



Sen. Terry Link

Filed: 4/21/2010

09600HB4781sam002

LRB096 16778 RPM 40417 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 only charge fees as
9 provided in either paragraph (1) or (2) as follows:

10 (1) with respect to an agreement that provides for a
11 flat pay-as-you-go fee based on the overall amount of
12 included or enrolled debt, the total aggregate amount of
13 fees charged to any individual under this Section may not
14 exceed 17% of the principal amount of debt included in the
15 agreement at the inception of the agreement; the flat
16 pay-as-you-go fee structure authorized under this
17 paragraph (1) shall be assessed in equal monthly payments
18 over at least half the length of the plan, as estimated at
19 the plan's inception, unless the payment of fees is
20 voluntarily accelerated by the individual in a separate
21 record and at least half of the overall amount of
22 outstanding debt covered by the agreement has been settled;
23 in the event that a consumer cancels a program being
24 administered under this fee structure, no further fees
25 shall be due, owing, or assessed by the provider following

1 the month in which notice of the termination of the program
2 is received by the provider; provided that no monthly fees
3 shall be charged or collected by a debt settlement provider
4 unless services are provided to an individual during that
5 calendar month; services shall be documented by the debt
6 settlement provider and may include, but are not limited
7 to, the following:

8 (A) client qualification;

9 (B) account management;

10 (C) debt program organization;

11 (D) negotiation and settlement discussions with
12 creditors;

13 (E) consumer rights education and counseling;

14 (F) referral to legal assistance; and

15 (G) third-party payment management; or

16 (2) with respect to agreements in which fees are
17 calculated as a percentage of the amount saved by an
18 individual, a settlement fee may not exceed 30% of the
19 excess of the outstanding amount of each debt over the
20 amount actually paid to the creditor, as calculated at the
21 time of settlement; settlement fees authorized under this
22 paragraph (2) shall become billable only as debts are
23 settled, and the total aggregate amount of fees charged to
24 any individual under this part may not exceed 20% of the
25 principal amount of debt included in the agreement at the
26 agreement's inception.

1 A provider may not impose or receive fees under both
2 paragraphs (1) and (2) of this subsection."