

Regular Session, 2012

HOUSE BILL NO. 782

BY REPRESENTATIVE CONNICK

CONTRACTS: Provides with respect to certain contracts for the collection and settlement of debts as the practice of law

1 AN ACT

2 To amend and reenact R.S. 37:212(A)(introductory paragraph), (1), and (2)(a) and (b) and
3 to enact R.S. 37:212(A)(2)(e), (f), and (g) and (3) and R.S. 37:213(A)(8), relative to
4 contracts for collecting or settling certain debts; to provide relative to definitions; to
5 provide that certain activities related to debt settlement or collection shall be
6 considered the practice of law; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:212(A)(introductory paragraph), (1), and (2)(a) and (b) are hereby
9 amended and reenacted and R.S. 37:212(A)(2)(e), (f), and (g) and (3) and R.S. 37:213(A)(8)
10 are hereby enacted to read as follows:

11 §212. "Practice of law" defined

12 A. The practice of law means and includes all of the following:

13 (1) In a representative capacity, the appearance as an advocate, or the
14 drawing of papers, pleadings, or documents, or the performance of any act in
15 connection with pending or prospective proceedings before any court of record in
16 this state;~~or,~~

17 (2) For a consideration, reward, contingency fee, referral fee, commission,
18 or any other pecuniary benefit, present or anticipated, however phrased or styled,
19 whether direct or indirect;, through an intermediary or by means of a fee-splitting
20 agreement or other arrangement for monetary compensation:

1 (a) The advising or counseling of another as to secular law; consumer debt
2 settlement, consumer debt avoidance, or consumer debt defense.

3 (b) In behalf of another, the drawing or procuring, or the assisting in the
4 drawing or procuring of a court pleading, paper, document, or instrument affecting
5 or relating to secular rights; consumer debt settlement, consumer debt avoidance,
6 or consumer debt defense.

7 * * *

8 (e) Advising a debtor who is a Louisiana resident or domiciliary to do any
9 of the following:

10 (i) To ignore, delay payment of, or not to pay at all, a legal debt or charge
11 or any portion of the legal debt or charge.

12 (ii) To file pleadings pro se or in proper person in any pending or prospective
13 litigation or lawsuit.

14 (iii) That a debt is illegal, unenforceable in a court of law, extinguished by
15 a prescriptive or preemptive period, uncollectible, or subject to modification without
16 the consent of the creditor.

17 (iv) That he is subject to arrest or prosecution for the nonpayment of a civil
18 court judgment.

19 (f) After a lawsuit has been filed to foreclose a mortgage or to seize or
20 recognize alien on immovable property, advising a defendant who is a Louisiana
21 resident or domiciliary of his options and alternatives for responding to the lawsuit
22 or seizure, or otherwise dealing with or disposing of a lawsuit.

23 (g) After a lawsuit has been filed to collect a consumer debt, preparing for
24 or furnishing to, directly or indirectly, any pro se or in proper person pleadings in
25 connection with the lawsuit.

26 (3) For a profit or for any direct or indirect financial remuneration or
27 consideration, to operate any service or program represented, directly or by
28 implication, to renegotiate, settle, or in any way alter the terms of payment or other
29 terms of the debt between a person and one or more unsecured creditors or debt

Proposed law retains present law but also includes those activities listed in present law which are done pursuant to certain types of contracts, such as contingency fee, referral fee, commission, and fee-splitting contracts.

Present law provides, in part, that no natural person, who has not first been admitted to practice law by the supreme court of this state, no corporation, no partnership, and no limited liability company shall practice law, furnish attorneys to render legal services, or render or furnish legal services or advice.

Proposed law provides that no natural person, who has not first been admitted to practice law by the supreme court of this state, no corporation, no partnership, and no limited liability company shall operate any service or program represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors.

(Amends R.S. 37:212(A)(intro. para.), (1), and (2)(a) and (b); Adds R.S. 37:212(A)(2)(e), (f), and (g) and (3) and 213(A)(8))