

Enrolled
Senate Bill 722

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER

AN ACT

Relating to fees; creating new provisions; amending ORS 697.692; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 697.692 is amended to read:

697.692. (1) **Subject to subsection (4) of this section**, a debt management service provider may charge a consumer only the following fees:

(a) An initial fee of not more than \$50.

(b) A fee reasonably calculated to recover the costs that the debt management service provider incurs in providing an initial counseling session or education class. The debt management service provider may charge the fee described in this paragraph in advance, but the fee may not exceed \$50.

(c) A monthly fee equivalent to 15 percent of the funds that the debt management service provider receives from a consumer for payment to the consumer's creditors. The debt management service provider may charge the fee described in this paragraph only if the debt management service provider holds a consumer's funds, directly or indirectly, on the consumer's behalf. The fee described in this paragraph may not exceed \$65 per month.

(d) A fee equivalent to 15 percent of the amount of debt a consumer owes to one or more creditors at the time the consumer signs the agreement described in ORS 697.652 and places funds in a bank account that the consumer establishes or maintains in the consumer's own name with an insured institution, as defined in ORS 706.008, and designates specifically for making disbursements in connection with a debt management service. The debt management service provider may charge the fee described in this paragraph only if the debt management service provider does not hold a consumer's funds directly or indirectly. The debt management service provider may not charge the fee described in this paragraph in amounts or installments that exceed \$65 per month.

(e) A fee equivalent to 7.5 percent of the difference between the principal amount of the debt the consumer owed to the consumer's creditor at the time the consumer signed the agreement described in ORS 697.652 and the amount the consumer paid to the creditor to settle the debt, exclusive of fees the consumer paid to the debt management service provider under paragraph (a), (b) or (d) of this subsection. The debt management service provider may charge the fee described in this paragraph only if the debt management service provider obtains from the consumer's creditor a reduction in the principal amount of the consumer's debt.

(f) A fee of not more than \$50 per month during the term of an agreement between the consumer and the debt management service provider under which the debt management service provider improves or preserves, or offers to improve or preserve, a consumer's credit record, credit history or credit rating but does not conduct a budget analysis for the consumer, act as a broker for another debt management service provider or otherwise engage

in any other activity that constitutes a debt management service. A fee that a debt management service provider charges under paragraph (a) of this subsection is the fee for the first month of service under this paragraph.

(2) A debt management service provider may accept payment for a fee described in subsection (1) of this section by means of:

(a) A check, draft or similar paper instrument; or

(b) A transfer of funds through an electronic terminal, telephonic instrument, computer or magnetic tape that transmits an order, instruction or authorization to a financial institution to debit or credit an account.

(3)(a) A consumer may void a contract for debt management services, and a debt management service provider shall return to the consumer all sums the consumer paid to the debt management service provider and reimburse the consumer for reasonable attorney fees the consumer incurred in any action to enforce rights the consumer has under this subsection, if the debt management service provider charges the consumer more than the amounts set forth in this section.

(b) A consumer may not waive any of the rights the consumer has under this subsection, and any provision in any contract or other agreement that purports to waive the consumer's rights is void.

(4) The director by rule may adjust the fees set forth in this section to reflect changes in the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor. In adjusting fees, the director may consider whether changes in fees that other states charge for similar services warrant a change in fees in this state.

SECTION 2. The amendments to ORS 697.692 by section 1 of this 2017 Act apply to debt management services for which a consumer enters into a contract or other agreement on or after the operative date specified in section 3 of this 2017 Act.

SECTION 3. (1) The amendments to ORS 697.692 by section 1 of this 2017 Act become operative on January 1, 2018.

(2) The Director of the Department of Consumer and Business Services may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the director, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the director by the amendments to ORS 697.692 by section 1 of this 2017 Act.

SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by Senate April 18, 2017

Repassed by Senate June 12, 2017

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 6, 2017

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

.....
Dennis Richardson, Secretary of State