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## **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 receive 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)