

\_\_\_\_\_ BILL NO. \_\_\_\_\_

1  
2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT DEBT SETTLEMENT PROVIDERS MAY NOT  
5 CHARGE OR COLLECT UP-FRONT OR SETUP FEES FROM A DEBTOR WHEN PROVIDING DEBT  
6 SETTLEMENT SERVICES TO THE DEBTOR; AND AMENDING SECTION 30-14-2103, MCA."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9  
10 **Section 1.** Section 30-14-2103, MCA, is amended to read:

11 **"30-14-2103. Prohibitions -- contract cancellation.** (1) A debt settlement provider may not do any of  
12 the following:

13 (a) provide debt settlement services without a written contract signed by the debtor;  
14 (b) receive or charge fees, ~~other than setup fees,~~ in an aggregate amount that is in excess of 20% of the  
15 principal amount of the debt; ~~No more than 5% of the principal amount of the debt may be charged as a setup~~  
16 ~~fee.~~

17 (c) receive or charge fees until:  
18 (i) the debt settlement provider successfully negotiates, settles, reduces, or otherwise changes the terms  
19 of at least one of the debtor's debts;

20 (ii) there is a written settlement agreement or other agreement between the debtor and the creditor that  
21 the debtor has agreed to; and

22 (iii) the debtor has made at least one payment to the creditor as a result of the agreement negotiated by  
23 the debt settlement provider;

24 ~~(e)~~(d) make loans or offer credit;  
25 ~~(d)~~(e) take any confession of judgment or power of attorney to confess judgment against the debtor or  
26 appear as the debtor or on behalf of the debtor in any judicial proceedings;

27 ~~(e)~~(f) take as part of any agreement to provide debt settlement services a release of any obligation to  
28 be performed on the part of the debt settlement provider;

29 ~~(f)~~(g) advertise, display, distribute, broadcast, or televise services or permit services to be displayed,  
30 advertised, distributed, broadcasted, or televised, in any manner whatsoever, that contains any false, misleading,



1 or deceptive statements or representations with regard to the services to be performed or the fees to be charged  
2 by the debt settlement provider;

3 ~~(g)~~(h) receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other  
4 than the debtor or a person on the debtor's behalf for performing debt settlement services;

5 ~~(h)~~(i) disclose to anyone the name or any personal information of a debtor for whom the debt settlement  
6 provider has provided or is providing debt settlement service other than a debtor's own creditors or the debt  
7 settlement provider's agents, affiliates, or contractors;

8 ~~(i)~~(j) disclose the name of a debtor's creditor to anyone other than the debtor, a company acting on behalf  
9 of the debtor or the debtor's debt settlement provider, or another creditor of the debtor and then only to the extent  
10 necessary to secure the cooperation of a creditor in a debt settlement plan;

11 ~~(j)~~(k) enter into a contract with a debtor without first providing the disclosure required in 30-14-2102(3);

12 ~~(k) collect fees until a written debt settlement services contract has been executed by the debtor~~  
13 ~~containing a schedule of fees in the actual amount to be charged the debtor and stating when those fees will be~~  
14 ~~charged;~~

15 (l) advertise services in any manner in this state without first filing a financial statement with the attorney  
16 general;

17 (m) misrepresent any material fact or make a false promise intended to convince a debtor to enter into  
18 a debt settlement plan; or

19 (n) violate the provisions of any applicable state or federal do-not-call registry or Title 30, chapter 14, part  
20 5.

21 (2) If a debt settlement service contract is canceled by the debtor before the contract is completed, the  
22 debt settlement provider shall, on request of the debtor, refund 50% of any collected but unrefunded service fee  
23 on a pro rata basis for those accounts that have not received a settlement offer by the time of the cancellation.  
24 Fees associated with the setup of a debt settlement service contract are not required to be refunded."

25 - END -