

Senator Daniel W. Thatcher proposes the following substitute bill:

COLLECTION AGENCY AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill amends provisions related to debt collection.

Highlighted Provisions:

This bill:

▶ upon request, requires a third party debt collection agency to provide a receipt for a payment made by or on behalf of a debtor.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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.

(1) As used in this section:



- 26 (a) "Creditor" is as defined in 15 U.S.C. Sec. 1692a.
- 27 (b) "Debt" means an obligation or alleged obligation to pay money arising out of a
- 28 transaction for money, property, insurance, or services.
- 29 (c) "Debtor" means a person obligated or allegedly obligated to pay a debt.
- 30 (d) "Financial transaction card" means the same as that term is defined in Section
- 31 [13-38a-102](#).
- 32 (e) "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) 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 (i) 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 (ii) the creditor contracts with a third party debt collection agency or licensed attorney
- 41 to collect the debt;
- 42 (iii) the third party debt collection agency with which the creditor contracts is
- 43 registered under this title;
- 44 (iv) there is a written agreement between the creditor and the debtor that:
- 45 (A) creates the debt; and
- 46 (B) provides for the imposition of the collection fee in accordance with this section;
- 47 and
- 48 (v) 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)(a)(iv).
- 51 (b) The creditor shall establish the amount of the collection fee imposed under this
- 52 Subsection (2), except that the amount may not exceed the lesser of:
- 53 (i) the actual amount a creditor is required to pay a third party debt collection agency or
- 54 licensed attorney, regardless of whether that amount is a specific dollar amount or a percentage
- 55 of the principal amount owed to the creditor for a debt; or
- 56 (ii) 40% of the principal amount owed to the creditor for a debt.

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

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

- 62 (i) the phone;
- 63 (ii) text or similar short message service; or
- 64 (iii) the Internet.

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

- 67 (i) clearly disclose to the debtor that the third party debt collection agency will charge
68 the debtor a convenience fee, in a time and manner that allows the debtor to accept or reject the
69 convenience fee;
- 70 (ii) disclose to the debtor the amount of the convenience fee; and
- 71 (iii) give the debtor an alternative payment method option for which a convenience fee
72 does not apply.

73 (4) (a) Within four business days after the day on which a third party debt collection
74 agency receives from a debtor a request for a receipt for a payment made by or on behalf of the
75 debtor, the third party debt collection agency shall provide the debtor a receipt that states:

- 76 (i) the payment date;
- 77 (ii) the payment amount; and
- 78 (iii) the account to which the payment was applied.

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