

HB 1763 -- Uniform Debt-Management Services Act

Sponsor: Burnett

This bill establishes the Uniform Debt-Management Services Act to regulate debt-management services. In its main provisions, the bill:

- (1) Requires a debt-service company to register with the Attorney General by submitting detailed information including its financial condition, the identity of its principals, locations at which the service will be offered, a copy of the form used for agreements with debtors, and its business history in other jurisdictions and to pay a fee as established by the Attorney General;
- (2) Requires a debt-service company to carry an insurance policy against fraud, dishonesty, theft, or other misconduct in an amount of at least \$250,000 and to provide a security bond of at least \$50,000 which has the Attorney General as the beneficiary;
- (3) Requires a debt-service company to renew its registration annually;
- (4) Requires a debt-service company to provide an itemized list of goods and the charges for each as well as any risks or benefits of entering into the debt-management service agreement;
- (5) Allows for a penalty-free, three-day cancellation of the agreement by the debtor or cancellation within 30 days, subject to specified fees;
- (6) Allows a debt-service company to terminate the agreement if an individual fails to make the required payments for 60 days;
- (7) Requires a debt-service company to keep a debtor's payments in a separate trust account that may not be used to hold any other company funds;
- (8) Prohibits a debt-service company from misappropriating trust funds, settling for more than 50% of the principal amount of a debt without the debtor's and creditor's consent, or settling a debt or leading an individual to believe that a settlement has occurred without a certification from the creditor;
- (9) Authorizes the Attorney General to investigate debt-service companies, order an individual to cease and desist debt counseling services, bring civil actions, and assess civil penalties of up to \$10,000;

(10) Allows an individual to bring a civil action for compensatory damages, including triple damages, if a debt-service company obtains payments not authorized in the bill; and

(11) Specifies that a proceeding brought by the Attorney General must commence within four years of the action and within two years for a proceeding brought by an individual.

The bill becomes effective August 28, 2011.