

B-Engrossed
Senate Bill 722

Ordered by the House May 26
Including Senate Amendments dated April 14 and House Amendments
dated May 26

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Provides that debt management service provider may charge fee of not more than [*\$100 for service in*] **\$50 per month during term of agreement between consumer and debt management service provider** under which debt management service provider improves or preserves, or offers to improve or preserve, consumer's credit record, credit history or credit rating but does not conduct budget analysis for consumer, act as broker for another debt management service provider or otherwise engage in other activity that constitutes debt management service. [*Provides that debt management service provider may charge more if Director of Department of Consumer and Business Services finds that nature and extent of educational or counseling services debt management service provider offers warrant larger fee.*] **Provides that initial fee that debt management service provider charges consumer is fee for first month of service.**

Permits consumer to void contract and requires debt management service provider to return sums consumer paid if debt management service provider charges more than fees allowed. Provides that consumer may not waive consumer's rights under Act.

Permits director to adjust fees to reflect changes in Consumer Price Index.

Becomes operative January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to fees; creating new provisions; amending ORS 697.692; and prescribing an effective date.

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

4 **SECTION 1.** ORS 697.692 is amended to read:

5 697.692. (1) **Subject to subsection (4) of this section,** a debt management service provider may
6 charge a consumer only the following fees:

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

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

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

16 (d) A fee equivalent to 15 percent of the amount of debt a consumer owes to one or more cred-
17 itors at the time the consumer signs the agreement described in ORS 697.652 and places funds in a
18 bank account that the consumer establishes or maintains in the consumer's own name with an in-
19 sured institution, as defined in ORS 706.008, and designates specifically for making disbursements

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 in connection with a debt management service. The debt management service provider may charge
2 the fee described in this paragraph only if the debt management service provider does not hold a
3 consumer's funds directly or indirectly. The debt management service provider may not charge the
4 fee described in this paragraph in amounts or installments that exceed \$65 per month.

5 (e) A fee equivalent to 7.5 percent of the difference between the principal amount of the debt
6 the consumer owed to the consumer's creditor at the time the consumer signed the agreement de-
7 scribed in ORS 697.652 and the amount the consumer paid to the creditor to settle the debt, exclu-
8 sive of fees the consumer paid to the debt management service provider under paragraph (a), (b) or
9 (d) of this subsection. The debt management service provider may charge the fee described in this
10 paragraph only if the debt management service provider obtains from the consumer's creditor a re-
11 duction in the principal amount of the consumer's debt.

12 **(f) A fee of not more than \$50 per month during the term of an agreement between the**
13 **consumer and the debt management service provider under which the debt management**
14 **service provider improves or preserves, or offers to improve or preserve, a consumer's credit**
15 **record, credit history or credit rating but does not conduct a budget analysis for the con-**
16 **sumer, act as a broker for another debt management service provider or otherwise engage**
17 **in any other activity that constitutes a debt management service. A fee that a debt man-**
18 **agement service provider charges under paragraph (a) of this subsection is the fee for the**
19 **first month of service under this paragraph.**

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

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

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

26 **(3)(a) A consumer may void a contract for debt management services, and a debt man-**
27 **agement service provider shall return to the consumer all sums the consumer paid to the**
28 **debt management service provider and reimburse the consumer for reasonable attorney fees**
29 **the consumer incurred in any action to enforce rights the consumer has under this sub-**
30 **section, if the debt management service provider charges the consumer more than the**
31 **amounts set forth in this section.**

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

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

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

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

45 **(2) The Director of the Department of Consumer and Business Services may adopt rules**

1 **and take any other action before the operative date specified in subsection (1) of this section**
2 **that is necessary to enable the director, on and after the operative date specified in sub-**
3 **section (1) of this section, to exercise all of the duties, functions and powers conferred on**
4 **the director by the amendments to ORS 697.692 by section 1 of this 2017 Act.**

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

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