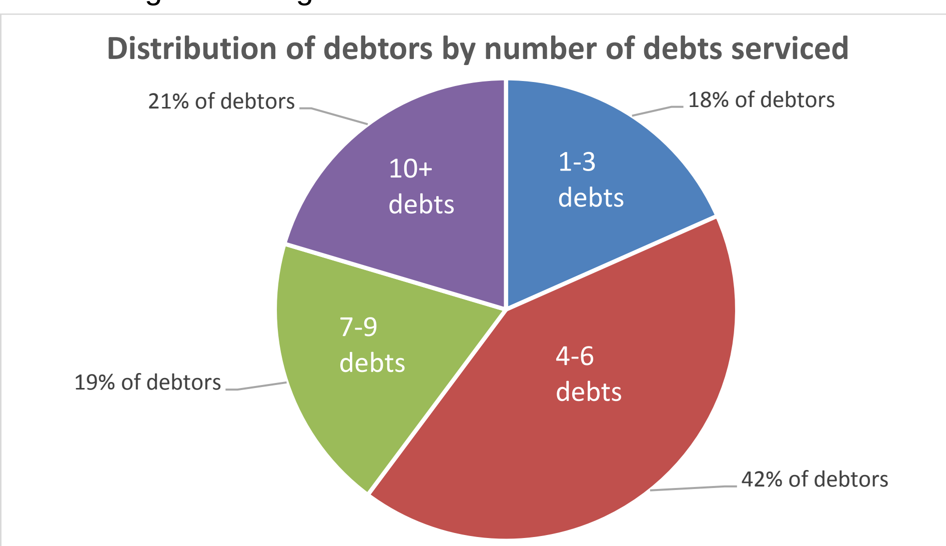


Chart g-iii-2

### iv. Comparison of Small, Medium, and Large Companies

A comparison of the status of debtors and debts between the representative companies shows only slight variations, regardless of company size. Both the small and large companies had similar rates of active and terminated debtors; the medium company had significantly fewer active clients, however. Both the small and medium companies had similar active, terminated, and settled debt rates, while the large company had a much greater percentage of active debts. See Chart g.iv.1 below.

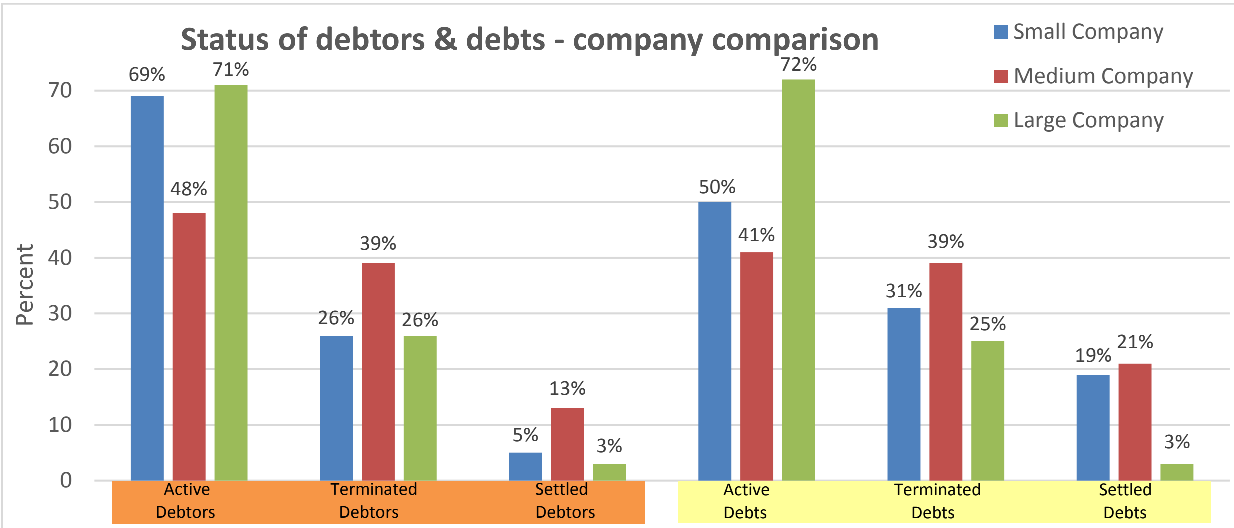


Chart g-iv-1

A comparison of the number of debts per debtor among the representative companies shows very similar rates. All three companies had around 60 percent of their debtors with 4 to 9 debts. The major differences between the companies are seen in the percentage of debtors with 1 to 3 debts or 10 or more debts. The small company had almost 10 percent more debtors with 10 or more debts. See Chart g-iv-2 below.

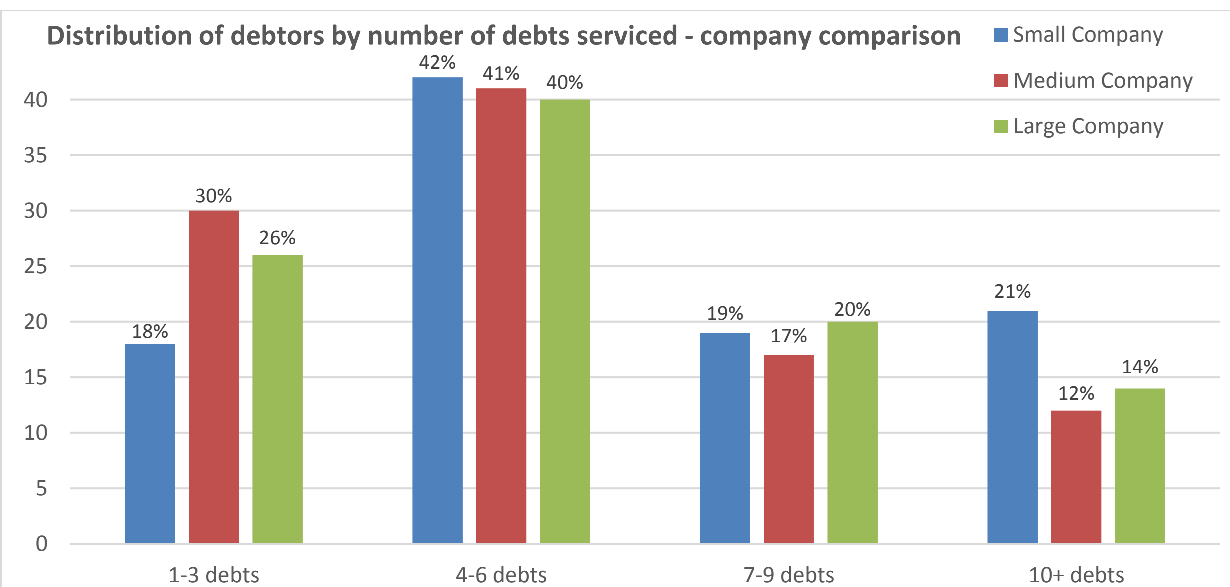


Chart g-iv-2

### h. Salaries of Certain Employees

Salaries for employees making over $150,000 in total compensation in 2016 varied, with the average around $243,000, which was almost $11,000 lower than last year's average. In 2016, the highest compensation was almost $850,000, only $2,000 over last year's highest salary. In 2016, over 65 percent of employees earning over $150,000 a year, however, still made less than $250,000 a year. Last year the number was significantly lower, at 53 percent of employees. In addition, this year only 1 employee made over $500,000. Last year, 3 employees made over $500,000. See Chart h-1 below.

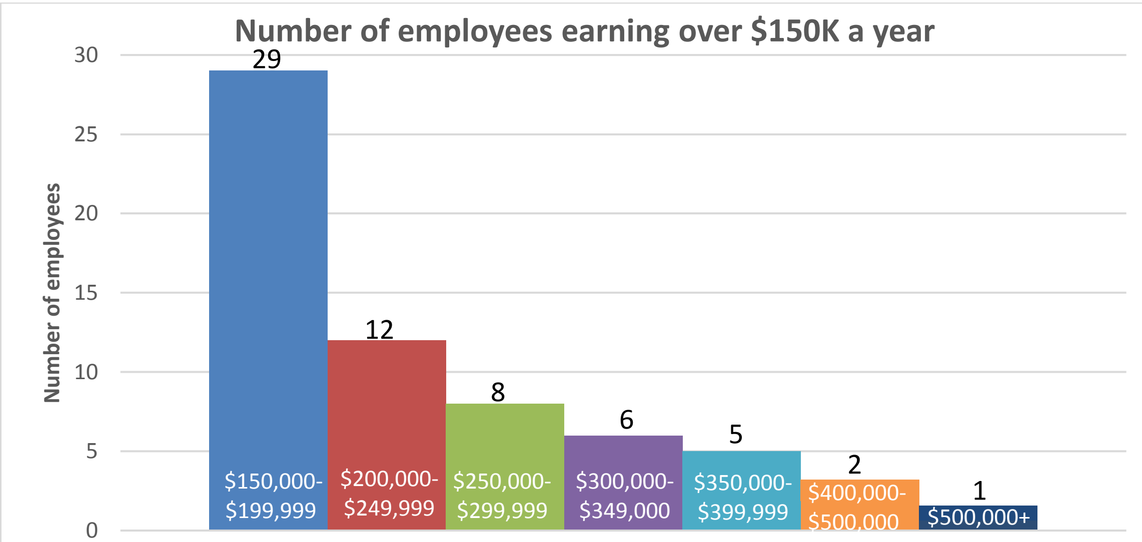


Chart h-1

Twenty-four companies had at least one employee making over $150,000 a year. Most companies paid 3 or less employees over $150,000. Two companies had 7 employees making over $150,000 a year. One paid over $1.4 million to these employees, an average of almost $205,000 per employee making over $150,000 in 2016. The other company paid significantly more to its employees earning over $150,000 in 2016 at just over $2.2 million, an average of over $320,000 per employee. In 2015, two companies paid eight employees more than $150,000 a year, with an average salary per employee of almost $300,000. See Chart h-2 below.

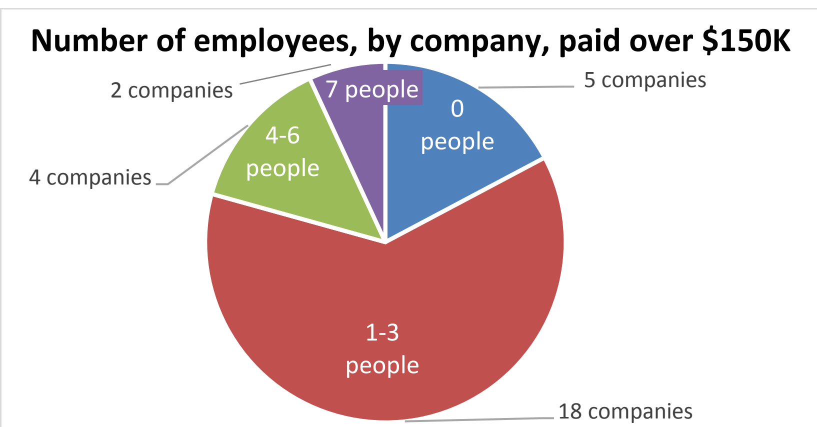


Chart h-2

## III. Contact Information

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


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360-902-0511

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360-902-0515


## IV. Appendices

a. **Substitute House Bill 1283, Chapter 167, Laws of 2015**

b. **2016 Survey**

c. **2016 Survey Respondents**

d. **2015 Report to the Legislature on Nonprofit Debt Adjusting Services in Washington State**

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

Appendix A

Substitute House Bill 1283, Chapter 167, Laws of 2015

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1283**

Chapter 167, Laws of 2015

64th Legislature
2015 Regular Session

DEBT ADJUSTING--NONPROFIT ORGANIZATIONS

EFFECTIVE DATE: 7/24/2015

Passed by the House March 10, 2015
Yeas 98 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 21, 2015
Yeas 48 Nays 0

BRAD OWEN

**President of the Senate**

Approved May 6, 2015 2:28 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1283** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

**Chief Clerk**

FILED

May 6, 2015

**Secretary of State**
**State of Washington**

# SUBSTITUTE HOUSE BILL 1283

Passed Legislature - 2015 Regular Session

**State of Washington 64th Legislature 2015 Regular Session**

**By** House Business & Financial Services (originally sponsored by Representatives Parker, Kirby, and Vick)

READ FIRST TIME 01/30/15.

AN ACT Relating to nonprofit organizations engaged in debt adjusting; amending RCW 18.28.080 and 18.28.120; reenacting and amending RCW 18.28.010; and adding a new section to chapter 18.28 RCW.

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

**Sec. 1.** RCW 18.28.010 and 2012 c 56 s 1 are each reenacted and 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 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, insurance companies, or third-party account administrators;

(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.

(2) "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.

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

(4) <u>"Fair share" means the creditor contributions paid to nonprofit debt adjusters by the creditors whose consumers receive debt adjusting services from the nonprofit debt adjusters and pay down their debt accordingly. "Fair share" does not include grants received by nonprofit debt adjusters for services unrelated to debt adjusting.</u>

<u>(5)</u> "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.

((~~(5)~~))<u>(6)</u> "Third-party account administrator" means an independent entity that holds or administers a dedicated bank account for fees and payments to creditors, debt collectors, debt adjusters, or debt adjusting agencies in connection with the renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of a debt.

**Sec. 2.** RCW 18.28.080 and 2012 c 56 s 2 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 not including fair share contributions to a nonprofit debt adjuster. 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.

(3) The department of financial institutions has authority to enforce compliance with this section.

**Sec. 3.** RCW 18.28.120 and 1999 c 151 s 106 are each amended to read as follows:

A debt adjuster shall not:

(1) Take any contract, or other instrument which has any blank spaces when signed by the debtor;

(2) Receive or charge any fee in the form of a promissory note or other promise to pay or receive or accept any mortgage or other security for any fee, whether as to real or personal property;

(3) Lend money or credit;

(4) Take any confession of judgment or power of attorney to confess judgment against the debtor or appear as the debtor in any judicial proceedings;

(5) Take, concurrent with the signing of the contract or as a part of the contract or as part of the application for the contract, a release of any obligation to be performed on the part of the debt adjuster;

(6) Advertise services, display, distribute, broadcast or televise, or permit services to be displayed, advertised, distributed, broadcasted or televised in any manner whatsoever wherein any false, misleading or deceptive statement or representation with regard to the services to be performed by the debt adjuster, or the charges to be made therefor, is made;

(7) Offer, pay, or give any cash, fee, gift, bonus, premiums, reward, or other compensation to any person for referring any prospective customer to the debt adjuster;

(8) Receive any cash, fee, gift, bonus, premium, reward, or other compensation, other than fair share contributions to a nonprofit debt adjuster, from any person other than the debtor or a person in the debtor's behalf in connection with his or her activities as a debt adjuster; or

(9) Disclose to anyone the debtors who have contracted with the debt adjuster; nor shall the debt adjuster disclose the creditors of a debtor to anyone other than: (a) The debtor; or (b) another creditor of the debtor and then only to the extent necessary to secure the cooperation of such a creditor in a debt adjusting plan.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.28 RCW to read as follows:

(1) Any nonprofit organization engaged in debt adjusting in this state or exempt from this chapter pursuant to RCW 18.28.010(1)(g) shall provide the following information to the department of financial institutions in a form prescribed by the department by June 30, 2016, and again on June 30, 2017:

(a) The number and percentage of Washington debtors for whom the debt adjuster provides or provided debt adjusting services in the previous year who became inactive in, canceled, or terminated those services without settlement of all of the debtor's debts, by year of enrollment;

(b) The total fees collected from Washington debtors during the previous year;

(c) The total fair share contributions collected from creditors of Washington debtors during the previous year;

(d) For each debtor for whom the debt adjuster provides debt adjusting services:

(i) The date of contracting;

(ii) The number of debts included in the contract between the debt adjuster and the debtor;

(iii) The principal amount of each debt at the time the contract was signed;

(iv) The source of each debtor's obligation, categorized as credit card, student loans, auto, medical, small loans under chapter 31.45 RCW, other secured debt, and other unsecured debt;

(v) Whether each debt is active, terminated, or settled;

(vi) If a debt has been settled, the settlement amount of the debt and the savings amount, calculated by subtracting the amount paid to settle the debt from the principal amount of the debt at the time the contract was signed; and

(vii) The total fees charged to the debtor and how the fees were calculated;

(e) For Washington debtors who became inactive in, canceled, or terminated debt adjuster services during the previous year, the number and percentage of debtors who, as measured by the aggregate amount of each debtor's enrolled debts:

(i) Settled zero percent of their enrolled debt;

(ii) Settled up to twenty-five percent of their enrolled debt;

(iii) Settled twenty-five percent to fifty percent of their enrolled debt;

(iv) Settled fifty-one percent to seventy-five percent of their enrolled debt;

(v) Settled seventy-six percent to ninety-nine percent of their enrolled debt;

(f) The number and percentage of Washington debtors for whom the debt adjuster provides or provided debt adjusting services in the previous three years who fully settled one hundred percent of their enrolled debt through those debt adjusting services, by year of enrollment; and

(g)(i) The nonprofit organization's form 990 submitted to the internal revenue service in the preceding year; or

(ii) A statement of previous year's base salary and other compensation of the nonprofit organization's officers, directors, trustees, and other employees and independent contractors receiving greater than one hundred fifty thousand dollars in total compensation, if the form 990 does not contain such information or if the organization did not submit a form 990 in the preceding year.

(2) The department of financial institutions shall make public and submit to the appropriate committees of the legislature a report summarizing the information received under subsection (1) of this section by December 1, 2016, and again on December 1, 2017.

Passed by the House March 10, 2015.
Passed by the Senate April 21, 2015.
Approved by the Governor May 6, 2015.
Filed in Office of Secretary of State May 6, 2015.

**--- END ---**

# Appendix B
# 2016 Survey

Page 1: General information

| | |
|---|---|
| **Name of nonprofit:** | |
| **Total fees collected:** | |
| **Total fair share contributions collected from creditors:** | |

| | **0% of debt** | **1-24% of debt** | **25-50% of debt** | **51-75% of debt** | **76-99% of debt** |
|---|---|---|---|---|---|
| **Total # of Washington debtors that went inactive in, canceled, or terminated services in 2016 without paying off all their debts: ______________** | | | | | |

| | **Enrolled in 2016** | **Enrolled in 2015** | **Enrolled in 2014** | **Enrolled in 2013** | **Enrolled in 2012** | **Continue adding years of enrollment as needed….** |
|---|---|---|---|---|---|---|
| **Total # of Washington debtors that went inactive in, canceled, or terminated services in 2016 without fully paying off all debts: __________** | | | | | | |
| **Total # of Washington debtors from 2014-2016 (last 3 years) that fully paid off all debts: __________** | | | | | | |

Page 2-as many as needed (“debtor 1”, “debtor 2”, “debtor 3”, etc.)

| | |
|---|---|
| **Name of nonprofit:** | |
| **Date of contracting:** | |
| **# of debts in contract:** | |
| **Total fees charged:** | |
| **How fees were calculated:** | |

| | Principal amount of debt at time contract signed | Source of debt: | Status of debt: | If the debtor entered into a debt management plan (DMP) what primary term was adjusted? | At the time the DMP was signed, what was the primary benefit to the debtor? | Additional information, if any, about term(s) or benefit(s): |
|---|---|---|---|---|---|---|
| **Debt 1** | | | | | | |
| **Debt 2** | | | | | | |
| **Debt 3** | | | | | | |
| **Debt 4** | | | | | | |
| **Debt 5** | | | | | | |
| **Debt 6** | | | | | | |
| **Debt 7** | | | | | | |
| **Debt 8** | | | | | | |
| **Debt 9** | | | | | | |
| **Debt 10** | | | | | | |
| Add add'l debts as needed | | | | | | |

**Source of debt options:** auto loan, credit card, medical debt, other secured debt, other unsecured debt, small loan (under chapter 31.45 RCW), or student loan

**Status of debt options:** active (debtor still in process of making payments and hasn’t cancelled DMP), terminated (debtor has ceased to make payments or specifically cancelled the DMP), or paid in full (DMP has been paid in full)

**Primary term options:** interest rate, penalty/fee, repayment term, or other

**Primary benefit options:** reduced interest rate, eliminated interest rate, reduced penalty/fee, eliminated penalty/fee, increased repayment term, or other

# Appendix C
# 2016 Survey Respondents

| Agency | Contact Information |
|---|---|
| Advantage Credit Counseling | 2403 Sidney St.<br>Pittsburgh, PA 15203 |
| American Consumer Credit Counseling | 130 Rumford Ave, Suite 202<br>Auburndale, MA 02466 |
| Black Hills Children's Ranch, Inc. dba<br>Pioneer Credit Counseling | 1644 Concourse Dr.<br>Rapid City, SD 57703 |
| Cambridge Credit Counseling Corp. | 67 Hunt St.<br>Agawam, MA 01001 |
| Christian Credit Counselors, Inc. | 5838 Edison Place, Ste. 200<br>Calrsbad, CA 92008 |
| Consumer Credit and Budget Counseling Inc. dba<br>National Foundation For Debt | 299 S. Shore Rd., US RTE 9<br>Marmora, NJ 08223 |
| Consumer Credit Counseling Service of Greater<br>Atlanta, Inc. dba Clearpoint | 270 Peachtree St. NW, Suite 1800<br>Atlanta, GA 30303 |
| Consumer Credit Counseling Service of Maryland and<br>Delaware, Inc., dba Guidewell Financial Solutions | 757 Frederick Rd.<br>Baltimore, MD 21228 |
| Consumer Credit Counseling Service of San Francisco<br>dba CCCS of SF | 595 Market St., 15th Floor<br>San Francisco, CA 94105 |
| Consumer Credit Counseling Service of the Midwest,<br>Inc. dba Apprisen | 4500 E. Broad St.<br>Columbus, OH 43213 |
| Consolidated Credit Counseling Services | 5701 W. Sunrise Blvd, Ste. 200<br>Ft. Lauderdale, FL 33313 |
| Consolidated Credit Solutions | 5701 W. Sunrise Blvd, Ste. 200<br>Ft. Lauderdale, FL 33313 |
| Consumer Credit of Des Moines | 6129 SW 63rd St.<br>Des Moines, IA 50321 |
| Consumer Education Services, Inc. | 3700 Barrett Dr.<br>Raleigh, NC 87609 |
| Credit Advisors Foundation | 1818 S. 72nd St.<br>Omaha, NE 68124 |
| Debt Counseling Corp | 3033 Express Dr. N., Ste 103<br>Hauppauge, NY 11749 |
| Debt Reduction Services | 6213 N. Cloverdale, Rd., Ste. 100<br>Boise, ID 83713 |

| | |
|---|---|
| Family Credit Counseling Services dba Family Credit Management Services | 111 N. Wabash, Ste. 1408<br>Chicago, IL 60602 |
| Family Financial Education Foundation | 724 Front St., Ste. 340<br>Evanston, WY 82930 |
| Garden State Consumer Credit Counseling, Inc. dba Navicore Solutions | 200 US Highway 9<br>Manalapan, NJ 07726 |
| InCharge Debt Solutions | 5750 Major Blvd.<br>Orlando, FL 32819 |
| Lutheran Social Service of Minnesota dba LSS Financial Counseling | 424 W. Superior St., Ste. 600<br>Duluth, MN 55802 |
| Money Management International, Inc. | 14141 SW Freeway, Ste. 1000<br>Sugar Land, TX 77478 |
| North Seattle Community College Foundation dba American Financial Solutions | 263 4th St.<br>Bremerton, WA 98337 |
| National Budget Planners of S. FL, Inc. | 4101 Dublin Blvd., Ste. F-142<br>Dublin, CA 94568 |
| Rural Dynamics, Inc. dba Consumer Credit Counseling Service of MT | 2022 Central Ave.<br>Great Falls, MT 59401 |
| Safeguard Credit Counseling Services, Inc. | 67 Fort Salonga Rd.<br>Northport, NY 11768 |
| Springboard Nonprofit Consumer Credit Management, Inc. dba Credit.org | 4351 Latham St.<br>Riverside, CA 92501 |
| Take Charge America, Inc. | 20620 N. 19th Ave.<br>Phoenix, AZ 95027 |

# Appendix D
# 2015 Report to the Legislature on Nonprofit Debt Adjusting Services in Washington State

dfi WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS

2016 Report to the Legislature
on
Nonprofit Debt Adjusting Services in Washington State
December 1, 2016

*SHB 1283, Chapter 167, Laws of 2015*
*Effective July 24, 2015*

## Report Contents

# I. Introduction

## a. History of the Act

Washington adopted the Debt Adjusting Act ("DAA") in 1967, which is codified at chapter 18.28 RCW, to protect consumers entering into debt management agreements. The definition of "debt adjusters" varies widely by state. Washington has adopted a somewhat broad definition.[1] Debt adjusting in Washington encompasses a wide variety of different services.[2] Numerous entities are exempt from regulation under the DAA. Among them are nonprofit organizations engaged in debt adjusting that charge debtors a fee of not more than $15 per month. Beginning in 2005, federal bankruptcy reform mandated that individuals seeking Chapter 7 bankruptcy must, in most cases, seek credit counseling and debt education/management services before their filing.

The Office of the Attorney General may investigate debt adjusting businesses and examine their books and records. Violation of the DAA constitutes a misdemeanor offense, as well as an unfair or deceptive act under the Consumer Protection Act.

## b. Amendment to the Act Creating the Survey

During the 2015 Legislative Session the Legislature passed SHB 1283 (Chapter 167, Laws of 2015) amending Chapter 18.28 RCW. The amendments to the Act created a fee exclusion for fair share contributions. Fair share is defined as creditor contributions paid to nonprofit debt adjusters by the creditors whose debtors receive debt adjusting services and pay down their debts accordingly. Fair share does not include grants received by debt adjusters for services unrelated to debt adjusting.[3] The fair share fees are not included in the 15 percent maximum amount the debt adjuster may retain from each payment. The bill included a provision requiring the Department of Financial Institutions (DFI) to complete a survey of activity by non-profit debt adjustors for 2015 and 2016 with reports to the Legislature on that activity in 2016 and 2017.

## c. Relevant Definitions in the Act; Impact on the Survey

The language in the bill creating the survey used terminology from the "for-profit" debt adjusting industry. This "for-profit" part of the industry operates largely on a debt settlement business model where debts are reduced before they are paid off. This is not the case in the non-profit part of the industry. Non-profit debt adjustors do not reduce a debt before it is paid off.[4]

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[1] A debt adjuster includes "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." RCW 18.28.010(1).

[2] "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. RCW 18.28.010(2).

[3] See RCW 18.28.010(4).

[4] These for-profit companies were the subject of a 2012 legislatively mandated survey by DFI. See that survey in the Appendices.

Instead, most non-profit debt adjusters generally help the consumer organize a "debt management plan" (DMP) for all the consumer's debts. Under DMPs, debt adjusters usually do not negotiate any reduction in the amounts the consumer owes; instead, they can lower the consumer's overall monthly payment by getting the creditor to increase the time period over which the consumer can repay the debt or lower the interest rate on the debt.

In order to gather relevant data, DFI worked with the industry to create guidance (FAQs) to assist industry in filling out the survey. For example, the FAQs define "settled" debts differently than it is defined in a "for profit" debt settlement context. In the debt settlement context, "settled" debts are those debts that are included in the reduced payoff agreement with the creditor. As non-profit debt adjusters do not "settle" debts in that manner, the FAQs instructed the companies to report the status of individual debts as settled only if that individual debt was paid in full. Thus, when the term "settled" appears in this report, it is referring to an individual debt that was paid off in full (i.e. full amount of debt was paid, with no reduction in amount owed). Additionally, the survey requested information about settlement amounts and savings amounts.[5] However, because industry does not reduce the amount of debt owed by the debtors, that data could not be ascertained.

## II. Debt Adjuster Survey Results

DFI contacted non-profit debt adjustment industry trade groups to obtain the contact information of approximately 253 non-profit debt adjustment companies. DFI contacted these companies and asked them to respond to the survey only if they had clients in Washington. DFI reviewed the 26 responses it received and summarized the data provided. This report will provide a summary of the information collected and provide some analysis of the data received.

All survey data is based on DFI's review of individual debtor data and not on aggregated company-wide data. This is because of the difficulty industry encountered when responding to the specific language in the bill in light of the industry business model, as discussed above. Additionally, the individual debtor data may have overlapped both ends of the reporting period to a certain extent. This resulted in an inability to calculate with specificity termination or service cancellation dates.

### a. Status of Accounts

The survey also asked respondents to indicate the percentage of Washington debtors who were active, who canceled or terminated their relationship with the debt adjustors before satisfaction of their debt, or who paid off their debt in full (settled). Responses varied widely, likely indicating differences in each particular debt adjuster's methodology for accepting debtors into their programs and for tracking the debtors. About 61.5 percent of the respondents' clients were still actively making payments on their debt.

[5] See Sec. 4(1)(d)(vi) of the bill.

In 2015 there were 5 companies with a cancellation or termination rate of fewer than 10 percent; 9 companies at 10-25 percent; 9 companies at 26-50 percent; and 3 companies above 51 percent. One company had a 64 percent cancellation or termination rate. The average termination rate in 2015 across all companies was around 24.5 percent. See Chart a-1 below.

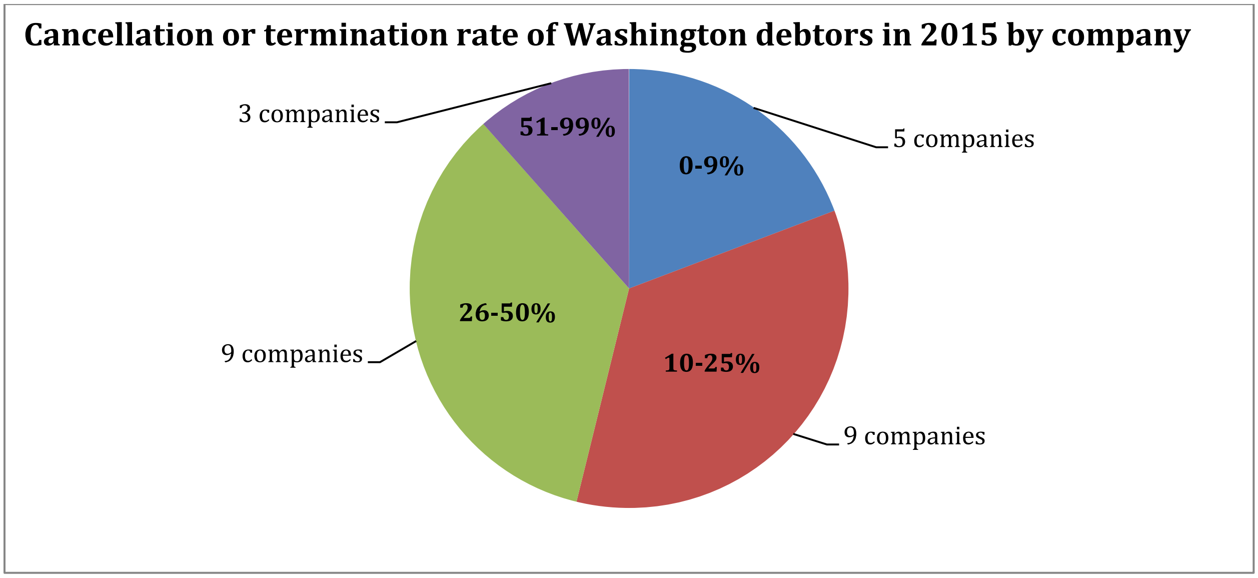


Chart a-1

In 2015 there were 13 companies with a settlement (paid in full) rate of fewer than 10 percent; 9 companies at 10-25 percent; 3 companies at 26-50 percent; and 1 company above 51 percent, which specifically had an almost 67 percent settlement (paid in full) rate. The average settlement rate in 2015 across all companies was around 14 percent. See Chart a-2 below.

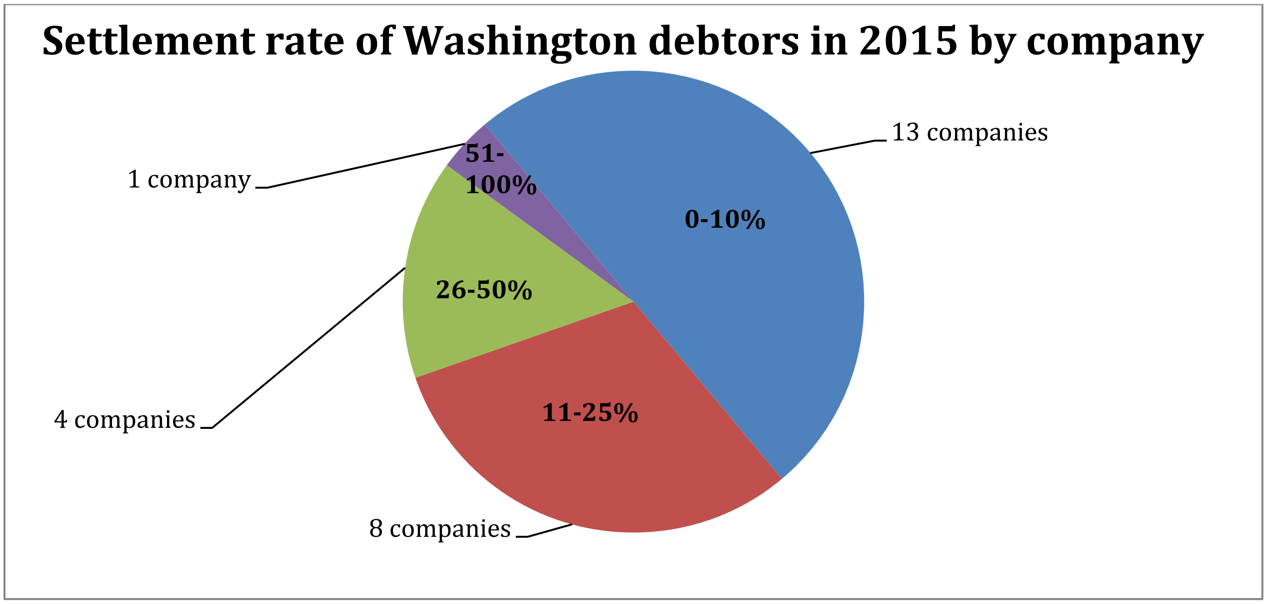


Chart a-2

## b. Review of Fees Assessed to Washington Consumers

Debt management companies charge various fees, including enrollment fees and monthly fees. Washington law 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 total fees assessed to a consumer are capped at 15 percent of the total debt listed by the debtor on the consumer's initial contract with the debt adjuster. Nonprofit organizations that charge debtors a fee of not more than $15 per month are exempt from regulation.

**Enrollment Fees**

Seven of the survey respondents reported that they charged an enrollment fee to Washington consumers, ranging from $19 to $39- most charged $25. See Chart b-1 below.

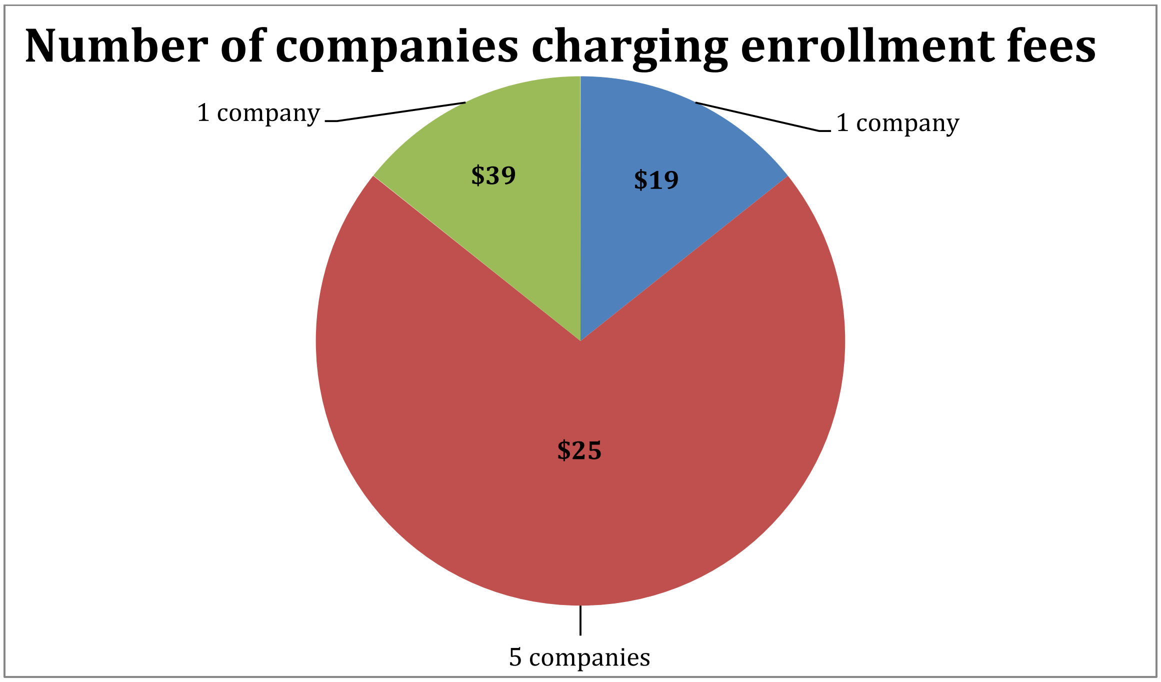


**Chart b-1**

**Monthly fees**

Fee calculations for Washington consumers varied across companies.[6] The most prevalent charge was 15 percent of the monthly DMP payment with no maximum charge limit (5 companies). However, some companies used a maximum charge limit. The lowest maximum charge was $35 and the highest was $75. Still, other companies charged fees based on the number of debts (accounts) a consumer had in their DMP. One company charged $5 per debt (account) with a maximum charge of $35, while another charged $10 per debt (account) with a maximum fee equal to 15 percent of the monthly DMP payment. Lastly, some companies charged a flat fee per month ranging

[6] Five companies did not provide the department with adequate data to evaluate their fee calculations.

from $14 per month to around $40 per month. Chart b-2 below summarizes the fees assessed to Washington consumers by each survey respondent.

**Monthly Fees Charged**

| Debt Adjuster | Monthly Fee |
|---|---|
| Company 1 | 15% ($35 max) |
| Company 2 | $5 per account ($35 max) |
| Company 3 | $15 a month OR 15% ($50 max) |
| Company 4 | 15% ($35 max) |
| Company 5 | 10% ($50 max) OR 15% ($50 max) |
| Company 6 | 8% ($35 max) |
| Company 7 | 15% |
| Company 8 | Not Provided |
| Company 9 | 15% |
| Company 10 | 15% |
| Company 11 | 15% |
| Company 12 | $10 per account (15% max) OR lesser of 15% or $50 |
| Company 13 | 15% ($60 max) |
| Company 14 | $10 per creditor ($50 max) OR 15% |
| Company 15 | $14 a month |
| Company 16 | 15% ($75 max) |
| Company 17 | Not provided |
| Company 18 | 15% ($35 max) |
| Company 19 | Not provided |
| Company 20 | Not provided |
| Company 21 | Not provided |
| Company 22 | $15 a month |
| Company 23 | 15% |
| Company 24 | $6-$50 (most were $39.99) |
| Company 25 | Lesser of 15% or $75 |
| Company 26 | 15% ($48 max) |

**Chart b-2**

### c. Summary of Total Fees Collected from Washington Consumers

The survey requested the total fees collected for all Washington consumers that were active in 2015 as well as the fair share contributions obtained from creditors for that same year. Again, fair share contributions mean the creditor contributions paid to non-profit debt adjusters by the creditors whose consumers receive debt adjusting services from the non-profit debt adjusters and pay down their debt according to a DMP.

In total, the companies collected over $1.7 million dollars in fees from Washington consumers and over $1 million in total fair share compensation in 2015. The average collected per company in fees from Washington consumers was almost $66,000 and almost $39,000 in fair share contributions. Of the 26 respondents, 8 collected more than $100,000 in fees from Washington debtors, 4 collected more than $100,000 in fair share compensation, and 11 collected more than $100,000 in total compensation in 2015. See Chart c-1 below.

**Total Fees collected from Washington Consumers in 2015**

| | Fees | Fair Share | Total fees |
|---|---|---|---|
| Company 1 | $1,324 | $2,501 | $3,825 |
| Company 2 | $3,461 | $1,339 | $4,800 |
| Company 3 | $3,906 | $1,659 | $5,565 |
| Company 4 | $5,467 | $54,879 | $60,346 |
| Company 5 | $5,760 | $4,251 | $10,011 |
| Company 6 | $8,001 | $2,543 | $10,544 |
| Company 7 | $8,250 | $374 | $8,624 |
| Company 8 | $8,988 | $2,492 | $11,480 |
| Company 9 | $9,752 | $3,494 | $13,246 |
| Company 10 | $15,366 | $4,831 | $20,197 |
| Company 11 | $23,560 | $4,670 | $28,230 |
| Company 12 | $28,634 | $3,587 | $32,221 |
| Company 13 | $33,117 | $11,786 | $11,786 |
| Company 14 | $42,990 | $38,399 | $81,389 |
| Company 15 | $48,838 | $61,613 | $110,451 |
| Company 16 | $71,682 | $32,972 | $104,654 |
| Company 17 | $19,944 | $14,462 | $34,405 |
| Company 18 | $94,519 | $23,156 | $117,675 |
| Company 19 | $106,981 | $57,086 | $164,067 |
| Company 20 | $114,053 | $116,358 | $230,411 |
| Company 21 | $141,195 | $172,723 | $313,918 |
| Company 22 | $158,626 | $44,484 | $203,110 |
| Company 23 | $162,993 | $123,589 | $286,582 |
| Company 24 | $185,053 | $64,343 | $249,396 |
| Company 25 | $188,629 | $118,654 | $307,283 |
| Company 26 | $228,887 | $56,461 | $285,348 |
| **Total** | **$1,719,976** | **$1,022,706** | **$2,709,564** |

**Chart c-1**

### d. Average Number and Amount of Debt per Debtor

The number of debts a client had in the DMP varied significantly across the companies. Half the companies had an average of 6 debts per consumer. Seven companies had an average of 5 debts per consumer, 2 companies had 7 debts, 2 companies had 8 debts, 1 company had 10 debts, and 1 had 4 debts. On average, Washington consumers had 6 debts enrolled in a DMP in 2015. Several debtors had only 1 debt in a DMP, while other had significantly more. The highest number of debts for an individual debtor was 45. See Chart d-1 below.

**Average Number of Debts per Debtor per Company**

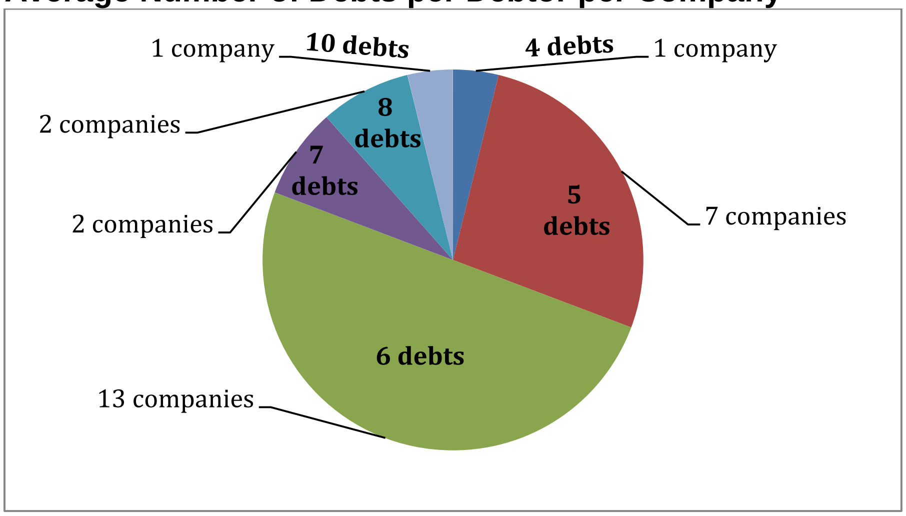


**Chart d-1**

The average principal amount of debt each debtor carried varied widely across the companies. One company's debtors had only an average of a little over $11,000 in debt. Another company's debtors had over $30,000 in debt. On average, the debtors had almost $20,000 in debt. See Chart d-2 below.

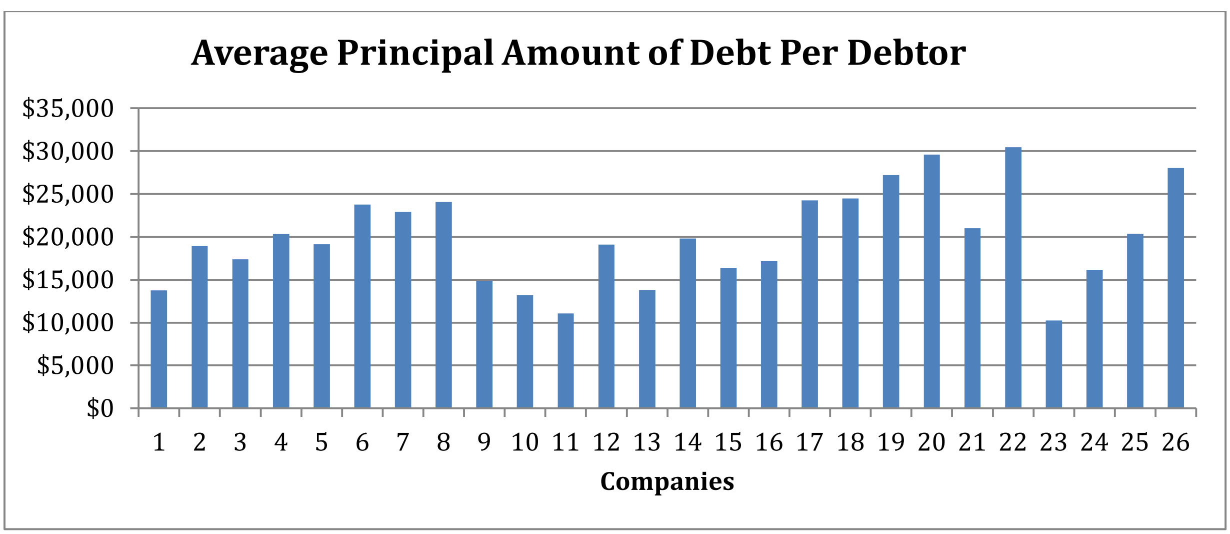


**Chart d-2**

### e. Types of Debt

The survey asked respondents to indicate the type of debt for each individual debt in a debtor's DMP. Over three-quarters of the debt in a DMP is credit card debt. Of the remaining quarter of debt, the majority of the debt is classified as "other unsecured." This type of debt tends to be debts that are owed to a debt collector. The next most prevalent was medical debt at only about 2.5 percent of the debts reported. Still less likely were small loan debt (less than 1 percent) and auto, student, or other secured debt (all less than one-half percent). See Chart e-1 below.

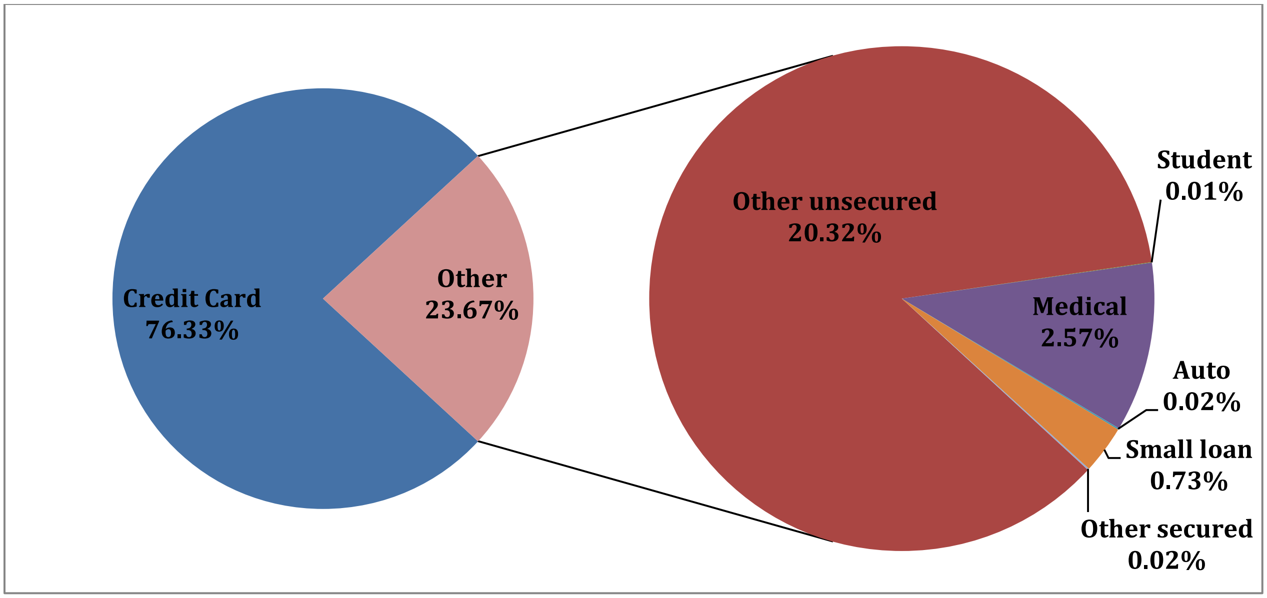


**Chart e-1**

### f. Three Examples of Company Data

Each respondent to the survey provided information about individual debtors, but methods of reporting accounting data for individual debtor accounts differed widely among respondents. Sampled below are the responses of a representative small, medium, and large company.

| | Small Company | Medium Company | Large Company |
|---|---|---|---|
| Total Debtors | 115 | 590 | 1,167 |
| - Active | 62.6% | 60.9% | 33.9% |
| - Terminated | 37.4% | 19.5% | 33.9% |
| - Settled | 0.0% | 19.6% | 32.2% |
| Total Number of Debt Serviced | 582 | 3,426 | 7,195 |
| - Active debts | 47.1% | 45.4% | 24.8% |
| - Terminated debts | 52.7% | 18.2% | 29.3% |
| - Settled debts | 0.2% | 36.4% | 45.9% |
| Avg. Number of Debts per Debtor | 5.1 | 5.8 | 6.2 |

**Chart f-1**

### i. Large Company

"Large Company" (Large Co.) serviced a total of 1,167 Washington debtors in 2015. At the end of 2015, almost 34 percent were still actively participating in the program, almost 34 percent terminated their involvement in the program before completion, and about 32 percent completed the program by paying their debts in full. Large Co. also reported the status of each individual debt. Of the over 7,000 debts reported, almost 25 percent of the debt was still active, 29 percent had been terminated, and almost 46 percent had been settled (paid in full). See Chart f-i-1 below.

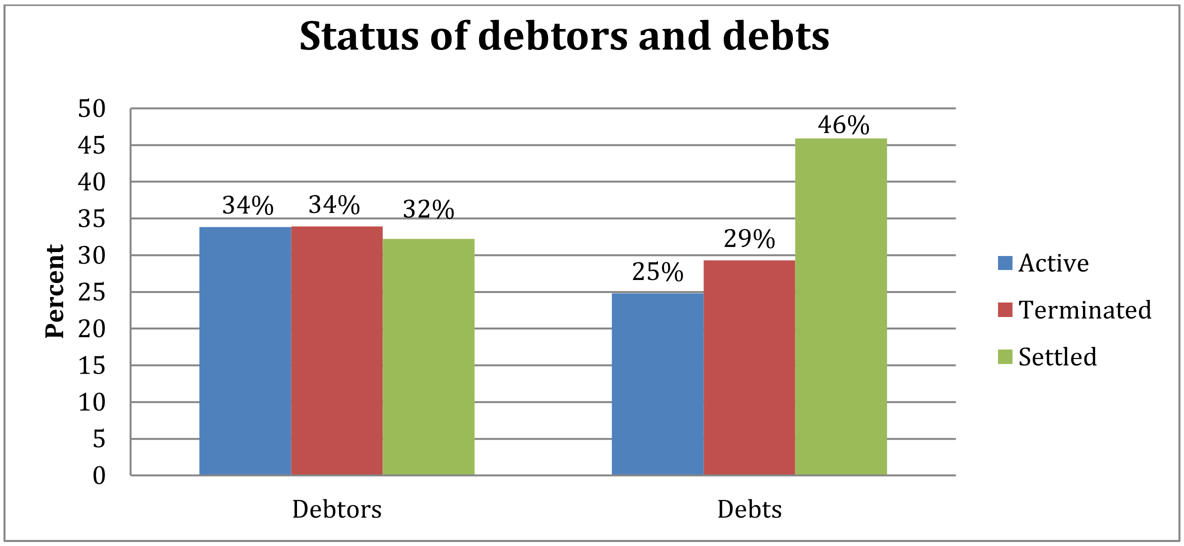


**Chart f-i-1**

The average Washington debtor in Large Co. had 6.2 debts. See Chart f-i-2 below.

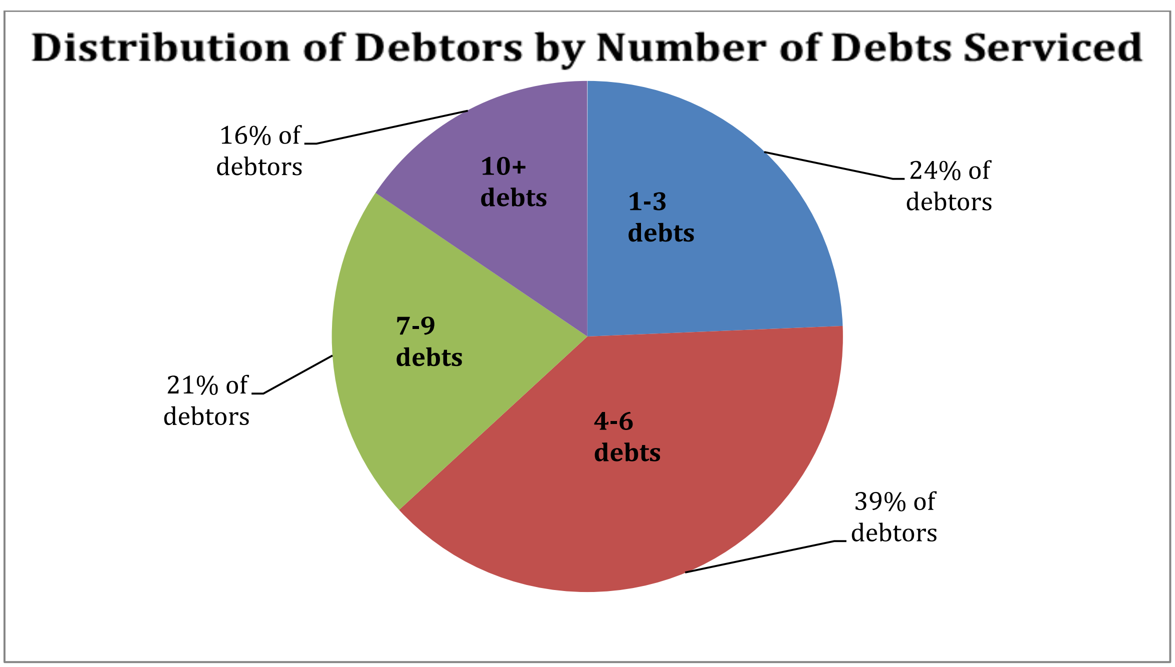


**Chart f-i-1**

### ii. Medium Company

"Medium Company" (Medium Co.) serviced a total of 590 Washington debtors in 2015. At the end of 2015, almost 61 percent were still actively participating in the program, 19.5 percent terminated their involvement in the program before completion, and about 5.5 percent completed the program by paying their debts in full. Medium Co. also reported the status of each individual debt. Of the almost 3,500 debts reported, almost 45.5 percent of the debt was still active, 18 percent had been terminated, and almost 36.5 percent had been settled (paid in full). See Chart f-ii-1 below.

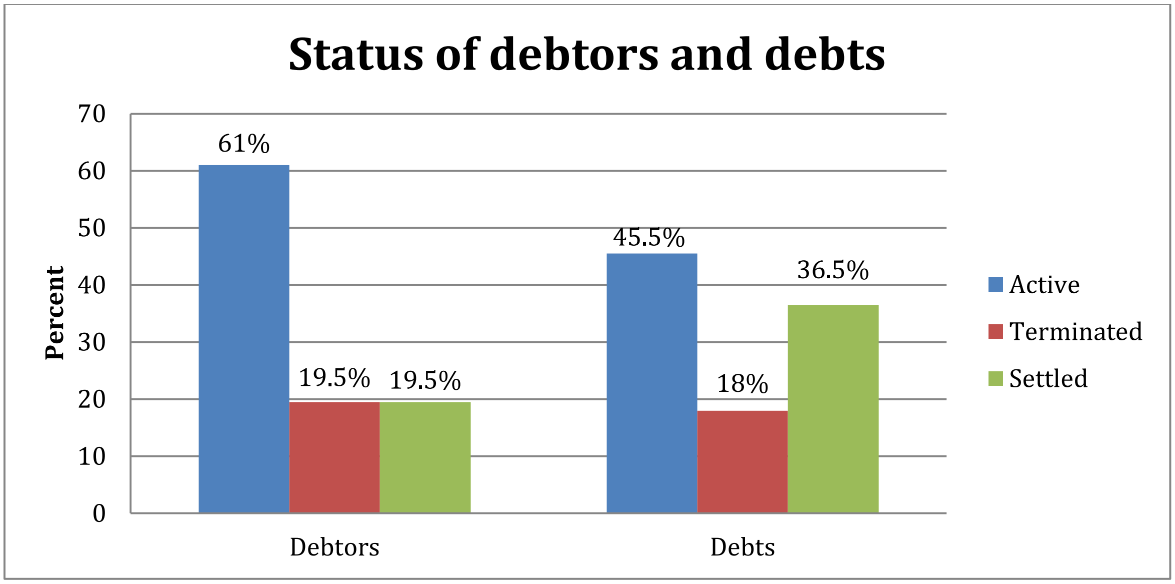


**Chart f-ii-1**

The average Washington debtor in Medium Co. had 5.8 debts. See Chart f-ii-2 below.

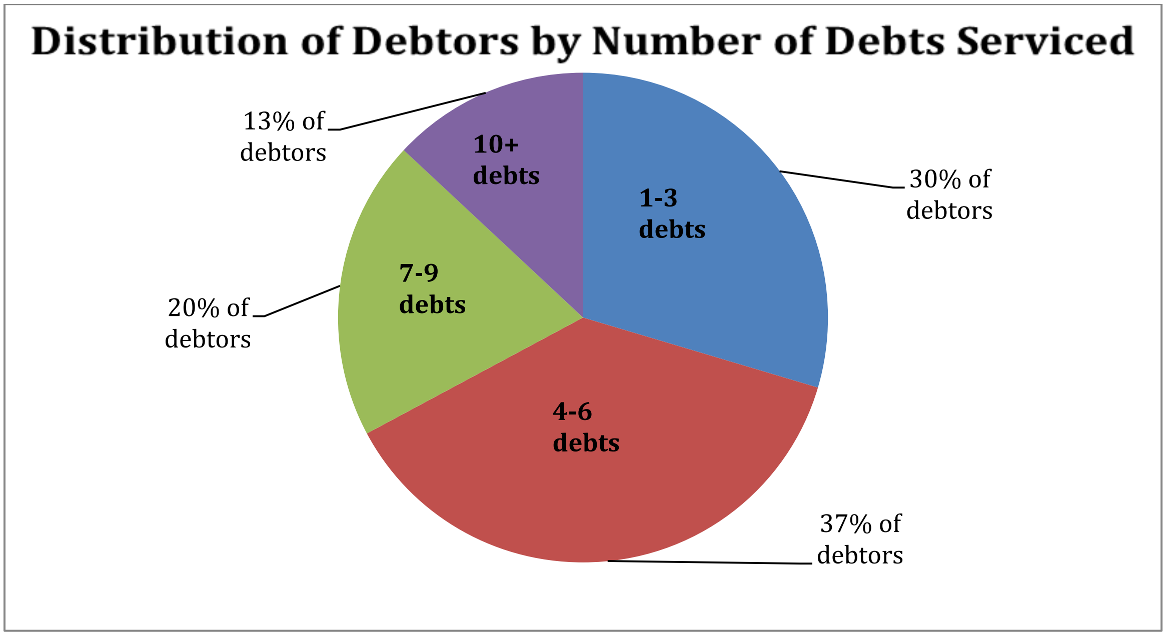


**Chart f-ii-2**

### iii. Small Company

"Small Company" (Small Co.) serviced a total of 115 Washington debtors in 2015. At the end of 2015, about 62.5 percent were still actively participating in the program and 37.5 percent terminated their involvement in the program before completion. No consumers completed the program by paying their debts in full in 2015. Small Co. also reported the status of each individual debt. Of the almost 600 debts reported, almost 47 percent of the debt was still active, 52.5 percent had been terminated, and almost 0.5 percent had been settled (paid in full). See Chart f-iii-1 below.

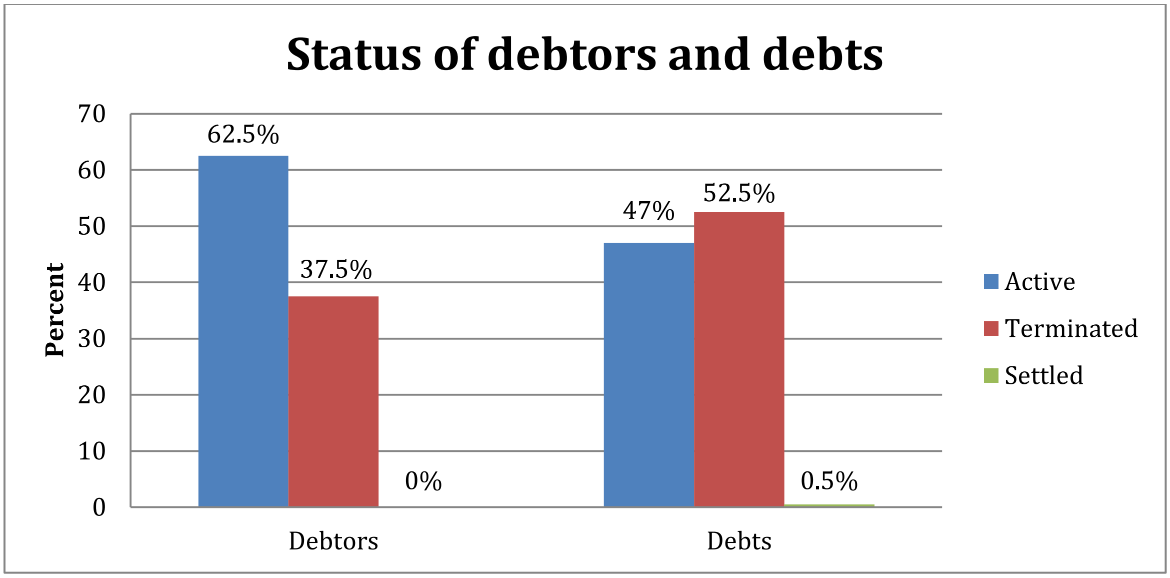


**Chart f-iii-1**

The average Washington debtor in Small Co. had 5.1 debts. See Chart f-iii-2 below.

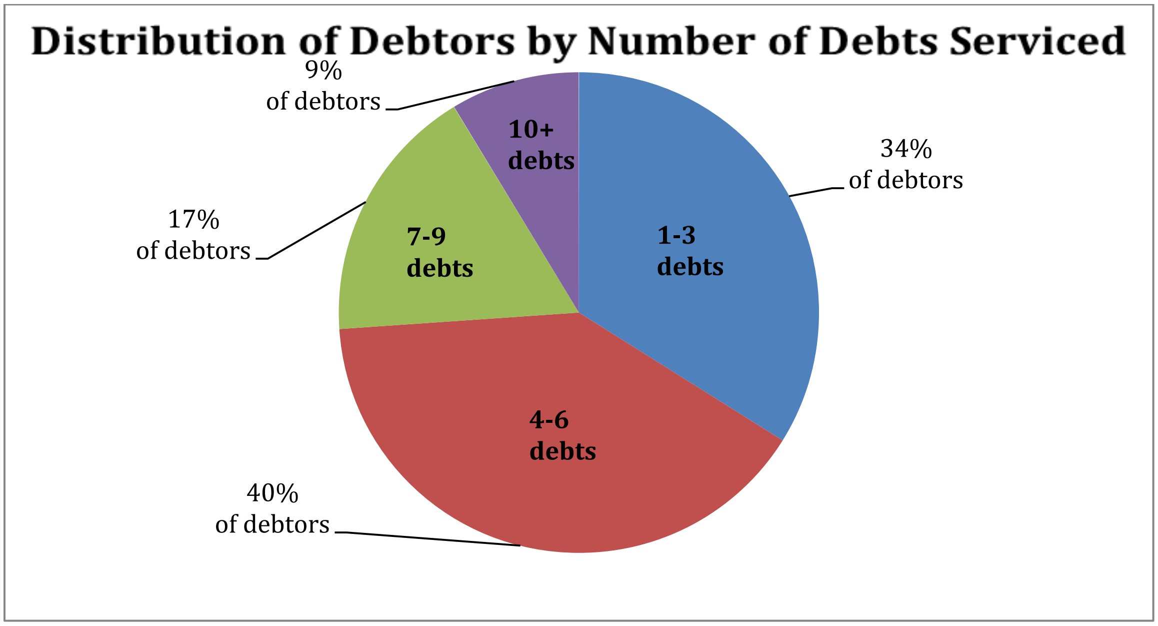


**Chart f-iii-2**

### g. Salaries of Certain Employees

The survey only included the salaries for employees making over $150,000 in total compensation in 2015. Salaries for these employees varied across the board with the average compensation right around $254,000 and the highest compensation at almost $848,000. However, most employees earning over $150,000 a year still earned less than $200,000 a year. Almost 50 percent of employees made less than $200,000 a year. About 30 percent earned between $200,000 and $300,000. The remaining 20 percent that earned over $300,000 were all executive officers. See Chart g-1 below.

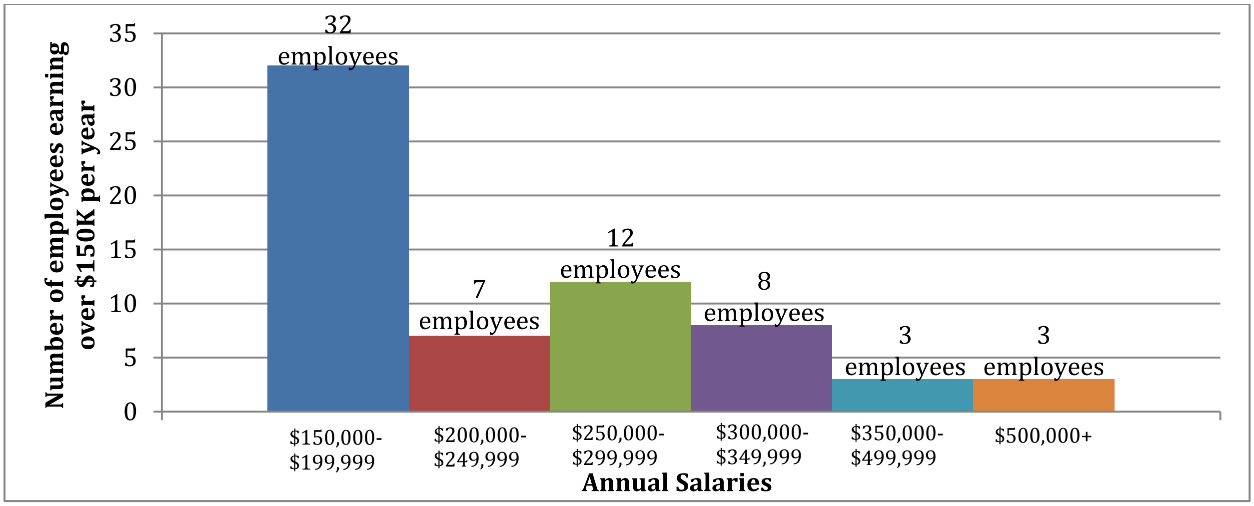


**Chart g-1**

About 80 percent of companies paid 3 people or less over $150,000 in 2015. Four companies did not have any employees that received over $150,000 in total compensation, 8 companies paid 1 person, 5 companies paid 2 people, and 4 companies paid 3 people. Two companies paid significantly more employees than most other companies (8 and 9 people, respectively). One of these companies paid over $2.5 million in salaries to those individuals earning over $150,000 in one year, paying an average of almost $300,000 to each individual. See Chart g-2 below.

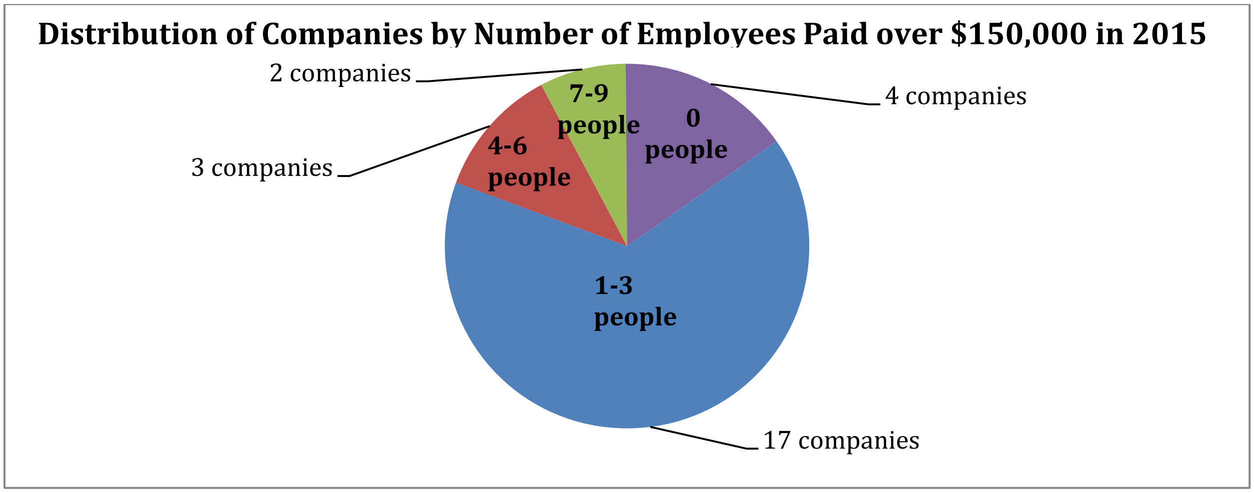


**Chart g-2**

## III. Contact Information

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


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## IV. Appendices

**a. Substitute House Bill 1283, Chapter 167, Laws of 2015**

**b. 2015 Survey**

**c. 2015 Survey Respondents**

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

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

WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS

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. <u>Introduction</u>

Pursuant to Engrossed Senate Bill 6155 (2012), the Department of Financial Institutions ("DFI") was directed by the Legislature to gather the following information from survey respondents:

- 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 service, 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 service, 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.

Beginning in 2005, federal bankruptcy reform mandated that individuals seeking Chapter 7 bankruptcy must, in most cases, seek credit counseling and debt education/management services before their filing.

The definition of "debt adjusters" varies widely by state. 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]

Washington has adopted a somewhat different, though also broad, definition. "Debt adjusting services" are defined by RCW 18.28.010 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. Self-reported numbers from the debt adjustment industry indicate 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] Washington adopted the Debt Adjusting Act ("DAA") in 1967, which is codified at chapter 18.28 RCW, to protect consumers entering into debt management agreements.

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.

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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 Dakota, Utah, Nevada, and Tennessee).

[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.")

### 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 calls 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.

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.

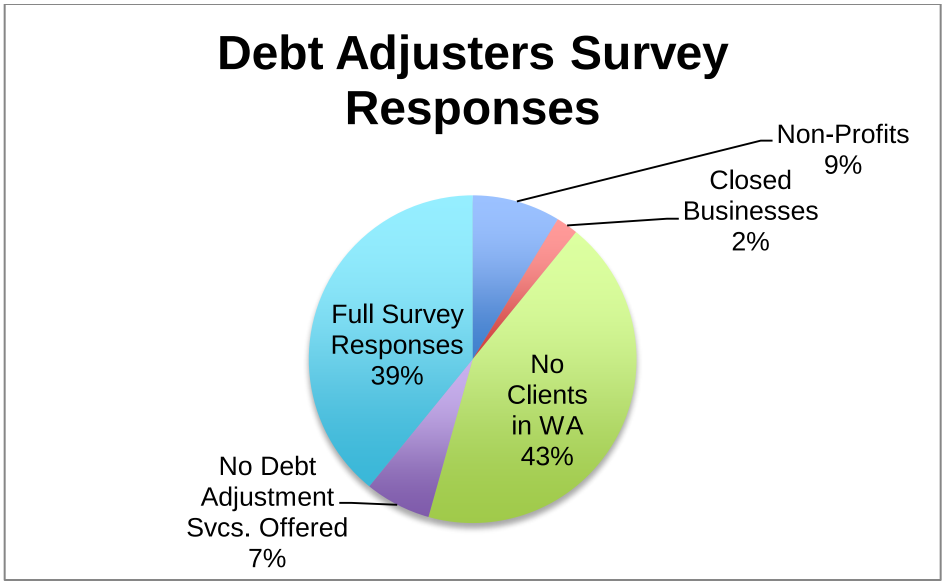
If the formula determines the debtor is suitable for enrollment in the debt management or settlement agreement plan, a contract is executed between the debtor and the debt adjuster. Generally, debt management plans and settlement plans are structured to take between three and five years for the debtor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

## II. Debt Adjuster Survey Results

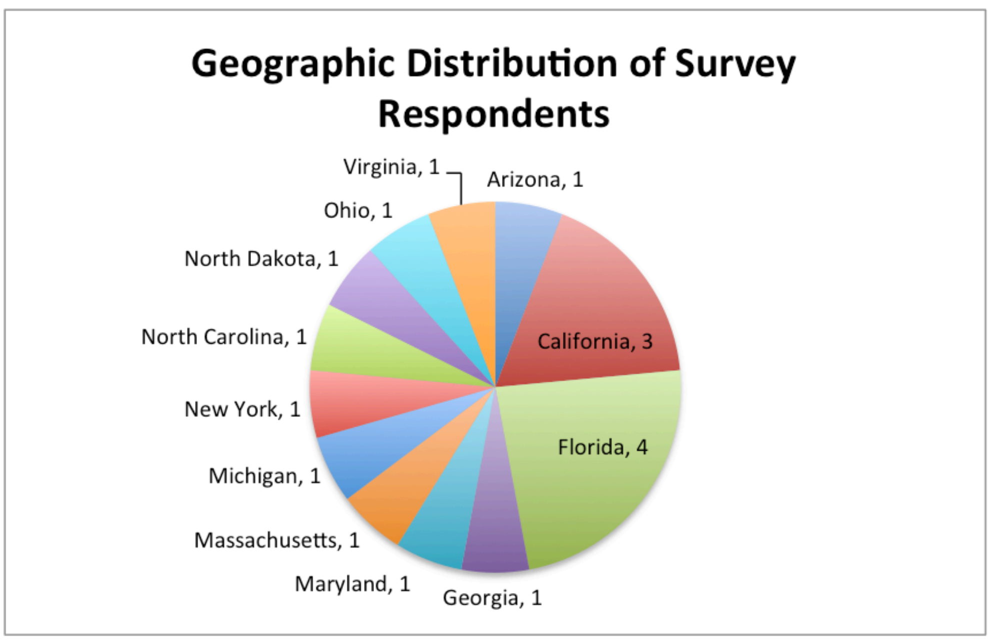
DFI contacted debt adjustment industry trade groups to obtain the contact information of approximately 230 debt adjustment companies.[3]

DFI received responses to the Debt Adjusters Survey from 46 companies. Seventeen respondents indicated that they had 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.

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

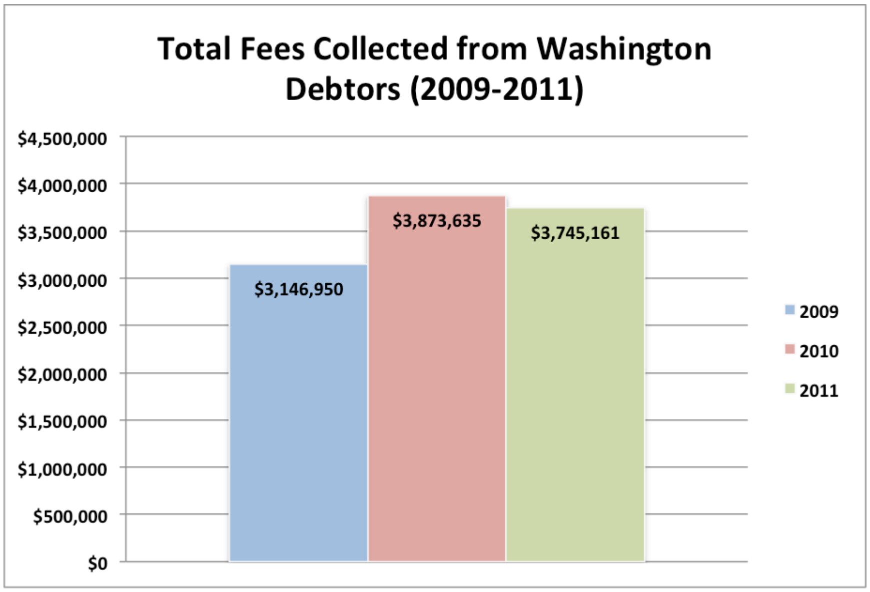



Survey respondents were located in twelve states, with multiple respondents located in Florida and California.

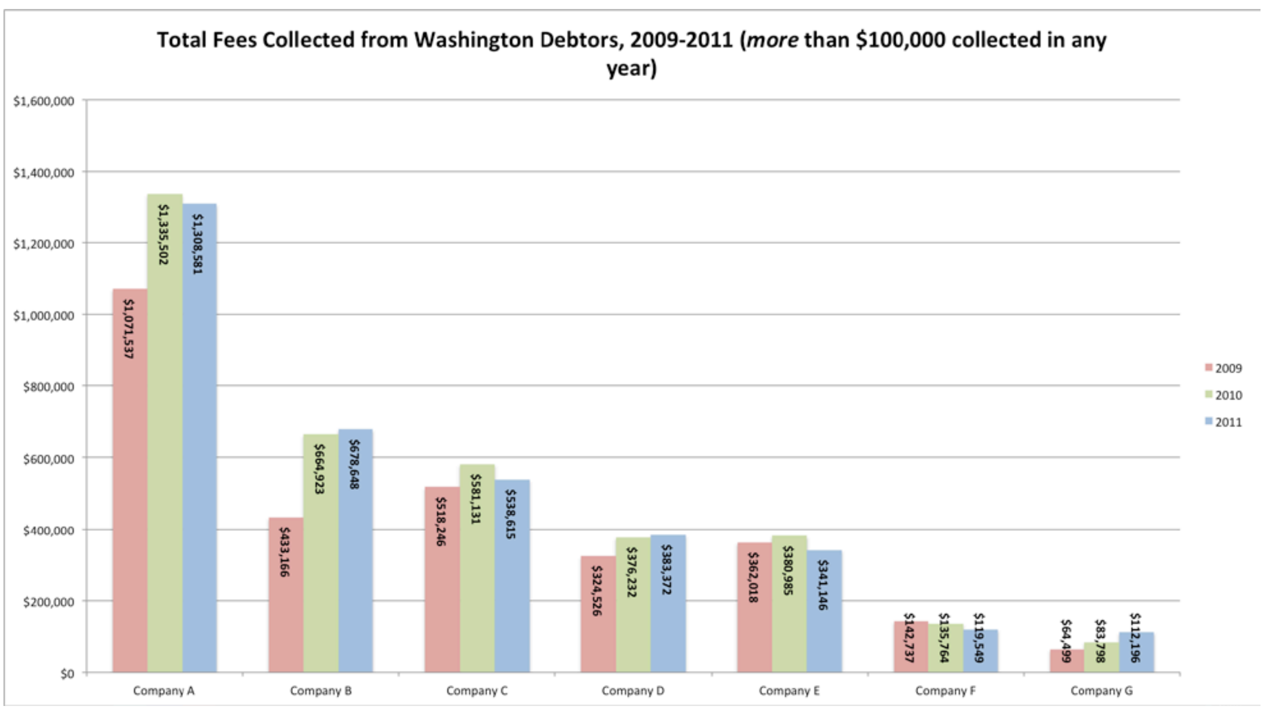


### a. Summary of Total Fees Collected from Washington Debtors

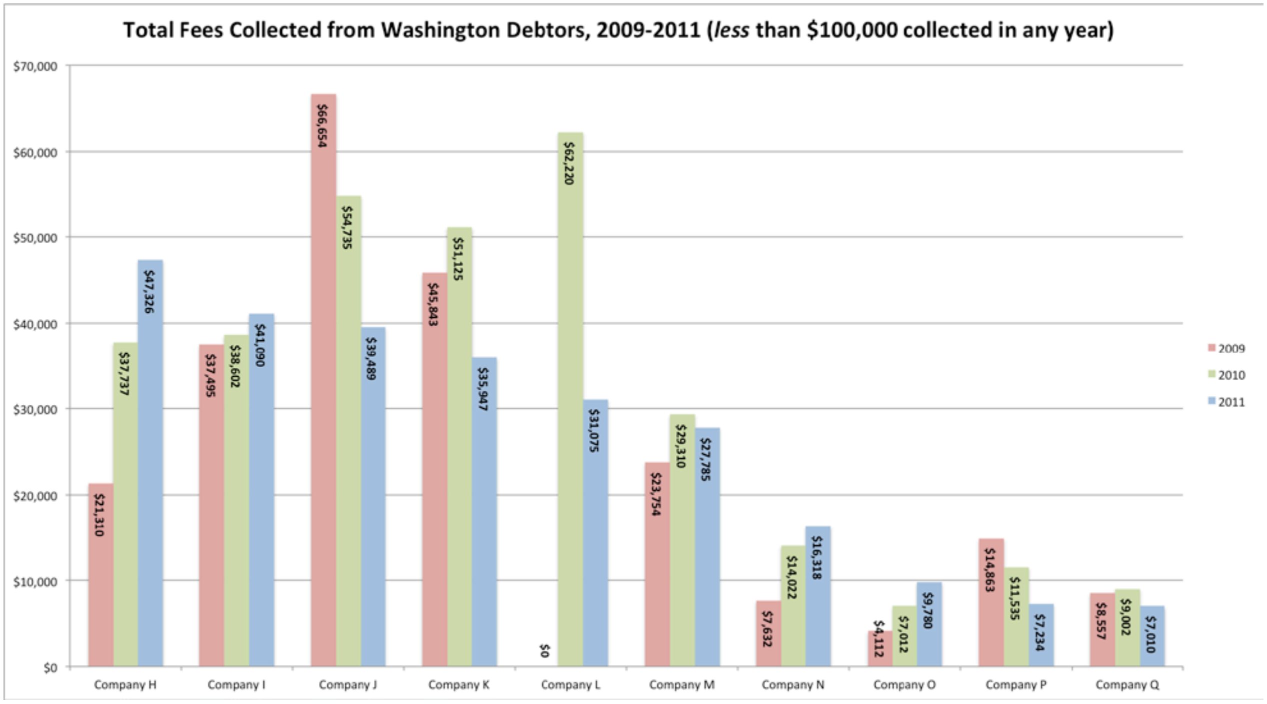
Survey respondents collected between $7,010 and $1.3 million in total fees from Washington debtors during 2011, down slightly from 2010, but a total increase of nearly $600,000 from the 2009 figure.




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



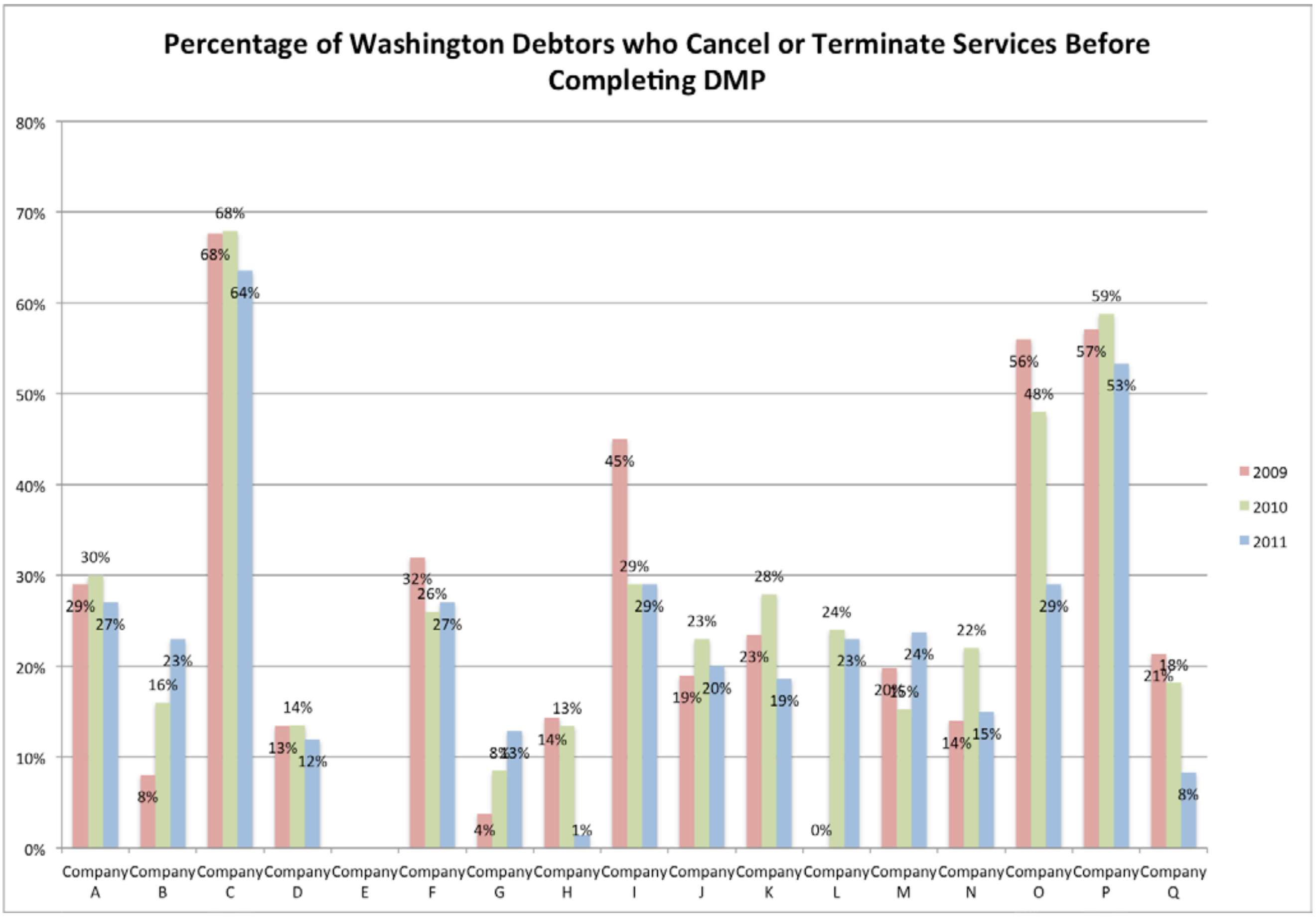
The ten smaller survey respondents (who annually collected less than $100,000 in fees from Washington debtors) have shown the same trend, an increase in fee collection between 2009-2010, and a slight decrease in collections in 2011.




### 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.[4]

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




### 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.

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)

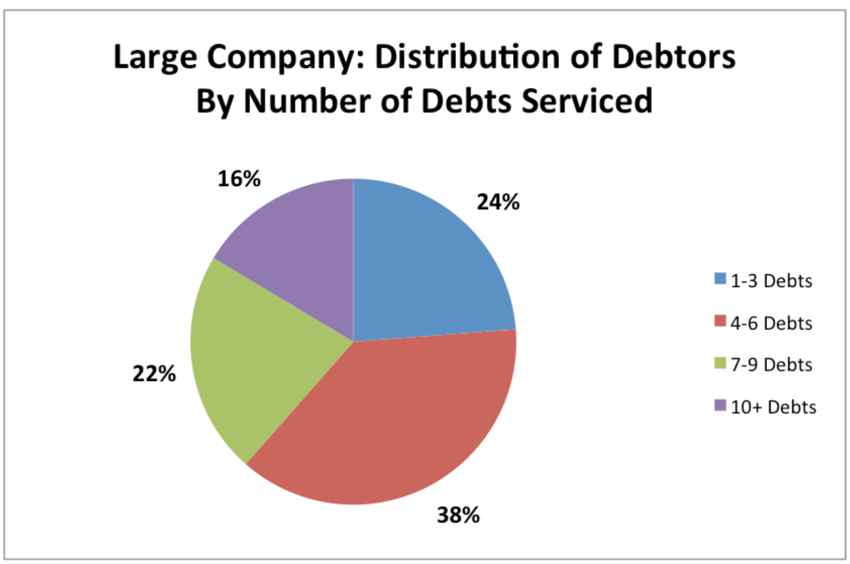
Each respondent to the survey provided information regarding their fee schedules, percentages of success or failure, and total fees, but methods of reporting accounting data for individual debtor accounts differed widely among respondents. Because the respondents offered differing (and often irreconcilable) methods of accounting for the principal amount of each debtor's debt, the status of their accounts, and the number of debts each debtor had, sampled below are the responses of a representative 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 |

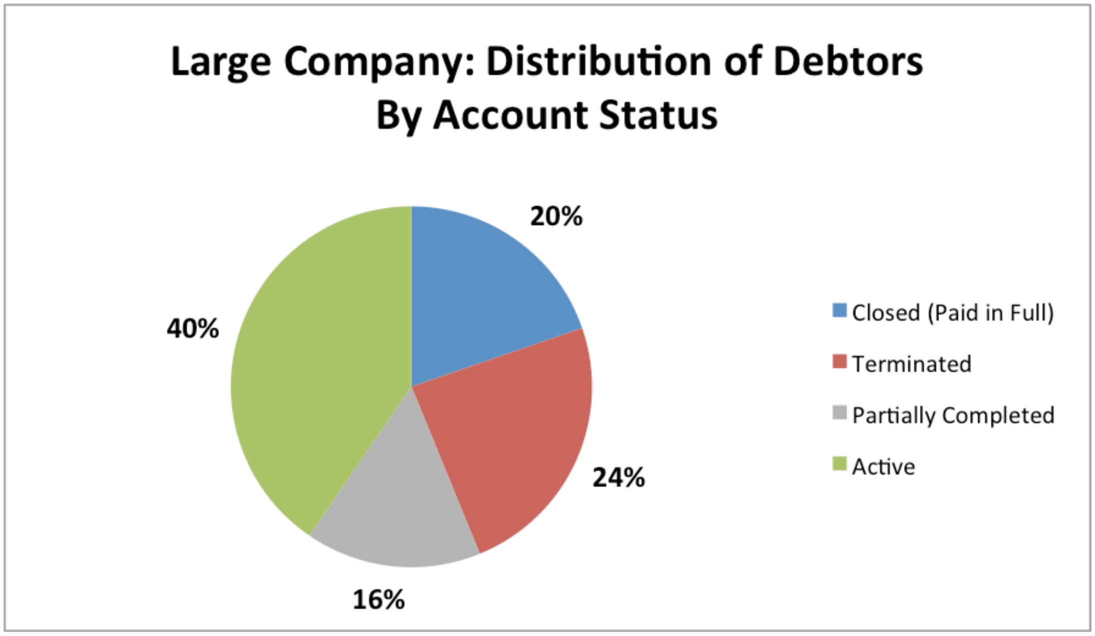
### i. Large Company

"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.

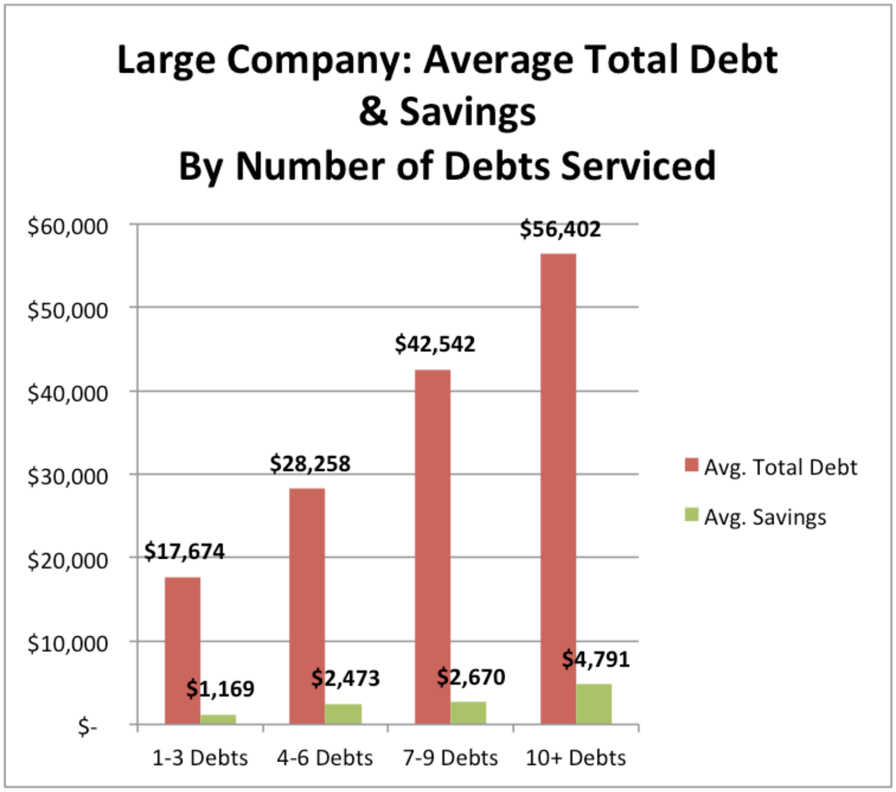
Large Company was more likely to service debtors with multiple outstanding debts than the debtors serviced by the Medium Company and the Small Company. The chart below illustrates the distribution of debtors by number of debts serviced by Large Company. The average Washington debtor serviced by Large 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.



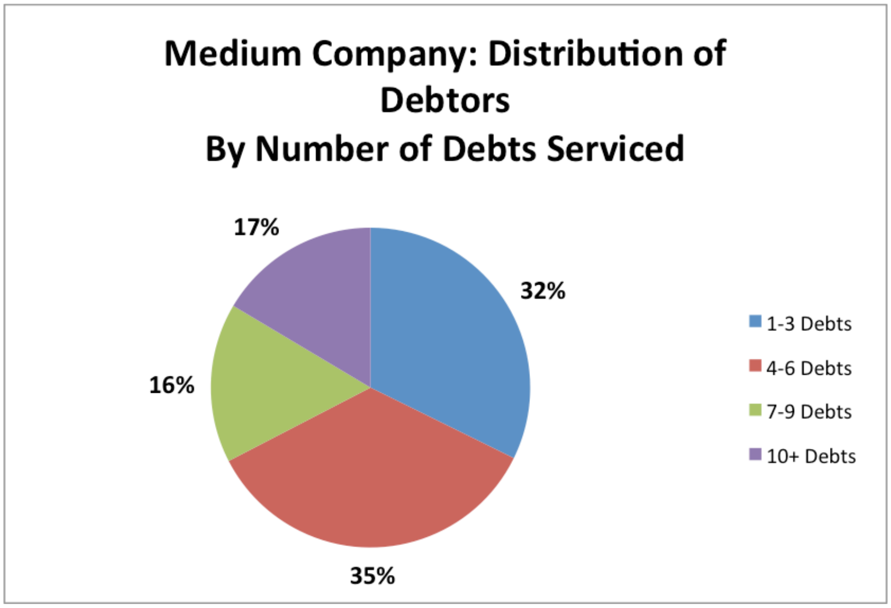

The accounting data provided by Large Company allowed DFI to calculate both the average total debt of each Washington debtor who actually completed Large Company's debt adjustment program, as well as Large Company's estimated total savings each of those successful debtors realized by participating in 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.



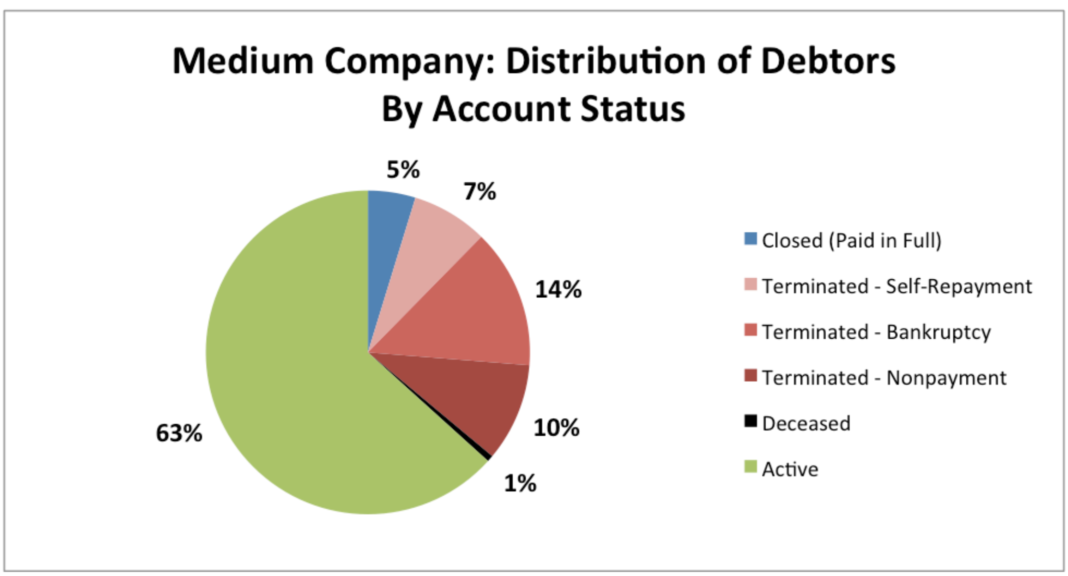

### ii. Medium Company

"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.

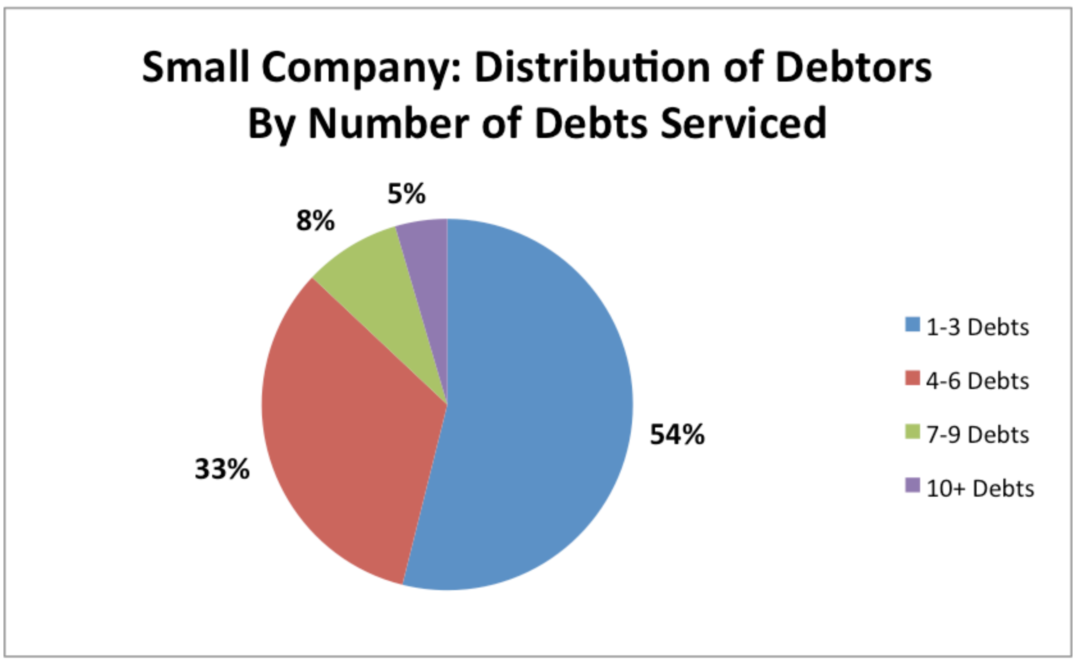


Because Medium Company did not report settlement data for each debtor account (the total amount paid by debtors in the course of completing Medium Company's program), no average settlement amount can be calculated for Medium Company's debtors.

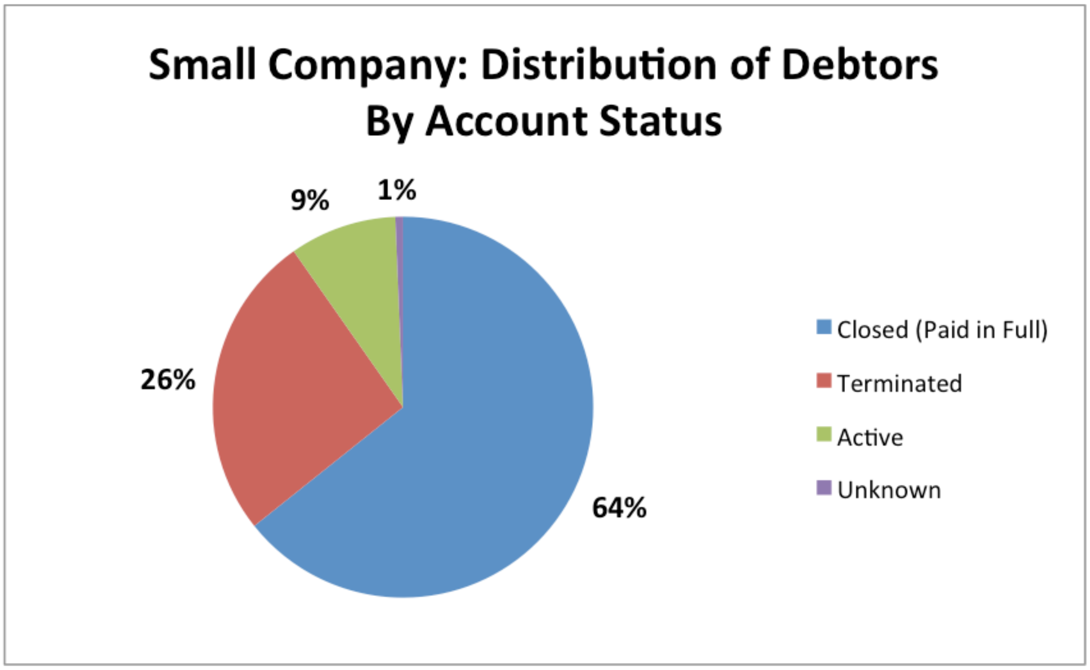
### iii. Small Company

"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.

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Legislative Affairs Director
Department of Financial Institutions
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## IV. Appendices

### a. Survey Respondents

| AGENCY | CONTACT INFORMATION |
|---|---|

| | |
|---|---|
| **CareOne Services, Inc.** | CareOne Services Inc. c/o 3C Incorporated<br>8930 Stanford Boulevard<br>Columbia, MD 21045 |
| **Apprisen** | Apprisen<br>4500 East Broad Street<br>Columbus, OH 43213 |
| **ClearPoint Financial Solutions, Inc.** | ClearPoint Financial Solutions, Inc.<br>8000 Franklin Farms Drive<br>Richmond, VA 23229 |
| **TakeCharge America Credit Counseling** | Take Charge America, Inc.<br>20620 North 19th Avenue<br>Phoenix, AZ 95027 |
| **Consolidated Credit Counseling Services, Inc.** | Consolidated Credit Counseling Services, Inc.<br>5701 W. Sunrise Blvd, Ste. 200<br>Ft. Lauderdale, FL 33313 |
| **InCharge Debt Solutions** | InCharge Debt Solutions<br>5750 Major Blvd, Ste. 175<br>Orlando, FL 32819 |
| **GreenPath, Inc.** | GreenPath, Inc.<br>36500 Corporate Drive<br>Farmington Hills, MI 48331 |
| **Cambridge Credit Counseling Corp.** | Cambridge Credit Counseling Corp.<br>67 Hunt Street<br>Agawam, MA 01001 |
| **Lighthouse Credit Foundation, Inc.** | Lighthouse Credit Foundation, Inc.<br>2300 Tall Pines Dr., Ste. 120<br>Largo, FL 33771 |
| **Consumer Education Services, Inc.** | Consumer Education Services, Inc.<br>3700 Barrett Drive<br>Raleigh, NC 27609 |
| **CredAbility** | CredAbility<br>270 Peachtree Street, NW, Ste. 1800<br>Atlanta, GA 30303 |
| **Consumer Credit and Budget Counseling** | Consumer Credit and Budget Counseling<br>14104 58th Street North<br>Clearwater, FL 33760 |
| **Christian Credit Counselors** | Christian Credit Counselors, Inc.<br>5838 Edison Place, Ste. 200<br>Carlsbad, CA 92008 |
| **Springboard Consumer Credit Management** | Springboard Consumer Credit Management<br>4351 Latham Street |

| | |
|---|---|
| | Riverside, CA 92501 |
| **Pioneer Credit Counseling** | Pioneer Credit Counseling<br>1644 Concourse Drive<br>Rapid City, SD 57703 |
| **SafeGuard Credit Counseling Services** | SafeGuard Credit Counseling Services, Inc.<br>112 Parkway Drive South<br>Hauppauge, NY 11788 |
| **Family Life Credit Services** | Family Life Credit Srvices<br>2345 Meadow Ridge Parkway<br>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.