

DEBTOR AND CREDITOR RELATIONSHIP

CHAPTER 119

SENATE BILL NO. 2151

(Committee on Industry, Business and Labor)
(At the request of the Department of
Banking and Financial Institutions)

DEBT ADJUSTING

AN ACT to prohibit the business of debt adjusting when conducted for profit; to provide exemptions for certain businesses and activities; and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) As used in this Act, the following words and phrases shall have the following meaning, unless the context clearly indicates otherwise:

1. "Person" means an individual, corporation, partnership, trust, firm, association or other legal entity.
2. "Debt adjusting" means the making of a contract, express or implied, with a debtor whereby the debtor agrees to pay a certain amount of money or other thing of value periodically to the person engaged in the debt adjusting business who shall, for a consideration, distribute the same among certain specified creditors in accordance with a plan agreed upon. The term includes debt adjustment, budget counseling, debt management or debt pooling service or the holding of oneself out, by words of similar import, as providing services to debtors in the management of their debts and contracting with the debtor for a fee to (a) effect the adjustment, compromise, or discharge or any account, note, or other indebtedness, of the debtor, or (b) receive from the debtor and disperse to his creditors any money or other thing of value.

SECTION 2. PENALTIES.) Except as otherwise provided herein, no person shall engage in the business of debt adjusting. Whoever shall engage in the business of debt adjusting shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

SECTION 3. EXEMPTIONS.) This Act shall not apply to:

1. Situations involving debt adjusting incurred incidentally in the lawful practice of law in this state;
2. Banks and fiduciaries, as duly authorized and admitted to transact business in this state and performing credit and financial adjusting service in the regular course of their principal business;
3. Title insurers and abstract companies, while doing an escrow business;
4. Judicial officers or others acting under court orders;
5. Nonprofit or charitable corporations or associations engaged in debt adjusting;
6. Situations involving debt adjusting incurred incidentally in connection with lawful practice as a certified public accountant;
7. Bona fide trade or mercantile associations in the course of arranging adjustment or debts with business establishments;
8. Employers for their employees;
9. Any person who, at the request of a debtor, arranges for or makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan, without compensation for services rendered in adjusting the debts;
10. Licensed and bonded collection agencies.

Approved March 15, 1973