

Senate File 2298

S-5198

1 Amend Senate File 2298 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. Section 533A.8, subsection 5, paragraph a, Code  
5 2026, is amended to read as follows:

6 a. Maintain a separate bank ~~trust~~ account or dedicated  
7 account in which all payments received from debtors for the  
8 benefit of creditors shall be deposited and in which all  
9 payments shall remain until a remittance is made to either the  
10 debtor or the creditor.

11 Sec. 2. Section 533A.8, subsection 5, paragraph d, Code  
12 2026, is amended by striking the paragraph.

13 Sec. 3. Section 533A.8, subsection 6, Code 2026, is amended  
14 to read as follows:

15 6. If the debt management program is not based on a model  
16 which requires the licensee or any licensee to receive money or  
17 evidences thereof from the debtor to distribute to the debtor's  
18 creditors, ~~both of the following shall apply:~~

19 a. ~~The~~ the debtor shall maintain full control of and access  
20 to any moneys set aside for payment to creditors.

21 b. ~~The licensee may not receive consideration from any third~~  
22 ~~party in connection with services rendered to a debtor.~~

23 Sec. 4. Section 533A.8, Code 2026, is amended by adding the  
24 following new subsection:

25 NEW SUBSECTION. 10A. If a debtor who has contracted with  
26 a licensee to settle a debt has executed a debt settlement  
27 agreement with a creditor to settle such debt and has made at  
28 least one payment pursuant to that agreement, and the debtor  
29 subsequently fails to complete the payment terms required under  
30 that debt settlement agreement, the licensee shall attempt to  
31 renegotiate, resolve, reduce, or otherwise alter the terms of  
32 the debt with the creditor and shall not request or receive  
33 an additional fee from the debtor for any additional debt  
34 management service provided by the licensee for that debt.  
35 This subsection does not prohibit a licensee from requesting

1 or receiving payment of any outstanding balance of the fee  
2 required by the contract between the licensee and debtor for  
3 that debt.

4 Sec. 5. Section 533A.9, subsection 4, Code 2026, is amended  
5 by striking the subsection and inserting in lieu thereof the  
6 following:

7 4. If a debt management program is not based on a model that  
8 requires the licensee or another licensee to receive money or  
9 evidences thereof from the debtor to distribute to the debtor's  
10 creditors, a licensee may not request or receive payment of  
11 any fee or consideration for debt management services provided  
12 under a debt management program unless all of the following are  
13 true:

14 a. The licensee has renegotiated, resolved, reduced, or  
15 otherwise altered the terms of at least one debt pursuant to a  
16 resolution agreement or other contractual agreement executed  
17 by the debtor and the creditor.

18 b. The debtor has made at least one payment pursuant to the  
19 resolution agreement or other contractual agreement entered  
20 into under paragraph "a".

21 c. To the extent that debts enrolled in the debt management  
22 program are renegotiated, resolved, reduced, or otherwise  
23 altered individually, the fee or consideration for the debt  
24 management service bears the same proportional relationship to  
25 the total fee or consideration for renegotiating, resolving,  
26 reducing, or otherwise altering the terms of the entire debt  
27 balance as the individual debt amount bears to the entire debt  
28 amount, not to exceed thirty percent of the total amount of  
29 debt enrolled by the debtor at the time of enrollment in the  
30 debt management program. The individual debt amount and the  
31 entire debt amount are those owed at the time the debt was  
32 enrolled in the debt management program. The percent charged  
33 is the same for each individual debt enrolled in the debt  
34 management program.

35 Sec. 6. Section 533A.9, subsection 5, Code 2026, is amended

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(amending this SF 2298 to CONFORM to HF 2326)

1 by striking the subsection and inserting in lieu thereof the  
2 following:

3 5. *a.* Notwithstanding any provision of this section to  
4 the contrary, the total aggregate fee or consideration charged  
5 by a licensee for all debt management services provided by the  
6 licensee to a debtor shall not exceed thirty percent of the  
7 total amount of debt enrolled by the debtor at the time of  
8 enrollment in the debt management program.

9 *b.* A licensee may assess and collect the fee for debt  
10 management services on a per-debt basis as a debt is  
11 renegotiated, settled, reduced, or otherwise altered in a  
12 manner consistent with this section and applicable federal law.

13 Sec. 7. Section 533A.9, Code 2026, is amended by adding the  
14 following new subsection:

15 NEW SUBSECTION. 6. If a debt settlement agreement between a  
16 debtor and a creditor to settle a debt provides for the debtor  
17 to make more than one payment to the creditor, the licensee  
18 shall request or receive payment from the debtor of any fee for  
19 debt management services provided with respect to that debt  
20 incrementally over not less than one quarter of the length of  
21 the debtor's period of repayment to such creditor.

22 Sec. 8. Section 538A.2, subsection 2, Code 2026, is amended  
23 by adding the following new paragraph:

24 NEW PARAGRAPH. *i.* A person licensed to engage in the  
25 business of debt management under section 533A.2, when acting  
26 within the course and scope of that license.>

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