



Sen. Terry Link

Filed: 4/29/2010

09600HB4781sam003

LRB096 16778 RPM 40853 a

1 AMENDMENT TO HOUSE BILL 4781

2 AMENDMENT NO. _____. Amend House Bill 4781 as follows:

3 on page 6, by replacing lines 11 through 15 with the following:

4 "Secretary in which the applicant shall be the obligor and in
5 which an insurance company, which is duly authorized by the
6 State of Illinois to transact the business of fidelity and
7 surety insurance, shall be a surety. The surety bond must:

8 (i) be in effect during the period of registration and
9 for 2 years after the provider ceases providing
10 debt-management services to individuals in this State;

11 (ii) run to this State for the benefit of this State
12 and of individuals who reside in this State when they agree
13 to receive debt-settlement services from the provider, as
14 their interests may appear; and

15 (iii) be in the amount of \$50,000 or other larger or
16 smaller amount that the Secretary determines is warranted
17 by the financial condition and business experience of the

1 provider, the history of the provider in performing debt
2 settlement services, the risk to individuals, and any other
3 factor that the Secretary considers appropriate."; and

4 on page 7, immediately below line 1, by inserting the
5 following:

6 "Instead of the surety bond required under this Section, a
7 provider may deliver to the Secretary, in the amount required
8 under this Section, payable or available to this State and to
9 individuals who reside in this State when they agree to receive
10 debt-settlement services from the provider, as their interests
11 may appear:

12 (1) a certificate of insurance:

13 (A) issued by an insurance company authorized to do
14 business in this State and rated at least A or
15 equivalent by a nationally recognized rating
16 organization approved by the Secretary; and

17 (B) with no deductible, or if the provider supplies
18 a bond in the amount of \$5,000, a deductible not
19 exceeding \$5,000; or

20 (2) with the approval of the Secretary:

21 (A) an irrevocable letter of credit, issued or
22 confirmed by a bank approved by the Secretary, payable
23 upon presentation of a certificate by the Secretary
24 stating that the provider or its agent has not complied
25 with this Act; or

1 (B) bonds or other obligations of the United States
2 or guaranteed by the United States or bonds or other
3 obligations of this State or a political subdivision of
4 this State, to be deposited and maintained with a bank
5 approved by the Secretary for this purpose."; and

6 by replacing line 14 on page 31 through line 11 on page 32 with
7 the following:

8 "(b) A debt settlement provider may calculate fees on a
9 percentage of debt basis or on a percentage of savings basis.
10 The fee structure shall be clearly disclosed and explained in
11 the debt settlement services agreement. The debt settlement
12 provider may only charge fees as provided in either paragraph
13 (1) or (2) as follows:

14 (1) Fees calculated as a percentage of debt shall
15 comport with the following provisions:

16 (A) The total amount of the fees claimed, demanded,
17 charged, collected, or received under this paragraph
18 (1) may not exceed 15% of the aggregate debt that a
19 consumer enrolls in a debt settlement program. A debt
20 settlement provider that calculates fees as a
21 percentage of debt may:

22 (i) charge an origination fee or set-up fee,
23 which may be designated by the debt settlement
24 provider as nonrefundable, of:

25 (a) \$200 on aggregate debt of less than

1 \$20,000; or

2 (b) \$400 on aggregate debt of \$20,000 or
3 more;

4 (ii) charge a monthly account service fee of:

5 (a) no greater than \$75 per month on
6 aggregate debt of less than \$40,000; or

7 (b) no greater than \$100 per month on
8 aggregate debt of \$40,000 or more; and

9 (iii) charge a settlement fee for the
10 remainder of the allowable fees, which may be
11 demanded and collected no earlier than upon
12 delivery to the debt settlement provider by a
13 creditor of a bona fide written settlement offer
14 consistent with the terms of the debt settlement
15 services agreement; a settlement fee may be
16 assessed for each debt settled, but the sum total
17 of the origination fee, the monthly fee, and the
18 settlement fee may not exceed 15% of the aggregate
19 debt.

20 (B) The collection of monthly fees shall cease
21 under this paragraph (1) when the total monthly fees
22 and the origination fee together equal 40% of the total
23 fees allowable under this paragraph.

24 (C) In no event may more than 40% of the total
25 amount of fees allowable be claimed, demanded,
26 charged, collected, or received by a debt settlement

1 provider any earlier than upon delivery to the debt
2 settlement provider by a creditor of a bona fide
3 written settlement offer consistent with the terms of
4 the debt settlement services agreement.

5 (2) Fees calculated as a percentage of savings shall
6 comport with the following provisions:

7 (A) The total amount of the fees claimed, demanded,
8 charged, collected, or received under this paragraph
9 (2) may not exceed 30% of the amount a consumer is
10 saved in a debt settlement program. More specifically,
11 a debt settlement provider that calculates fees as a
12 percentage of savings may:

13 (i) charge a fee for consultation, obtaining a
14 credit report, and setting up an account in an
15 amount not exceeding the lesser of \$400 or 4% of
16 the debt in the plan at the inception of the plan
17 or a higher amount set forth by regulation;

18 (ii) charge a monthly service fee, not to
19 exceed \$10 or a higher amount set forth by
20 regulation, multiplied by the number of creditors
21 remaining in the plan at the time the fee is
22 assessed, but not more than \$50 total or a higher
23 amount set forth by regulation, in any month; and

24 (iii) charge a settlement fee not to exceed 30%
25 of the excess of the outstanding amount of each
26 debt over the amount actually paid to the creditor,

1 as calculated at the time of settlement;
2 settlement fees authorized under this paragraph
3 (2) shall become billable only as debts are
4 settled, and the total aggregate amount of fees
5 charged to any individual under this paragraph,
6 including fees charged under items (i) and (ii) of
7 this subparagraph (A), may not exceed 20% of the
8 principal amount of debt included in the agreement
9 at the agreement's inception.

10 (c) No fees, charges, assessments, or any other
11 compensation may be claimed, demanded, charged, collected, or
12 received other than the fees allowed under this Section. Any
13 fees collected in excess of those allowed under this Section
14 must be immediately returned to the debtor.

15 (d) No monthly fees shall be charged or collected by a debt
16 settlement provider unless services are provided to an
17 individual during that calendar month. Services shall be
18 documented by the debt settlement provider and may include, but
19 are not limited to, the following:

20 (1) client qualification;

21 (2) account management;

22 (3) debt program organization;

23 (4) negotiation and settlement discussions with
24 creditors;

25 (5) consumer rights education and counseling;

26 (6) referral to legal assistance; and

1 (7) third-party payment management."; and

2 on page 38, immediately below line 22, by inserting the
3 following:

4 "Section 160. Repeal of Act. This Act is repealed 2 years
5 after its effective date.".