

SENATE BILL NO. 288—SENATOR BROWER

MARCH 18, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to debt-management services. (BDR 56-976)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to trade practices; revising the manner in which a provider of debt-management services may request and receive payment from an individual debtor; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law provides for the regulation of debt-management services, which  
2 are defined as certain persons who serve as an intermediary between an individual  
3 and the individual's creditors for the purpose of obtaining concessions from the  
4 creditor. (Chapter 676A of NRS) Under existing law, a debt-management service  
5 which enters into an agreement with an individual that contemplates that the  
6 individual's creditors will settle debts for less than the principal amount of the debt  
7 may charge a certain set-up fee and a certain monthly service fee. (NRS 676A.580,  
8 676A.620) **Section 1** of this bill removes these provisions and, instead, provides  
9 that: (1) the debt-management service may not request or receive payment of any  
10 fee or consideration until it has settled the terms of at least one debt pursuant to a  
11 settlement agreement or other contract executed by the individual and the  
12 individual has made at least one payment pursuant to that settlement agreement or  
13 other contract; and (2) enacts rules for determining the amount of the fee or  
14 consideration which may be requested and received by the debt-management  
15 service. **Section 2** of this bill removes from existing law a requirement that a debt-  
16 management service return 65 percent of any portion of the set-up fee received  
17 under existing law if an agreement which contemplated that the individual's  
18 creditors would settle debts for less than the principal amount of the debt is  
19 terminated.



\* S B 2 8 8 \*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** NRS 676A.580 is hereby amended to read as follows:

676A.580 1. A provider may not impose directly or indirectly a fee or other charge on an individual or receive money from or on behalf of an individual for debt-management services except as permitted by this section.

2. A provider may not impose charges or receive payment for debt-management services until the provider and the individual have signed an agreement that complies with NRS 676A.540 and 676A.700.

3. If an individual assents to an agreement, a provider may not impose a fee or other charge for educational or counseling services or the like, except as otherwise provided in this subsection and subsection 5 of NRS 676A.700. The Commissioner may authorize a provider to charge a fee based on the nature and extent of the educational or counseling services furnished by the provider.

4. Subject to adjustment of dollar amounts pursuant to subsection 6 of NRS 676A.730, the following rules apply:

(a) If an individual assents to a plan which contemplates that creditors will reduce finance charges or fees for late payment, default or delinquency, the provider may charge, not including money provided by creditors to support educational or counseling services concerning personal finance provided by nonprofit entities:

(1) A fee not to exceed \$50 for consultation, obtaining a credit report, setting up an account and the like; and

(2) A monthly service fee, not to exceed \$10 times the number of accounts remaining in a plan at the time the fee is assessed, but not more than \$50 in any month.

~~(b) If an individual assents to an agreement which contemplates that creditors will settle debts for less than the principal amount of the debt, a provider may charge:~~

~~— (1) Subject to subsection 4 of NRS 676A.540, a fee for consultation, obtaining a credit report, setting up an account and the like, in an amount not to exceed the lesser of \$400 and 4 percent of the debt in the plan at the inception of the plan; and~~

~~— (2) A monthly service fee, not to exceed \$10 times the number of accounts remaining in a plan at the time the fee is assessed, but not more than \$50 in any month.~~

~~— (c) A provider may not impose or receive fees under both paragraphs (a) and (b).~~

~~(d)~~ Except as otherwise provided in subsection 5 of NRS 676A.700, if an individual does not assent to an agreement, a



1 provider may receive for educational or counseling services it  
2 provides to the individual a fee not to exceed \$100 or, with the  
3 approval of the Commissioner, a larger fee. The Commissioner may  
4 approve a fee larger than \$100 if the nature and extent of the  
5 educational or counseling services warrant the larger fee.

6 5. If, before the expiration of 90 days after the completion or  
7 termination of educational or counseling services, an individual  
8 assents to an agreement, the provider shall refund to the individual  
9 any fee paid pursuant to paragraph ~~(d)~~ (b) of subsection 4.

10 6. ~~[Except as otherwise provided in subsections 3 and 4, if an~~  
11 ~~agreement contemplates that creditors will settle an individual's~~  
12 ~~debts for less than the principal amount of the debt, compensation~~  
13 ~~for services in connection with settling debt may not exceed one of~~  
14 ~~the following applicable settlement fee limits, the terms of which~~  
15 ~~must be clearly disclosed in the agreement:~~

16 ~~—(a) With respect to agreements in which a flat settlement fee is~~  
17 ~~charged based on the overall amount of included debt, the total~~  
18 ~~aggregate amount of fees charged to an individual under this~~  
19 ~~chapter, including fees charged under subparagraphs (1) and (2) of~~  
20 ~~paragraph (b) of subsection 4, may not exceed 17 percent of the~~  
21 ~~principal amount of debt included in the agreement at the~~  
22 ~~agreement's inception. The flat settlement fee authorized under this~~  
23 ~~paragraph must be assessed in equal monthly payments over not less~~  
24 ~~than half of the length of the plan, as estimated at the plan's~~  
25 ~~inception, unless:~~

26 ~~—(1) Voluntarily accelerated by the individual in a separate~~  
27 ~~record; and~~

28 ~~—(2) Offers of settlement by creditors have been obtained on at~~  
29 ~~least half of the outstanding debt included in the agreement.~~

30 ~~—(b) With respect to agreements in which fees are calculated as a~~  
31 ~~percentage of the amount saved by an individual, a settlement fee~~  
32 ~~may not exceed 30 percent of the excess of the outstanding amount~~  
33 ~~of each debt over the amount actually paid to the creditor, as~~  
34 ~~calculated at the time of settlement. Settlement fees authorized~~  
35 ~~under this paragraph must become billable only as debts are settled,~~  
36 ~~and the total aggregate amount of fees charged to an individual~~  
37 ~~under this paragraph, including fees charged under subparagraphs~~  
38 ~~(1) and (2) of paragraph (b) of subsection 4, may not exceed 20~~  
39 ~~percent of the principal amount of debt included in the agreement at~~  
40 ~~the agreement's inception.~~

41 ~~→ A provider may not impose or receive fees under both paragraphs~~  
42 ~~(a) and (b).]~~ *If an individual assents to an agreement which*  
43 *contemplates that creditors will settle debts for less than the*  
44 *principal amount of the debt, a provider may not request or receive*  
45 *payment of any fee or consideration until and unless:*



(a) The provider has settled the terms of at least one debt pursuant to a settlement agreement or other valid contractual agreement executed by the individual;

(b) The individual has made at least one payment pursuant to that settlement agreement or other valid contractual agreement between the individual and the creditor or debt collector; and

(c) The fee or consideration:

(1) Bears the same proportional relationship to the total fee for settling the terms of the entire debt balance as the individual debt amount bears to the entire debt amount, in which case the individual debt amount and the entire debt amount are those owed at the time the debt was enrolled in the service; or

(2) Is a percentage of the amount saved as a result of the settlement. The percentage charged cannot change from one individual debt to another. The amount saved is the difference between the amount owed at the time the debt was enrolled in the plan and the amount actually paid to satisfy the debt.

7. Subject to adjustment of the dollar amount pursuant to subsection 6 of NRS 676A.730, if a payment to a provider by an individual under this chapter is dishonored, a provider may impose a reasonable charge on the individual, not to exceed the lesser of \$25 and the amount permitted by law other than this chapter.

**Sec. 2.** NRS 676A.620 is hereby amended to read as follows:

676A.620 1. If an individual who has entered into an agreement fails for 60 days to make payments required by the agreement, a provider may terminate the agreement.

2. If a provider or an individual terminates an agreement, the provider shall immediately return to the individual ~~†~~:

~~—(a) Any†~~ any money of the individual held in trust for the benefit of the individual . ~~†~~; and

~~—(b) If the agreement contemplated that the provider would provide debt settlement services, sixty-five percent of any portion of the set-up fee received pursuant to paragraph (b) of subsection 4 of NRS 676A.580 which has not been credited against settlement fees.†~~

**Sec. 3.** The amendatory provisions of this act apply only to an agreement for the performance of debt-management services executed on or after October 1, 2013.

