

HOUSE RESEARCH

Bill Summary

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Overview

This bill deals with debt settlement services providers, which are regulated by the Department of Commerce under chapter 332B. Debt settlement services involve firms that enter into a contract with a debtor to negotiate with the debtor's creditors for reductions in the amount owed and usually an extended payment plan. Debt settlement services providers are allowed to charge the debtor fees for these services, which are regulated by law.

- 1** **Actions prior to executing a written agreement.** Eliminates a written specification of origination fees and monthly fees as components of fees that must be itemized on a separate document as components of the total fees to be charged to debtors under a debt settlement services agreement.
- 2** **Required terms.** Eliminates the fees referenced in section 1 as fees that need to be itemized in the debt settlement services agreement.
- 3** **Holding funds prohibited.** Prohibits debt settlement services providers from holding debtors' funds intended for distribution to creditors. Permits the debt settlement provider to request or require the debtor to put funds in an account for payment of debt settlement provider fees and for payment to creditors or debt collectors in connection with a change in the terms of a debt if the conditions of the account satisfy the five requirements stated in the bill.
- 4** **Debtor's right to cancel.** Removes language in current law dealing with the debt settlement provider's right to fees after the debtor cancels the debt settlement agreement within the ten days permitted by law.
- 5** **Debt settlement services provider's right to cancel.** Eliminates language in current law that requires the debt settlement provider to stop collecting monthly fees from the debtor beginning in the month following the debt settlement provider's cancellation of the agreement.
- 6** **Fees permitted.** Provides that a debt settlement services provider may not request or receive payment for any debt settlement service until or unless the three conditions listed in this section are satisfied.
- 7** **Prohibitions.** Amends an existing law that lists prohibited practices in debt settlement services by

adding "except as required by law" to one prohibition and adding an exception for a partial payment plan to another prohibition involving a partial payment plan.

- 8** **Injunctive relief.** Requires a debtor who sues a debt settlement services provider to show that a debt settlement services provider has "materially" violated chapter 332B, rather than just violated it.
- 9** **Repealer.** Repeals two subdivisions that provide detailed descriptions of fee structures that involve fees as a percentage of debt and fees as a percentage of savings (reduction of debt).
- 10** **Effective date.** Makes the bill effective for debt settlement services agreements entered into on or after August 1, 2012.