

# Debt Adjusting

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## **37-34-1. Debt adjusting defined.**

The term, debt adjusting, means the making of a contract, express or implied, with a debtor whereby the debtor agrees to pay a certain amount of money or other thing of value periodically to the person engaged in the debt-adjusting business who shall, for consideration, distribute the same among certain specified creditors in accordance with a plan agreed upon. The term includes debt adjustment, budget counseling, debt management, or debt-pooling service or the holding of oneself out by words of similar import as providing services to debtors in the management of their debts and contracting with the debtor for a fee to effect the adjustment, compromise, or discharge of any account, note, or other indebtedness of the debtor or receive from the debtor and disperse to his creditors any money or thing of value. The term, debt adjuster, means a person who engages in, attempts to engage in, or offers to engage in the practice of debt adjusting.

**Source:** SL 1990, ch 387, § 1; SDCL § [22-47-1](#); SL 2005, ch 120, § 295.

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## **37-34-2. Debt adjusting--Misdemeanor.**

Except as provided in § [37-34-3](#), no person may engage in the business of debt adjusting. A violation of this section is a Class 2 misdemeanor.

**Source:** SL 1990, ch 387, § 2; SDCL § [22-47-2](#); SL 2005, ch 120, § 295.

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SOUTH DAKOTA OFFICE OF ATTORNEY GENERAL

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### **37-34-3. Exceptions.**

Section [37-34-2](#) does not apply to:

- (1) Debt adjusting incurred incidentally in the lawful practice of law in this state;
- (2) Banks and fiduciaries duly authorized and admitted to transact business in this state and performing credit and financial adjusting service in the regular course of their principal business;
- (3) Title insurers and abstract companies, while doing an escrow business;
- (4) Judicial officers or others acting under court orders;
- (5) Nonprofit or charitable corporations or associations engaged in debt adjusting;
- (6) Bona fide trade or mercantile associations in the course of arranging adjustments of debts with business establishments;
- (7) Employers for their employees;
- (8) Any person who, at the request of a debtor, arranges for or makes a loan to the debtor and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan without compensation for the services rendered in adjusting the debts;
- (9) Any person serving as a mediator pursuant to chapter [54-13](#); or
- (10) Any person who files and maintains with the attorney general a bond to be approved by the attorney general in the penal sum of fifty thousand dollars conditioned for the faithful performance and payment of obligations of such debt adjuster arising in connection with his business as such, and for the payment of all claims for damages for which he may become liable in the course of his business as a debt adjuster.

**Source:** SL 1990, ch 387, § 3; SL 1991, ch 196; SL 1993, ch 181; SDCL § 22-47-3; SL 2005, ch 120, § 295.