

COLLECTION FEE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies general provisions related to collection agencies to address collection fees.

Highlighted Provisions:

This bill:

- ▶ modifies the amount of the collection fee imposed under this section; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

12-1-11, as enacted by Laws of Utah 2010, Chapter 350

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

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

12-1-11. Collection fee.

(1) As used in this section:

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



28 (b) "Debt" means an obligation or alleged obligation to pay money arising out of a
29 transaction for money, property, insurance, or services.

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

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

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

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

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

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

39 (b) the creditor contracts with a third party debt collection agency or licensed attorney
40 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 or licensed attorney in accordance with an
49 agreement described in 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 or licensed attorney, regardless of whether that amount is a specific dollar amount or a
54 percentage of the principal amount owed to the creditor for a debt; or

55 (b) ~~40%~~ 20% 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 2-9-11 10:47 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 414

SHORT TITLE: **Collection Fee Amendments**

SPONSOR: **King, B.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill may result in decreased collection fees for the 185 third party debt collection agencies currently registered with the Department of Commerce.