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COLLECTION FEES

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

12-1-11, Utah Code Annotated 1953

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

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

12-1-11. Collection fee.

(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 the
35 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 to collect the debt;
 - 41 (c) the third party debt collection agency with which the creditor contracts is registered
42 under this title;
 - 43 (d) there is a written agreement between the creditor and the debtor that:
 - 44 (i) creates the debt; and
 - 45 (ii) provides for the imposition of the collection fee in accordance with this section;
 - 46 and
 - 47 (e) the obligation to pay the collection fee is imposed at the time of assignment of the
48 debt to a third party debt collection agency in accordance with an agreement described in
49 Subsection (2)(d).
- 50 (3) The creditor shall establish the amount of the collection fee imposed under this
51 section, except that the amount may not exceed the lesser of:
 - 52 (a) the actual amount a creditor is required to pay a third party debt collection agency,
53 regardless of whether that amount is a specific dollar amount or a percentage of the principal
54 amount owed to the creditor for a debt; or
 - 55 (b) 40% of the principal amount owed to the creditor for a debt.
- 56 (4) An obligation to pay a collection fee imposed under this section is in addition to
57 any obligation to pay attorney fees that may otherwise exist.

Legislative Review Note

as of 2-25-10 10:17 AM

Office of Legislative Research and General Counsel