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COLLECTION FEES

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies the Collection Agencies title to provide for the imposition of collection fees under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ provides when a creditor may impose a collection fee;
- ▶ addresses the amount of a collection fee; and
- ▶ provides that the collection fee is in addition to any attorney fees.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

12-1-11, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **12-1-11** is enacted to read:

12-1-11. Collection fee.

(1) As used in this section:



28 (a) "Creditor" is as defined in 15 U.S.C. Sec. 1692a.

29 (b) "Debt" means an obligation or alleged obligation to pay money arising out of a
30 transaction for money, property, insurance, or services.

31 (c) "Debtor" means a person obligated or allegedly obligated to pay a debt.

32 (d) "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 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 (a) 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 (b) the creditor contracts with a third party debt collection agency ~~§~~→ or licensed attorney ←~~§~~
40a to collect the debt;

41 (c) the third party debt collection agency with which the creditor contracts is registered
42 under this title;

43 (d) there is a written agreement between the creditor and the debtor that:

44 (i) creates the debt; and

45 (ii) provides for the imposition of the collection fee in accordance with this section;

46 and

47 (e) the obligation to pay the collection fee is imposed at the time of assignment of the
48 debt to a third party debt collection agency ~~§~~→ or licensed attorney ←~~§~~ in accordance with an
48a agreement described in

49 Subsection (2)(d).

50 (3) The creditor shall establish the amount of the collection fee imposed under this
51 section, except that the amount may not exceed the lesser of:

52 (a) the actual amount a creditor is required to pay a third party debt collection agency ~~§~~→ or
52a licensed attorney ←~~§~~ ,

53 regardless of whether that amount is a specific dollar amount or a percentage of the principal
54 amount owed to the creditor for a debt; or

55 (b) 40% of the principal amount owed to the creditor for a debt.

56 (4) An obligation to pay a collection fee imposed under this section is in addition to
57 any obligation to pay attorney fees that may otherwise exist.

Legislative Review Note
as of 2-25-10 10:17 AM

Office of Legislative Research and General Counsel