

Senate Study Bill 3090 - Introduced

SENATE FILE _____

BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY CHAIRPERSON
BOUSSELOT)

A BILL FOR

- 1 An Act relating to debt management programs, services, fees, and
- 2 licensee requirements.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 533A.8, subsection 5, paragraph a, Code
2 2026, is amended to read as follows:

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

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

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

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

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

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

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

23 4. If a debt management program is not based on a model that
24 requires the licensee or another licensee to receive money or
25 evidences thereof from the debtor to distribute to the debtor's
26 creditors, a licensee may not request or receive payment of any
27 fee or consideration for debt management services provided under
28 a debt management program unless all of the following are true:

29 a. The licensee has renegotiated, resolved, reduced, or
30 otherwise altered the terms of at least one debt pursuant to a
31 resolution agreement or other contractual agreement executed by
32 the debtor and the creditor.

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

1 c. To the extent that debts enrolled in the debt management
2 program are renegotiated, resolved, reduced, or otherwise altered
3 individually, the fee or consideration for the debt management
4 service bears the same proportional relationship to the total
5 fee or consideration for renegotiating, resolving, reducing, or
6 otherwise altering the terms of the entire debt balance as the
7 individual debt amount bears to the entire debt amount. The
8 individual debt amount and the entire debt amount are those owed
9 at the time the debt was enrolled in the debt management program.
10 The percent charged is the same for each individual debt enrolled
11 in the debt management program.

12 Sec. 5. Section 533A.9, subsection 5, Code 2026, is amended
13 by striking the subsection.

14 Sec. 6. Section 538A.2, subsection 2, Code 2026, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. i. A person licensed to engage in the
17 business of debt management under section 533A.2, when acting
18 within the course and scope of that license.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill relates to debt management, services, fees, and
23 licensee requirements.

24 Under current law, if a debt management program (program) is
25 based on a model which requires a licensee to receive money or
26 evidences thereof from a debtor to distribute to the debtor's
27 creditors, the licensee who receives the money for distribution
28 shall maintain a separate bank trust account in which all
29 payments received from the debtor for the benefit of creditors
30 shall be deposited and shall remain until a remittance is made to
31 either the debtor or the creditor. Under the bill, a licensee
32 shall maintain a separate bank account or dedicated account for
33 such purpose.

34 Under current law, if a debt management program is not
35 based on a model which requires a licensee to receive money or

1 evidences thereof from the debtor to distribute to the debtor's
2 creditors the debtor shall maintain full control of and access to
3 any moneys set aside for payment to creditors, and the licensee
4 may not receive consideration from any third party in connection
5 with services rendered to a debtor. The bill eliminates the
6 prohibition on a licensee receiving consideration from a third
7 party in connection with services rendered to a debtor.

8 Under current law, if a program is not based on a model that
9 requires a licensee to receive money or evidences thereof from
10 the debtor to distribute to the debtor's creditors, a debtor
11 may not be charged a fee exceeding the sum of the initiation
12 fee plus 18 percent of the debtor's enrolled debts, as detailed
13 in Code section 533A.9(4). Under the bill, a licensee may not
14 request or receive payment of a fee for services unless: (1)
15 the licensee has renegotiated, resolved, reduced, or otherwise
16 altered the terms of a debt pursuant to a resolution agreement or
17 other contractual agreement between the debtor and the creditor;
18 (2) the debtor has made at least one payment pursuant to the
19 agreement; and (3) to the extent that debts enrolled in a
20 service are renegotiated, resolved, reduced, or otherwise altered
21 individually, the fee or consideration for the service bears the
22 same proportional relationship to the total fee for altering the
23 terms of the entire debt balance as the individual debt amount
24 bears to the entire debt amount as owed at the time the debt was
25 enrolled in the service, and the same percent is charged for each
26 individual debt enrolled in the program.

27 Under the bill, a person licensed to provide debt management
28 services is exempt from Code chapter 538A (credit services
29 organizations).

30 The bill strikes Code sections 533A.8(5)(d) (licensee
31 requirements) and 533A.9(5) (fee agreed in advance).