

1 **COLLECTION FEES**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen E. Sandstrom**

5 Senate Sponsor: Jerry W. Stevenson

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7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Collection Agencies title to provide for the imposition of  
10 collection fees under certain circumstances.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides when a creditor may impose a collection fee;
- 14 ▶ addresses the amount of a collection fee; and
- 15 ▶ provides that the collection fee is in addition to any attorney fees.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 ENACTS:

22 **12-1-11**, Utah Code Annotated 1953

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24 *Be it enacted by the Legislature of the state of Utah:*

25 Section 1. Section **12-1-11** is enacted to read:

26 **12-1-11. Collection fee.**

27 (1) As used in this section:

28 (a) "Creditor" is as defined in 15 U.S.C. Sec. 1692a.

29 (b) "Debt" means an obligation or alleged obligation to pay money arising out of a

30 transaction for money, property, insurance, or services.

31 (c) "Debtor" means a person obligated or allegedly obligated to pay a debt.

32 (d) "Third party debt collection agency" means:

33 (i) a debt collector as defined in 15 U.S.C. Sec. 1692a; or

34 (ii) a person who would be a debt collector under 15 U.S.C. Sec. 1692a, except that  
35 the person does not use an instrumentality of interstate commerce or the mail.

36 (2) A creditor may require a debtor to pay a collection fee in addition to any other  
37 amount owed to the creditor for a debt if:

38 (a) imposing a collection fee on the debtor or in relation to the debt is not prohibited or  
39 otherwise restricted by another federal or state law;

40 (b) the creditor contracts with a third party debt collection agency or licensed attorney  
41 to collect the debt;

42 (c) the third party debt collection agency with which the creditor contracts is  
43 registered under this title;

44 (d) there is a written agreement between the creditor and the debtor that:

45 (i) creates the debt; and

46 (ii) provides for the imposition of the collection fee in accordance with this section;

47 and

48 (e) the obligation to pay the collection fee is imposed at the time of assignment of the  
49 debt to a third party debt collection agency or licensed attorney in accordance with an  
50 agreement described in Subsection (2)(d).

51 (3) The creditor shall establish the amount of the collection fee imposed under this  
52 section, except that the amount may not exceed the lesser of:

53 (a) the actual amount a creditor is required to pay a third party debt collection agency  
54 or licensed attorney, regardless of whether that amount is a specific dollar amount or a  
55 percentage of the principal amount owed to the creditor for a debt; or

56 (b) 40% of the principal amount owed to the creditor for a debt.

57 (4) An obligation to pay a collection fee imposed under this section is in addition to

58 any obligation to pay attorney fees that may otherwise exist.