HB 374

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 374 (Delegate Feldman, *et al.*)
Economic Matters

Credit Regulation - Debt Management Services

This bill repeals the provision requiring a licensed debt management services provider to be a nonprofit entity (thus allowing a for-profit entity to become licensed). Before performing debt management services a licensee has to determine, based on analysis of information provided by the consumer, that debt management services are suitable and the consumer will be able to meet the payment obligations under the debt management services agreement.

The bill takes effect June 1, 2007.

Fiscal Summary

State Effect: Special fund revenues would increase if new licensees become licensed. Special fund revenues of $58,000 biennially would also be maintained if current licensees are able to retain their licenses because of the bill. Expenditures would not be affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: To qualify for a license, an applicant must be a nonprofit organization and must satisfy the commissioner that each of the applicant's owners, officers, directors, principals, and agents has sufficient experience, character, financial responsibility, and general fitness to: (1) engage in the business of providing debt management services;

(2) warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and (3) command the confidence of the public.

Licensees are prohibited from various activities relating to the operation of their businesses, including purchasing a consumer's debt or obligation, lending money or providing credit to a consumer, and offering or paying compensation for referring a potential customer.

Licensees may not perform debt management services for a consumer unless the licensee has complied with specified requirements.

Background: The 2005 amendments to the federal Bankruptcy Act require most filers to receive credit counseling. An individual may not file a bankruptcy petition unless, within 180 days preceding the filing, the individual has received an individual or group briefing that outlines the opportunities for credit counseling and assists the individual in performing a budget analysis. The individual must file a certificate from an approved nonprofit budget and credit counseling agency describing the services provided along with a copy of the debt repayment plan, if any. An individual may be allowed to file bankruptcy without a briefing by a credit counselor under limited circumstances, if a waiver is granted. In addition to receiving pre-bankruptcy counseling, all Chapter 7 and 13 filers must complete a financial management course before receiving a discharge of debts.

The Internal Revenue Service (IRS) recently revoked the tax-exempt status of several debt management firms, including several formerly licensed debt management services companies in Maryland, because they were deemed to be for-profit entities.

Chapter 574 of 2005 amended the licensing fee structure for debt management services providers. Under Chapter 574, the biennial fee depends on the licensee's gross annual revenue.

State Revenues: Of the 42 currently licensed debt management services companies, 11 are challenging determinations by the IRS to revoke their tax-exempt status. It is unclear whether those appeals will be successful. If not, the bill would allow them to remain licensees. They currently pay a total of $58,000 every other year in licensing fees.

The IRS has recently announced that it will be auditing the nonprofit status of an additional 80 debt management services companies nationwide. It is unknown how many of those companies are licensed in Maryland.

It is assumed that at least three additional debt management services providers would apply for licensure under the bill. If so, special fund revenues would increase in fiscal 2008 by $1,000 for each investigation of an applicant performed. Special fund revenues from licensing fees would also increase, but those fees would depend on the size of the licensee. *For illustrative purposes*, if three firms with gross annual revenues ranging from $6,000,001 to $15,000,000 became licensed in fiscal 2008, special fund revenues would increase by $12,000 biennially.

Additional Information

Prior Introductions: An identical bill, HB 1385 of 2006, received a hearing in the House Economic Matters Committee but no further action was taken. A similar bill, SB 673 of 2006 as amended, passed the Senate. SB 673 was referred to Economic Matters, where no further action was taken.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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