

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), (3), and (E) and R.S. 37:213(A)(8),
4 relative to contracts for collecting or settling certain debts; to provide relative to
5 definitions; to provide that certain activities related to debt settlement or collection
6 shall be considered the practice of law; to provide for exceptions; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:212(A)(introductory paragraph), (1), and (2)(a) and (b) are hereby
10 amended and reenacted and R.S. 37:212(A)(2)(e), (f), and (g), (3), and (E) and R.S.
11 37:213(A)(8) are hereby enacted to read as follows:

12 §212. "Practice of law" defined

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

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

18 (2) For a consideration, reward, contingency fee, referral fee, commission,
19 or any other pecuniary benefit, present or anticipated, however phrased or styled,

1 implication, to renegotiate, settle, or in any way alter the terms of payment or other
2 terms of the debt between a person and one or more unsecured creditors or debt
3 collectors, including but not limited to a reduction in the balance, interest rate, or
4 fees owed by a person to an unsecured creditor or debt collector.

5 * * *

6 E. Nothing in this Section shall prohibit an attorney at law licensed in
7 Louisiana or a debt collector or collection agency whose activities are governed and
8 regulated by the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq., and
9 which has registered as a collection agency with the Louisiana secretary of state as
10 required by law, from attending to and caring for the business, claims, and demands
11 of its clients against third parties for the payment of a lawful debt owed to its
12 principal.

13 §213. Persons, professional associations, professional corporations, and limited
14 liability companies entitled to practice law; penalty for unlawful practice

15 A. No natural person, who has not first been duly and regularly licensed and
16 admitted to practice law by the supreme court of this state, no corporation or
17 voluntary association except a professional law corporation organized pursuant to
18 Chapter 8 of Title 12 of the Revised Statutes, and no partnership or limited liability
19 company except one formed for the practice of law and composed of such natural
20 persons, corporations, voluntary associations, or limited liability companies, all of
21 whom are duly and regularly licensed and admitted to the practice of law, shall:

22 * * *

23 (8) Operate any service or program represented, directly or by implication,
24 to renegotiate, settle, or in any way alter the terms of payment or other terms of the
25 debt between a person and one or more unsecured creditors or debt collectors,
26 including but not limited to a reduction in the balance, interest rate, or fees owed by
27 a person to an unsecured creditor or debt collector.

28 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Connick

HB No. 782

Abstract: Provides that conducting business under certain types of contracts, such as contingency fee, referral fee, commission, and fee-splitting contracts, in order to collect or settle consumer debts shall be considered practicing law.

Present law provides an extensive definition of the "practice of law" which provides, in part, that the practice of law includes appearing in a representative capacity as an advocate, or the drawing of papers, pleadings, or documents, or the performance of any act in connection with pending or prospective proceedings before any court of record in this state, and advising or counseling of another as to secular law for consideration, reward, or pecuniary benefit.

Proposed law retains present law but also includes those activities listed in present law pursuant to certain types of contracts, such as contingency fee, referral fee, commission, and fee-splitting contracts. Further defines the "practice of law" to include the advising of a debtor who is a La. resident or domiciliary on certain matters involving debt.

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.

Provides that proposed law shall not prohibit an attorney at law licensed in La. or a debt collector or collection agency whose activities are governed and regulated by the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq., and which has registered as a collection agency with the La. secretary of state as required by law, from attending to and caring for the business, claims, and demands of its clients against third parties for the payment of a lawful debt owed to its principal.

(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), (3), and (E) and 213(A)(8))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Added an exception relative to attorneys licensed to practice law in La. and debt collectors or collection agencies regulated by the Fair Debt Collection Practices Act.
2. Added technical amendments.