

Amendments to House Bill No. 140
1st Reading Copy

Requested by Representative Dave Gallik

For the House Business and Labor Committee

Prepared by Bartley Campbell
February 7, 2005 (8:15am)

1. Title, line 8.

Following: "SERVICES;"

Insert: "PROVIDING THE DEPARTMENT OF ADMINISTRATION WITH
RULEMAKING AUTHORITY;"

2. Title, line 8.

Strike: "AND"

Following: "PENALTIES"

Insert: "; REPEALING CERTAIN DEBT ADJUSTMENT LAWS; AND REPEALING
SECTIONS 31-3-201, 31-3-202, AND 31-3-203, MCA"

3. Page 1, line 21.

Following: ";"

Strike: "and"

4. Page 1, line 23.

Following: "accountant"

Insert: "; and

(d) debt collectors that do not advertise or hold
themselves out as a credit counseling service"

5. Page 3, line 18.

Following: "plans"

Insert: "-- rulemaking authority"

6. Page 3, line 29 through line 30.

Strike: "a" on line 29 through "provided" on line 30

Insert: "a statement, in a prominent location in the plan in at
least 10-point bold type, that either party may cancel the
agreement without penalty at any time upon 10 days' notice
and that a consumer who cancels an agreement is entitled to
a refund of all unexpended funds that the consumer has paid
to the credit counseling service as of the date of the
notice"

7. Page 4, line 1.

Strike: "and"

8. Page 4, line 2.

Following: "resolved"

Insert: "; and

(g) a statement that the credit counseling service has a fiduciary duty to the consumer who is a party to a debt management plan"

9. Page 4, following line 6.

Insert: "(4) (a) A credit counseling service may not impose any fees or other charges on a consumer or receive any payment from a consumer or other person on behalf of a consumer except as allowed by this section.

(b) The fees or charges referred to in this subsection (4) include voluntary contributions and any other fees charged to or collected from a consumer or on behalf of a consumer.

(c) A credit counseling service may not charge an initial consultation fee that exceeds an amount set by the department by rule. The fee or portion of the fee may not be charged until the credit counseling service has complied with the provisions of this section.

(d) A credit counseling service may charge a monthly maintenance fee. In the absence of exceptional circumstances as defined in the department's rules, a credit counseling service may not have a total monthly fee in an amount that exceeds the amount set by the rules.

(e) A credit counseling service may not, as a condition of entering into a debt management plan, require a consumer to purchase for a fee a counseling session, an educational program, or materials and supplies.

(f) Fees charged for services other than credit counseling services must be fair and reasonable.

(g) If the credit counseling service imposes any fee or other charge or receives any funds or other payments not authorized by this section, except as a result of a bona fide error, the debt management plan is void and the credit counseling service shall return to the consumer all fees received from or on behalf of the consumer.

(5) Credit counseling services are prohibited from using hold harmless clauses, confessions of judgment, and waivers of the right to jury trials in debt management plans.

(6) The department may promulgate rules as necessary to implement the provisions of [sections 1 through 7], including setting fees."

10. Page 5, following line 7.

Insert: "NEW SECTION. Section 8. {standard} Repealer.
Sections 31-3-201, 31-3-202, and 31-3-203, MCA, are repealed.
{Internal References to 31-3-201: 31-3-203}"

Renumber: subsequent section

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