

HB0394S02 compared with HB0394S01

~~text~~ shows text that was in HB0394S01 but was deleted in HB0394S02.

inserted text shows text that was not in HB0394S01 but was inserted into HB0394S02.

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~~Representative Paul Ray~~Senator Daniel W. Thatcher proposes the following substitute bill:

COLLECTION AGENCY AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: ~~Paul Ray~~Daniel W. Thatcher

LONG TITLE

General Description:

This bill amends provisions related to debt collection.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

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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{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

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agreement described in Subsection (2)(a)(iv).

(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) (a) Within ~~two~~ four business 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 made by or on behalf of the debtor, the ~~creditor or~~ third party debt collection agency shall provide the debtor a receipt that states:

(i) the payment date;

(ii) the payment amount; and

(iii) the account to which the payment was applied.

(b) A debtor may submit a request described in Subsection (4)(a) in writing, by

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hardcopy or electronic means, or in person.