



Consumer Protection and Unfair Competition Law

ALERT

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LOEB & LOEB adds Knowledge.

California's AB 350 Amended to Eliminate Fee Restrictions

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The author of California's proposed "Debt Settlement Services Act" (Assembly Bill 350 or AB 350) has amended the bill to eliminate all of the fee restrictions that were included in earlier drafts.

AB 350 proposes a comprehensive set of regulations that would govern the debt settlement industry including, among other things, providing for the licensing of debt settlement providers in California. The bill was originally introduced by Assemblyman Ted Lieu (D-Torrance, CA) in February 2009 and has been the subject of six amendments over the past sixteen months.

Yesterday's revisions to the bill include striking provisions that set a flat fee cap of no more than 18% of the principal amount of the debt enrolled at the start of a debt settlement program or, alternatively, a savings fee cap of no more than a \$400 or 4% set up fee, a \$50 monthly charge and a 30% fee on the amount saved by the consumer at the time of each settlement.

Apart from requiring that debt settlement providers be licensed, the modified proposed regulations contain no fee caps or restrictions on when fees may be charged.

Besides from eliminating the fee caps, the revised bill contains several other minor changes. These include rules that would:

- Allow companies to receive and distribute consumer funds under specified conditions.
- Require companies to make a determination that an individual is "qualified and suitable" for participation in a debt settlement program based on a financial analysis of the consumer's situation.
- Require that any advertising that includes claims about the success of debt settlement services be verified by an independent third party.

The bill would also allow for the public inspection of annual reports filed by debt settlement providers, with the exception of any proprietary business information contained in such reports.

The new version of the bill is scheduled for hearing before the Senate Judiciary Committee on June 22, 2010.

A copy of the amended bill can be found at http://www.loeb.com/files/Uploads/AB_350_Bill_Amended.6.14.10.pdf.

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