

## HB0394S01 compared with HB0394

~~deleted text~~ shows text that was in HB0394 but was deleted in HB0394S01.

inserted text shows text that was not in HB0394 but was inserted into HB0394S01.

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Representative Paul Ray proposes the following substitute bill:

### COLLECTION AGENCY AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

#### General Description:

This bill amends provisions related to debt collection.

#### Highlighted Provisions:

This bill:

- ▶ requires a creditor or third party debt collection agency to provide a receipt for each payment made by or on behalf of a debtor.

#### Money Appropriated in this Bill:

None

#### Other Special Clauses:

None

#### Utah Code Sections Affected:

AMENDS:

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12-1-11, as last amended by Laws of Utah 2020, Chapter 121

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*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 -- Convenience fees -- Receipt for payment required.**

(1) As used in this section:

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

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

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

(d) "Financial transaction card" means the same as that term is defined in Section 13-38a-102.

(e) "Third party debt collection agency" means:

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

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

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

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

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

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

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

(A) creates the debt; and

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

and

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

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(b) The creditor shall establish the amount of the collection fee imposed under this Subsection (2), except that the amount may not exceed the lesser of:

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

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

(c) An obligation to pay a collection fee imposed under this Subsection (2) is in addition to any obligation to pay attorney fees that may otherwise exist.

(3) (a) Subject to Subsection (3)(b), a third party debt collection agency that accepts a financial transaction card for the transaction of business may charge a convenience fee for a transaction processed over:

(i) the phone;

(ii) text or similar short message service; or

(iii) the Internet.

(b) Before a third party debt collection agency charges a convenience fee as described in Subsection (3)(a), the third party debt collection agency shall:

(i) clearly disclose to the debtor that the third party debt collection agency will charge the debtor a convenience fee, in a time and manner that allows the debtor to accept or reject the convenience fee;

(ii) disclose to the debtor the amount of the convenience fee; and

(iii) give the debtor an alternative payment method option for which a convenience fee does not apply.

(4) ~~As soon as practicable, but no later than one}~~(a) Within two business ~~{day}~~days after the day on which a creditor or third party debt collection agency receives from a debtor a request for a receipt for a payment ~~{from}~~made by or on behalf of ~~{a}~~the debtor, the creditor or third party debt collection agency shall provide the debtor a receipt that states:

~~{a}~~i the payment date;

~~{b}~~ii the payment amount; and

~~{c}~~iii the account to which the payment was applied.

(b) A debtor may submit a request described in Subsection (4)(a) in writing, by hardcopy or electronic means, or in person.

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