

ACT 3

H. B. 33.

A Bill for an Act Relating to Debt Adjusting.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this Act is to prohibit commercial or profit-making debt adjusters from transacting business in this State.

SECTION 2. Definitions. As used in this Act:

(a) "Person" means an individual, partnership, corporation, firm, association or any other legal entity;

(b) "Debt adjuster" means a person who for a profit engages in the business of acting as an intermediary between a debtor and his creditors for the purpose of settling, compromising or in any way altering the terms of payment of any debts of the debtor, and who:

(1) Receives money, property or other thing of value from the debtor, or on behalf of the debtor, for distribution among the creditors of the debtor, or

(2) Otherwise arranges for payment to, or distribution among, the creditors of the debtor;

(c) "Debtor" means an individual and includes two or more individuals who are jointly and severally or jointly or severally indebted;

(d) "Nonprofit organization" means a corporation or association, no part of the net earnings of which may inure to the benefit of any private shareholder or individual.

SECTION 3. Debt adjusting prohibited; penalty; contracts void. Any person who acts or offers to act as a debt adjuster in this State shall be fined not more than \$500 or imprisoned not more than six months, or both. Any contract for debt adjusting entered into with a person engaged in the business for a profit shall be void and unenforceable and the debtor may recover from the debt adjuster all sums or things deposited with the debt adjuster and not disbursed to his creditors.

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SECTION 4. Persons not affected. The following persons shall not be deemed debt adjusters for the purposes of this Act:

(a) An attorney licensed to practice law in this State, including the Legal Aid Society of Hawaii;

(b) A person who is a regular full-time employee of a debtor and who acts as an adjuster of his employer's debt;

(c) A person acting pursuant to any order or judgment of court or pursuant to authority conferred by any law of this State or of the United States;

(d) A nonprofit or charitable corporation or association who acts as an adjuster of a debtor's debts, even though the nonprofit corporation or association may charge and collect nominal sums as reimbursement for expenses in connection with such services.

SECTION 5. Certain loan functions not affected. Nothing herein contained is intended to exclude, nor shall it exclude, or prohibit, any bank, industrial loan company, credit union, or any other person or firm licensed by the county, state or federal government to make loans from paying off the existing debts of any debtor to any other person or firm in connection with, or as a condition precedent to, making a loan to such debtor, if done at the debtor's request or with his consent or agreement.

SECTION 6. Section 171A-1, Revised Laws of Hawaii 1955, is hereby amended by deleting therefrom paragraph (d)(3).

SECTION 7. This Act shall take effect upon its approval.

(Approved March 30, 1967.)