



# Senate

General Assembly

**File No. 279**

February Session, 2012

Substitute Senate Bill No. 362

*Senate, April 5, 2012*

The Committee on Banks reported through SEN. DUFF of the 25th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING DEBT NEGOTIATORS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-671b of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) For purposes of this section:

4 (1) "Enrolled debt" means an individual debt for which a debtor  
5 requests debt negotiation services pursuant to a debt negotiation  
6 service contract provided pursuant to subsection (b) of this section;

7 (2) "Amount saved" means the difference between the amount of a  
8 debtor's debt when such debtor enters into a contract with a debt  
9 negotiator to provide debt negotiation services with regard to such  
10 debt and the total amount of money required to satisfy such debt; and

11 (3) "Individual debt amount" and "entire debt amount" means the  
12 debt amounts owed at the time the debtor enters into a contract with a

13 debt negotiator to provide debt negotiation services with regard to  
14 such debts.

15 [(a)] (b) A debt negotiator shall provide to each debtor a contract  
16 that shall include a complete, detailed list of services to be performed,  
17 the costs of such services and a good faith estimate of the results to be  
18 achieved. Each debt negotiation service contract shall contain (1) a  
19 statement certifying that the person offering debt negotiation services  
20 has reviewed the consumer's debt, and (2) an individualized  
21 evaluation of the likelihood that the proposed debt negotiation  
22 services would reduce the consumer's debt or debt service or, if  
23 appropriate, prevent the consumer's residential home from being  
24 foreclosed. Each contract shall allow the consumer to cancel or rescind  
25 such contract within three business days after the date on which the  
26 consumer signed the contract. Such contract shall contain a clear and  
27 conspicuous caption that shall read, "Debtor's three-day right to  
28 cancel", along with the following statement: "If you wish to cancel this  
29 contract, you may cancel by mailing a written notice by certified or  
30 registered mail to the address specified below. The notice shall state  
31 that you do not wish to be bound by this contract and must be  
32 delivered or mailed before midnight of the third business day after  
33 you sign this contract." As used in this section, "business day" shall  
34 have the same meaning as in section 42-134a.

35 [(b)] (c) No person offering debt negotiation services may receive a  
36 fee, commission or other valuable consideration for the performance of  
37 any service the person offering debt negotiation services has agreed to  
38 perform for any consumer [until the person offering debt negotiation  
39 services has fully performed such service. A person offering debt  
40 negotiation services may receive reasonable periodic payments as  
41 services are rendered, provided such payments are clearly stated in the  
42 contract. The commissioner may establish a schedule of maximum fees  
43 that a debt negotiator may charge for specific services.] unless:

44 (1) The debt negotiator has renegotiated, settled, reduced or  
45 otherwise altered the terms of an enrolled debt;

46     (2) The debtor has made at least one payment toward the settlement  
 47     of such enrolled debt; and

48     (3) The fee or consideration charged for such renegotiation,  
 49     settlement, reduction or other alteration of terms either:

50     (A) Bears the same proportional relationship to the total fee for  
 51     renegotiating, settling, reducing or altering the terms of the entire debt  
 52     balance as the individual debt amount of such enrolled debt bears to  
 53     the entire debt amount; or

54     (B) Is a percentage of the amount saved as a result of such  
 55     renegotiation, settlement, reduction or alteration, provided the  
 56     percentage charged shall not change from one individual enrolled debt  
 57     to another.

58     [[c)] (d) Any contract that does not comply with the provisions of  
 59     this section shall be voidable by the consumer.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	36a-671b

**BA**           *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Banking Dept.	BF - Cost	103,678	102,178
Banking Dept.	BF - Revenue Gain	8,000	8,000

Note: BF=Banking Fund

**Municipal Impact:** None

**Explanation**

The bill results in a cost to the Department of Banking of \$103,678 in FY 13 and \$102,178 in FY 14. Additionally the bill results in a minimal revenue gain to the Banking Fund.

The cost in the bill is due to the need for a Bank Examiner to monitor the transactions of debt negotiators of which none currently operate in the state. The cost includes salaries (\$60,000), fringe benefits (\$41,178), other expenses (\$1,000) and one-time equipment costs (\$1,500) in FY 13.

The revenue gain assumes a total of five debt negotiating entities operating in the state and a license fee of \$1,600.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of debt negotiating companies operating in Connecticut.

**OLR Bill Analysis****sSB 362*****AN ACT CONCERNING DEBT NEGOTIATORS.*****SUMMARY:**

By law, a debt negotiator assists a debtor in negotiating, or attempting to negotiate on the debtor's behalf, the terms of the debtor's obligations with one or more of the debtor's mortgagees or creditors for, or with the expectation of, a fee, commission, or other valuable consideration.

This bill limits the circumstances in which a debt negotiator may be paid. It eliminates the (1) option for periodic payments to debt negotiators, and (2) banking commissioner's authorization to establish a schedule of maximum fees that a debt negotiator may charge for specific services. It also specifies that a debt negotiator's expected achievement must be based on a good faith estimate.

EFFECTIVE DATE: October 1, 2012

**DEBT NEGOTIATOR PAYMENTS AND FEE SCHEDULES**

Current law prohibits a debt negotiator from receiving payment until he or she has fully performed the debt negotiation services required by contract, or the contract clearly specifies that the negotiator may received periodic payments as services are rendered. It also allows the banking commissioner to establish a schedule of maximum fees that a debt negotiator may charge for specific services.

The bill prohibits a debt negotiator from being paid periodically. Instead, payment is due when:

1. the debt negotiator has renegotiated, settled, reduced, or otherwise altered the terms of an enrolled debt (i.e. an individual

- debt for which a debtor has requested debt negotiation services through a contract with a debt negotiator);
2. the debtor has made at least one payment toward the settlement of the debt; and
  3. the fee or consideration charged for the negotiation settlement, reduction, or other alteration of terms either (a) bears the same proportional relationship to the total fee for renegotiating, settling, reducing, or altering the terms of the entire debt balance as the individual debt amount bears to the entire debt amount (i.e., the total debt amount owed when the debtor enters into the contract with the debt negotiator) or (b) is a percentage of the amount saved as a result of such negotiation, settlement, reduction, or alteration. The debt negotiator may not charge different percentages for different individual enrolled debts.

The bill defines “amount saved” as the difference between the amount of a debtor’s debt when the debtor enters into a contract with a debt negotiator and the total amount of money required to satisfy the debt.

### **GOOD FAITH ESTIMATES**

Currently, debt negotiators must provide each debtor with a contract that includes a complete, detailed list of services he or she will perform, how much the services will cost, and the results he or she expects to achieve. Under the bill, the debt negotiator must base his or her expected achievement on a good faith estimate of those results.

### **COMMITTEE ACTION**

Banks Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/20/2012)