
DIGEST

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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 a person directly employed by an attorney at law licensed in La., certain professional legal entities, 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.

Provides that proposed law shall not prohibit an FDIC insured institution and its affiliates from collecting debts owed pursuant to state and federal law, and from advising customers on certain debt related issues.

(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 (F) 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.

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Added persons directly employed by an attorney, certain professional legal entities, and FDIC insured institutions and their affiliates to those excepted from application of proposed law.