GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 734
Apr 2, 2025
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10302-MU-33

Short Title:	Modernize Debt Settlement Prohibition.	(Public)
Sponsors:	Representative Howard.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE AND EXPAND THE PROHIBITION OF DEBT SETTLEMENT BY MAKING DEBT SETTLEMENT AN UNFAIR TRADE PRACTICE, CLARIFYING THE DEFINITION OF DEBT SETTLEMENT, EXPANDING CIVIL REMEDIES AVAILABLE TO DEBTORS, AND LIMITING DEBT SETTLEMENT ACTS THAT ARE AUTHORIZED AND TO MAKE OTHER ADMINISTRATIVE AND TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 56 of Chapter 14 of the General Statutes is recodified as Article 9 of Chapter 75 of the General Statutes as follows:

<u>Former G.S. Citation</u>	<u>New G.S. Citation</u>
G.S. 14-423	G.S. 75-151
G.S. 14-424	G.S. 75-153
G.S. 14-425	G.S. 75-154
G.S. 14-426	G.S. 75-155

SECTION 1.(b) Article 9 of Chapter 75 of the General Statutes, as created by subsection (a) of this section, reads as rewritten:

"Article 9.

"Debt ~~Adjusting.~~<u>Adjusting and Debt Settlement Prohibited.</u>

"**§ 75-151. Definitions.**

As used in this Article, the following definitions apply:

~~(1)~~ ~~"Debt adjuster" means a person who engages in, attempts to engage in, or offers to engage in the practice or business of debt adjusting.~~

<u>(1)</u> <u>Affiliate. – Any person that controls, is controlled by, or is under common control with any other person.</u>

(2) ~~"Debt adjusting" means entering~~ <u>Debt adjusting. – Entering</u> into or making a contract, express or implied, with a ~~particular~~ debtor whereby the debtor agrees to pay a certain amount of money periodically to the person engaged in the debt adjusting business and that person, for consideration, agrees to distribute, or distributes the same among ~~certain specified~~ <u>one or more</u> creditors in accordance with a plan agreed upon. ~~Debt adjusting includes the business or practice of any person who holds himself out as acting or offering or attempting to act for consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or in any way altering the terms of payment of any debt of a debtor, and to that end receives money~~

~~or other property from the debtor, or on behalf of the debtor, for the payment to, or distribution among, the creditors of the debtor.~~

(3) ~~Debt adjusting also includes the business or practice of debt settlement or foreclosure assistance whereby~~ Debt settlement. – The business whereby any person holds ~~himself or herself~~ themselves out as acting for consideration as an intermediary between a debtor and one or more of the debtor's creditors for the purpose of reducing, settling, or altering the terms of the payment of any debt of the ~~debtor, whether or not the person distributes the debtor's funds or property among the creditors, and receives a fee or other consideration for reducing, settling, or altering the terms of the payment of the debt in advance of the debt settlement having been completed or in advance of all the services agreed to having been rendered in full.~~debtor.

~~(3)~~(4) ~~"Debtor" means an~~ Debtor. – An individual who resides in North Carolina, and includes two or more individuals who are jointly and severally, or jointly or severally, indebted to a creditor or creditors.

~~(3a)~~ ~~"Nominal consideration" means a fee or a contribution to cover the cost of administering a debt management plan not to exceed forty dollars ($40.00) for origination or setup of the debt management plan and ten percent (10%) of the monthly payment disbursed under the debt management plan, not to exceed forty dollars ($40.00) per month.~~

~~(4)~~(5) ~~"Person" means an~~ Person. – An individual, firm, partnership, limited partnership, corporation, ~~or association.~~association, or other entity.

"**§ 75-152. Debt adjusting and debt settlement prohibited.**

No person, directly or through affiliates, shall engage in, offer to engage in, or attempt to engage in debt adjusting or debt settlement.

"**§ 75-153. ~~Engaging, etc., in business of debt adjusting~~ Debt adjusting and debt settlement a misdemeanor.**

~~If any~~ Any person ~~shall engage~~ that engages in, ~~or offer~~ offers to engage in, or ~~attempt to,~~ attempts to engage in ~~the business or practice of~~ debt ~~adjusting, or if any person shall hereafter act, offer to act, or attempt to act as a debt adjuster, he shall be~~ adjusting or debt settlement is guilty of a Class 2 misdemeanor.

"**§ 75-154. ~~Enjoining practice of debt adjusting; appointment of receiver for money and property employed.~~Jurisdiction of the superior court to enjoin debt adjusting or debt settlement.**

(a) The superior court ~~shall have~~ has jurisdiction, in an action brought in the name of the State by the Attorney General or the district attorney of the prosecutorial district as defined in G.S. 7A-60, to enjoin, as an unfair ~~or deceptive~~ trade practice, the continuation of any debt adjusting or debt settlement business or the offering of any debt adjusting ~~services.~~ or debt settlement services in violation of this Article.

(b) The Attorney General or the district attorney who brings an action under this section may appoint a receiver for the property and money employed in the transaction of business by ~~such~~ the person ~~as a debt adjuster,~~ to ensure, so far as may be possible, the return to debtors of so much of their money and property as has been received ~~by the debt adjuster,~~ and has not been paid to the creditors of the debtors.

(c) The court in an action under this section may also assess civil penalties under G.S. 75-15.2 and award attorneys' fees to the State under G.S. 75-16.1.

(d) This section is in addition to any other remedies available under this Chapter or other laws.

"**§ 75-155. ~~Certain persons and transactions not deemed debt adjusters or debt adjustment.~~Acts authorized.**

The following ~~individuals or transactions shall~~ persons are not ~~be deemed debt adjusters or as being~~ engaged in ~~the business or practice of~~ debt ~~adjusting:~~adjusting or debt settlement:

(1) Any ~~person or~~ individual who is a regular full-time employee of a ~~debtor,~~ debtor and who acts ~~as an adjuster of his~~ with respect to an employer's debts.

(2) Any person ~~or individual~~ acting pursuant to ~~any order or judgment of a court, or~~ a court order.

(3) Any person acting pursuant to authority conferred by ~~any~~ a law of this State or of the United States.

~~(3)~~(4) Any person ~~who~~ that is a creditor of the debtor, ~~or an agent of one or more creditors of the debtor,~~ including the creditor's agent, and ~~whose services in adjusting the debtor's debts are rendered~~ that acts without cost to the ~~debtor.~~debtor with respect to debts owed to the creditor.

~~(4)~~(5) Any person ~~who~~ that at the request of a ~~debtor,~~ debtor arranges for or makes a loan to the ~~debtor,~~ debtor and ~~who, at the authorization of the debtor, acts as an adjuster of the debtor's debts~~ engages in debt adjusting in the disbursement of the proceeds of the ~~loan,~~ loan without ~~compensation~~ cost to the debtor for the services rendered in adjusting ~~such debts.~~the debts, except interest and fees authorized by law.

~~(5) An intermittent or casual adjustment of a debtor's debts, for compensation, by an individual or person who is not a debt adjuster or who is not engaged in the business or practice of debt adjusting, and who does not hold himself out as being regularly engaged in debt adjusting.~~

(6) An attorney-at-law licensed to practice in this State ~~who is not employed by a debt adjuster.~~and acting within the attorney-client relationship with the debtor or creditor, excluding services provided to a debtor by an attorney, or in the name of an attorney, who has entered into any arrangement with a person engaged, directly or through affiliates, in debt adjusting or debt settlement.

(7) An organization that provides credit counseling, education, and debt management services to debtors if the organization also does all of the following:

a. Provides individualized credit counseling and budgeting assistance to the debtor without charge prior to the debtor's enrollment in a debt management plan provided by the organization.

b. Determines that the debtor has the financial ability to make payments to complete the debt management plan and that the plan is suitable for the debtor.

c. Disburses the debtor's funds to creditors pursuant to a debt management plan that the debtor ~~has paid for with no more than nominal consideration and~~ has agreed to in writing.

d. Charges no fee or a fee to cover the cost of administering a debt management plan not to exceed forty dollars ($40.00) for origination or setup of the debt management plan and ten percent (10%) of the monthly payment disbursed under the debt management plan not to exceed forty dollars ($40.00) per month.

~~d.~~e. Provides to the debtor, periodically and on no less than a quarterly basis, an individualized accounting for the most recent period of all of the debtor's payments and disbursements under the debt management plan and all charges paid by the debtor.

~~e.~~f. Does not directly or indirectly require the debtor to purchase other services or materials as a condition to participating in the debt management plan.

~~f.~~g. Does not receive a payment, commission, or other benefit for referring the debtor to a provider of services.

~~g.~~h. ~~Is accredited~~ Accredited by an ~~accrediting~~ organization that the Commissioner of Banks approves as being independent and nationally recognized for providing accreditation to organizations that provide credit counseling and debt management services.

"**§ 75-156. Contracts void.**

Contracts for debt adjusting or debt settlement are void as against public policy.

"**§ 75-157. Unfair trade practice.**

A violation of this Article is an unfair trade practice under G.S. 75-1.1."

SECTION 2. This act becomes effective July 1, 2025, and applies to offenses committed on or after that date.