

HOUSE BILL 1022

11, I3

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CF SB 741

By: **Delegates Vaughn, Barkley, Bobo, Braveboy, Harrison, Hucker, Jameson,
Kramer, Love, Minnick, Niemann, Olszewski, and Washington**

Introduced and read first time: February 11, 2011

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2011

CHAPTER _____

1 AN ACT concerning

2 **Commercial Law – Debt Settlement Services**

3 FOR the purpose of prohibiting a person from offering, providing, or attempting to
4 provide debt settlement services unless the person is registered as a debt
5 settlement services provider with the Commissioner of Financial Regulation or
6 is exempt from registration; authorizing the Commissioner to adopt regulations,
7 enter into certain cooperative and information sharing agreements, and
8 exchange certain information with certain agencies for a certain purpose;
9 requiring a person registering as a debt settlement services provider or
10 renewing a registration to pay certain fees; requiring certain fees to be
11 deposited in a certain fund and used to cover certain costs and expenses
12 incurred by the Commissioner; requiring an applicant for registration to file a
13 certain application; specifying the information to be included in the application;
14 providing that a registration may be renewed under certain circumstances;
15 prohibiting a registrant from offering, providing, or attempting to provide debt
16 settlement services in the State except as allowed under this Act; authorizing a
17 registrant to charge a certain debt settlement services fee; prohibiting a
18 registrant from charging a certain fee or requiring a certain contribution;
19 prohibiting a registrant from charging a certain debt settlement services fee
20 until after certain actions have been taken; providing that a certain provision of
21 this Act does not prohibit a registrant from requesting or requiring a consumer
22 to deposit certain funds in a certain account under certain circumstances;
23 requiring a registrant to allow a consumer to withdraw from a debt settlement
24 services agreement at any time; prohibiting a registrant from making a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 representation; requiring a debt settlement services agreement to be signed and
2 dated by the registrant and the consumer and to include certain information
3 and disclosures; requiring an advertisement for debt settlement services to
4 include a certain disclosure; requiring a registrant that establishes a certain
5 account to file a certain surety bond with the Commissioner; requiring a
6 registrant to report certain information to the Commissioner, on the form the
7 Commissioner requires, on or before a certain date each year; providing that a
8 violation of this Act is an unfair or deceptive trade practice within the meaning
9 of the Maryland Consumer Protection Act and is subject to certain enforcement
10 and penalty provisions; altering the content and purposes of a certain fund;
11 providing for the application of this Act; providing that, under certain
12 circumstances, certain provisions of this Act are in addition to and not in
13 substitution for any other provision of law; establishing a certain short title;
14 defining certain terms; making certain conforming changes; requiring a
15 registrant to report certain information to the Commissioner on or before a
16 certain date each year for a certain number of years; requiring the Office of the
17 Commissioner of Financial Regulation in the Department of Labor, Licensing,
18 and Regulation, in consultation with the Consumer Protection Division of the
19 Office of the Attorney General, to report certain recommendations to certain
20 committees of the General Assembly on or before a certain date; and generally
21 relating to debt settlement services and debt settlement services providers.

22 BY repealing and reenacting, with amendments,
23 Article – Commercial Law
24 Section 13–301(14)(xxvi)
25 Annotated Code of Maryland
26 (2005 Replacement Volume and 2010 Supplement)

27 BY repealing and reenacting, without amendments,
28 Article – Commercial Law
29 Section 13–301(14)(xxvii)
30 Annotated Code of Maryland
31 (2005 Replacement Volume and 2010 Supplement)

32 BY adding to
33 Article – Commercial Law
34 Section 13–301(14)(xxviii)
35 Annotated Code of Maryland
36 (2005 Replacement Volume and 2010 Supplement)

37 BY repealing and reenacting, with amendments,
38 Article – Financial Institutions
39 Section 12–905
40 Annotated Code of Maryland
41 (2003 Replacement Volume and 2010 Supplement)

42 BY adding to

1 Article – Financial Institutions
 2 Section 12–1001 through 12–1017 to be under the new subtitle “Subtitle 10.
 3 Maryland Debt Settlement Services Act”
 4 Annotated Code of Maryland
 5 (2003 Replacement Volume and 2010 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Commercial Law**

9 13–301.

10 Unfair or deceptive trade practices include any:

11 (14) Violation of a provision of:

12 (xxvi) Title 6, Subtitle 13 of the Environment Article; [or]

13 (xxvii) Section 7–405(e)(2)(ii) of the Health Occupations
 14 Article; or

15 **(XXVIII) TITLE 12, SUBTITLE 10 OF THE FINANCIAL**
 16 **INSTITUTIONS ARTICLE; OR**

17 **Article – Financial Institutions**

18 12–905.

19 (a) There is a Debt Management Services Fund that consists of:

20 (1) All revenue received for the licensing of persons that provide debt
 21 management services under this subtitle;

22 (2) **ALL REVENUE RECEIVED FOR THE REGISTRATION OF**
 23 **PERSONS THAT PROVIDE DEBT SETTLEMENT SERVICES UNDER SUBTITLE 10 OF**
 24 **THIS TITLE;**

25 (3) Income from investments that the Treasurer makes for the Fund;
 26 and

27 **[(3)] (4)** Except as provided in subsection (b) of this section, any
 28 other fee or revenue received by the Commissioner under this subtitle **OR UNDER**
 29 **SUBTITLE 10 OF THIS TITLE.**

1 (b) The Commissioner shall pay all fines and penalties collected by the
2 Commissioner under this subtitle **AND UNDER SUBTITLE 10 OF THIS TITLE** into the
3 General Fund of the State.

4 (c) The purpose of the Fund is to pay all the costs and expenses incurred by
5 the Commissioner that are related to the regulation of the debt management services
6 business under this subtitle **AND THAT ARE RELATED TO THE REGISTRATION OF**
7 **DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE 10 OF THIS TITLE**,
8 including:

9 (1) Expenditures authorized under this subtitle **AND SUBTITLE 10**
10 **OF THIS TITLE**; and

11 (2) Any other expense authorized in the State budget.

12 (d) (1) The Treasurer is the custodian of the Fund.

13 (2) The Treasurer shall deposit payments received from the
14 Commissioner into the Fund.

15 (e) (1) The Fund is a continuing, nonlapsing fund that is not subject to §
16 7–302 of the State Finance and Procurement Article, and may not be deemed a part of
17 the General Fund of the State.

18 (2) Unless otherwise provided by law, no part of the Fund may revert
19 or be credited to:

20 (i) The General Fund of the State; or

21 (ii) A special fund of the State.

22 (f) (1) All the costs and expenses of the Commissioner relating to the
23 regulation of the debt management services business under this subtitle **AND TO THE**
24 **REGISTRATION OF DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE**
25 **10 OF THIS TITLE** shall be included in the State budget.

26 (2) Any expenditures from the Fund to cover costs and expenses of the
27 Commissioner may be made only:

28 (i) By an appropriation from the Fund approved by the General
29 Assembly in the annual State budget; or

30 (ii) By the budget amendment procedure provided for in § 7–209
31 of the State Finance and Procurement Article.

1 (3) If, in any fiscal year, the amount of the revenue collected by the
2 Commissioner and deposited into the Fund exceeds the actual appropriation for the
3 Commissioner to regulate the debt management services business under this subtitle
4 **AND TO REGISTER DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE**
5 **10 OF THIS TITLE**, the excess amount shall be carried forward within the Fund.

6 (g) The Office of Legislative Audits shall audit the accounts and transactions
7 of the Fund under § 2-1220 of the State Government Article.

8 **SUBTITLE 10. MARYLAND DEBT SETTLEMENT SERVICES ACT.**

9 **12-1001.**

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) “CONSUMER” MEANS AN INDIVIDUAL WHO:

13 (1) RESIDES IN THE STATE; AND

14 (2) IS SEEKING DEBT SETTLEMENT SERVICES OR HAS ENTERED
15 INTO A DEBT SETTLEMENT SERVICES AGREEMENT IN CONNECTION WITH DEBTS
16 THAT ARE CONSUMER DEBTS, AS DEFINED IN § 13-101 OF THE COMMERCIAL
17 LAW ARTICLE.

18 (C) “DEBT MANAGEMENT SERVICES” HAS THE MEANING STATED IN §
19 12-901 OF THIS TITLE.

20 (D) (1) “DEBT SETTLEMENT SERVICES” MEANS ANY SERVICE OR
21 PROGRAM REPRESENTED, DIRECTLY OR BY IMPLICATION, TO RENEGOTIATE,
22 SETTLE, REDUCE, OR IN ANY WAY ALTER THE TERMS OF PAYMENT OR OTHER
23 TERMS OF A DEBT BETWEEN A CONSUMER AND ONE OR MORE UNSECURED
24 CREDITORS OR DEBT COLLECTORS, INCLUDING A REDUCTION IN THE BALANCE,
25 INTEREST RATE, OR FEES OWED BY A CONSUMER TO AN UNSECURED CREDITOR
26 OR DEBT COLLECTOR.

27 (2) “DEBT SETTLEMENT SERVICES” DOES NOT INCLUDE DEBT
28 MANAGEMENT SERVICES.

29 (E) “DEBT SETTLEMENT SERVICES AGREEMENT” MEANS A WRITTEN
30 CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT SETTLEMENT SERVICES
31 PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT SETTLEMENT
32 SERVICES.

1 **(F) “DEBT SETTLEMENT SERVICES FEE” MEANS A FEE CHARGED TO A**
2 **CONSUMER BY A DEBT SETTLEMENT SERVICES PROVIDER FOR PROVIDING DEBT**
3 **SETTLEMENT SERVICES FOR A CONSUMER.**

4 **(G) “DEBT SETTLEMENT SERVICES PROVIDER” MEANS A PERSON THAT**
5 **PROVIDES OR OFFERS TO PROVIDE DEBT SETTLEMENT SERVICES FOR A**
6 **CONSUMER REGARDLESS OF WHETHER THE PERSON PROVIDES THE DEBT**
7 **SETTLEMENT SERVICES ON A FOR-PROFIT OR NOT-FOR-PROFIT BASIS.**

8 **(H) “DEDICATED ACCOUNT” MEANS AN ACCOUNT DESCRIBED IN §**
9 **12-1010(D) OF THIS SUBTITLE.**

10 **(I) “OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT**
11 **SERVICES” MEANS PROVIDING DEBT SETTLEMENT SERVICES:**

12 **(1) TO CONSUMERS THROUGH ANY MEANS, INCLUDING**
13 **TELEPHONE TELEMARKETING, INTERNET SOLICITATION, AND FACE-TO-FACE**
14 **MEETINGS; AND**

15 **(2) ON AN INTRASTATE OR INTERSTATE BASIS.**

16 **(J) “PRINCIPAL AMOUNT OF THE DEBT” MEANS THE AMOUNT OF A**
17 **DEBT AT THE TIME THE DEBT IS INCLUDED IN A DEBT SETTLEMENT SERVICES**
18 **AGREEMENT.**

19 **(K) “REGISTRANT” MEANS A PERSON REGISTERED UNDER THIS**
20 **SUBTITLE TO PROVIDE DEBT SETTLEMENT SERVICES.**

21 **12-1002.**

22 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE PROVISIONS**
23 **OF THIS SUBTITLE ARE IN ADDITION TO AND NOT IN SUBSTITUTION FOR ANY**
24 **OTHER PROVISION OF LAW.**

25 **(B) A PERSON WHO PERIODICALLY RECEIVES FUNDS FROM CONSUMERS**
26 **TO BE USED IN CONNECTION WITH PROVIDING DEBT SETTLEMENT SERVICES IS**
27 **NOT ENGAGED IN PROVIDING DEBT MANAGEMENT SERVICES, AND IS NOT**
28 **SUBJECT TO SUBTITLE 9 OF THIS TITLE, IF THE PERSON:**

29 **(1) COMPLIES WITH THE REQUIREMENTS OF THIS SUBTITLE;**

30 **(2) (I) NEGOTIATES TO SETTLE A CONSUMER’S DEBTS BY**
31 **REDUCING THE PRINCIPAL AMOUNT OF THE DEBTS OWED; AND**

1 (II) MAKES NO MORE THAN SIX SETTLEMENT PAYMENTS
2 FOR EACH DEBT; AND

3 (3) ESTABLISHES A DEDICATED ACCOUNT THAT:

4 (I) IS SEPARATE FROM ANY TRUST ACCOUNT ESTABLISHED
5 BY THE PERSON UNDER § 12-917 OF THIS TITLE; AND

6 (II) IS NOT ESTABLISHED SOLELY FOR THE PURPOSE OF
7 HOLDING CONSUMER FUNDS TO BE DISBURSED TO THE DEBT SETTLEMENT
8 SERVICES PROVIDER FOR FEES.

9 12-1003.

10 THIS SUBTITLE DOES NOT APPLY TO:

11 (1) THE FOLLOWING PERSONS WHEN ENGAGED IN THE REGULAR
12 COURSE OF THEIR RESPECTIVE BUSINESSES AND PROFESSIONS:

13 (I) AN ATTORNEY AT LAW WHO IS ADMITTED TO ~~PRACTICE~~
14 ~~IN THE STATE AND IS NOT PRINCIPALLY ENGAGED IN PROVIDING DEBT~~
15 ~~SETTLEMENT SERVICES~~ THE MARYLAND BAR WHILE THE ATTORNEY AT LAW IS
16 PROVIDING PROFESSIONAL LEGAL SERVICES IN AN ATTORNEY-CLIENT
17 RELATIONSHIP;

18 (II) AN ESCROW AGENT;

19 (III) A CERTIFIED PUBLIC ACCOUNTANT;

20 (IV) A BANKING INSTITUTION, OTHER-STATE BANK,
21 NATIONAL BANKING ASSOCIATION, CREDIT UNION, OR SAVINGS AND LOAN
22 ASSOCIATION;

23 (V) A PERSON THAT:

24 1. PROVIDES A BILL PAYER SERVICE, AS DEFINED IN
25 § 12-401 OF THIS TITLE;

26 2. DOES NOT INITIATE ANY CONTRACT WITH
27 INDIVIDUAL CREDITORS OF A DEBTOR TO COMPROMISE A DEBT OR ARRANGE A
28 NEW PAYMENT SCHEDULE; AND

29 3. DOES NOT PROVIDE ANY DEBT COUNSELING
30 SERVICES;

1 (VI) A PERSON THAT PROVIDES AN ACCELERATED
2 MORTGAGE PAYMENT SERVICE, AS DEFINED IN § 12-401 OF THIS TITLE;

3 (VII) A TITLE INSURER, TITLE INSURANCE AGENCY, OR
4 ABSTRACT COMPANY; OR

5 (VIII) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A
6 COURT ORDER;

7 (2) A PERSON WHILE PERFORMING SERVICES INCIDENTAL TO
8 THE DISSOLUTION, WINDING UP, OR LIQUIDATION OF A PARTNERSHIP,
9 CORPORATION, OR OTHER BUSINESS ENTERPRISE;

10 (3) A TRADE OR MERCANTILE ASSOCIATION ACTING IN THE
11 COURSE OF ARRANGING THE ADJUSTMENT OF DEBTS WITH A BUSINESS
12 ESTABLISHMENT;

13 (4) (I) A MORTGAGE LENDER, AS DEFINED IN § 11-501 OF THIS
14 ARTICLE:

15 ~~(H)~~ 1. THAT IS LICENSED BY THE COMMISSIONER; AND

16 ~~(H)~~ 2. WHILE ENGAGED IN THE MORTGAGE LENDING
17 BUSINESS, AS DEFINED IN § 11-501 OF THIS ARTICLE; OR

18 (II) AN EMPLOYEE OF A MORTGAGE LENDER; OR

19 (5) A COLLECTION AGENCY, AS DEFINED IN § 7-101 OF THE
20 BUSINESS REGULATION ARTICLE:

21 (I) THAT IS LICENSED BY THE STATE COLLECTION
22 AGENCY LICENSING BOARD; AND

23 (II) WHILE ENGAGED IN THE COLLECTION AGENCY
24 BUSINESS, AS DEFINED IN § 7-101 OF THE BUSINESS REGULATION ARTICLE.

25 12-1004.

26 A PERSON MAY NOT OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT
27 SETTLEMENT SERVICES UNLESS THE PERSON:

28 (1) IS REGISTERED WITH THE COMMISSIONER UNDER THIS
29 SUBTITLE; OR

1 **(2) IS EXEMPT FROM REGISTRATION UNDER THIS SUBTITLE.**

2 **12-1005.**

3 **TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, THE COMMISSIONER**
4 **MAY:**

5 **(1) ADOPT REGULATIONS;**

6 **(2) ENTER INTO COOPERATIVE AND INFORMATION SHARING**
7 **AGREEMENTS WITH ANY FEDERAL OR STATE REGULATORY AGENCY HAVING**
8 **AUTHORITY OVER DEBT SETTLEMENT SERVICES PROVIDERS; AND**

9 **(3) EXCHANGE INFORMATION ABOUT A DEBT SETTLEMENT**
10 **SERVICES PROVIDER, INCLUDING INFORMATION OBTAINED DURING AN**
11 **EXAMINATION, WITH ANY FEDERAL OR STATE REGULATORY AGENCY HAVING**
12 **AUTHORITY OVER THE DEBT SETTLEMENT SERVICES PROVIDER.**

13 **12-1006.**

14 **A PERSON REGISTERING AS A DEBT SETTLEMENT SERVICES PROVIDER**
15 **WITH THE COMMISSIONER UNDER THIS SUBTITLE SHALL PAY TO THE**
16 **COMMISSIONER A NONREFUNDABLE FEE IN THE AMOUNT OF:**

17 **(1) \$1,000 FOR THE ISSUANCE OF A REGISTRATION UNDER THIS**
18 **SUBTITLE; AND**

19 **(2) \$1,000 FOR THE RENEWAL OF A REGISTRATION UNDER THIS**
20 **SUBTITLE.**

21 **12-1007.**

22 **ALL FEES COLLECTED BY THE COMMISSIONER UNDER THIS SUBTITLE**
23 **SHALL BE:**

24 **(1) DEPOSITED IN THE DEBT MANAGEMENT SERVICES FUND**
25 **ESTABLISHED UNDER § 12-905 OF THIS TITLE; AND**

26 **(2) USED TO COVER THE COSTS AND EXPENSES INCURRED BY**
27 **THE COMMISSIONER THAT ARE RELATED TO THE REGISTRATION OF DEBT**
28 **SETTLEMENT SERVICES PROVIDERS.**

29 **12-1008.**

1 **(A) TO APPLY FOR A REGISTRATION, AN APPLICANT SHALL SUBMIT TO**
2 **THE COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER**
3 **PROVIDES.**

4 **(B) THE APPLICATION SHALL INCLUDE:**

5 **(1) THE APPLICANT'S LEGAL NAME, TRADE NAME, IF ANY,**
6 **MAIN OFFICE ADDRESS, TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, IF**
7 **ANY, AND WEB SITE ADDRESS, IF ANY;**

8 **(2) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE**
9 **APPLICANT'S DESIGNATED CONTACT FOR RECEIPT OF COMPLAINTS;**

10 **(3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE**
11 **APPLICANT'S RESIDENT AGENT IN THE STATE; AND**

12 **(4) ANY OTHER INFORMATION THAT THE COMMISSIONER**
13 **REASONABLY REQUIRES.**

14 **12-1009.**

15 **(A) A REGISTRATION ISSUED UNDER THIS SUBTITLE EXPIRES ON**
16 **DECEMBER 31 OF EACH ODD-NUMBERED YEAR UNLESS THE REGISTRATION IS**
17 **RENEWED FOR A 2-YEAR TERM AS PROVIDED IN SUBSECTION (B) OF THIS**
18 **SECTION.**

19 **(B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A**
20 **REGISTRATION MAY BE RENEWED FOR A 2-YEAR TERM IF THE REGISTRANT:**

21 **(1) OTHERWISE IS ENTITLED TO BE REGISTERED;**

22 **(2) PAYS TO THE COMMISSIONER THE RENEWAL FEE**
23 **ESTABLISHED UNDER § 12-1006 OF THIS SUBTITLE; AND**

24 **(3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION**
25 **ON THE FORM THAT THE COMMISSIONER REQUIRES.**

26 **12-1010.**

27 **(A) EXCEPT AS ALLOWED UNDER THIS SUBTITLE, A REGISTRANT MAY**
28 **NOT OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES**
29 **IN THE STATE.**

1 **(B) (1) A REGISTRANT MAY CHARGE A CONSUMER A DEBT**
2 **SETTLEMENT SERVICES FEE AS PROVIDED UNDER THIS SECTION.**

3 **(2) A REGISTRANT MAY NOT:**

4 **(I) CHARGE A CONSUMER A FEE FOR CONSULTATION OR**
5 **FOR OBTAINING A CONSUMER'S CREDIT REPORT; OR**

6 **(II) REQUIRE A VOLUNTARY CONTRIBUTION FROM A**
7 **CONSUMER FOR ANY SERVICE PROVIDED BY THE REGISTRANT.**

8 **(C) EXCEPT AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION, A**
9 **REGISTRANT MAY NOT CHARGE A CONSUMER A DEBT SETTLEMENT SERVICES**
10 **FEE UNTIL AFTER:**

11 **(1) A DEBT SETTLEMENT SERVICES AGREEMENT HAS BEEN**
12 **EXECUTED BETWEEN THE REGISTRANT AND THE CONSUMER;**

13 **(2) THE REGISTRANT HAS RENEGOTIATED, SETTLED, REDUCED,**
14 **OR OTHERWISE ALTERED THE TERMS OF AT LEAST ONE INDIVIDUAL DEBT**
15 **SPECIFIED IN THE DEBT SETTLEMENT SERVICES AGREEMENT; AND**

16 **(3) THE CONSUMER HAS MADE AT LEAST ONE PAYMENT IN**
17 **ACCORDANCE WITH THE DEBT SETTLEMENT SERVICES AGREEMENT.**

18 **(D) SUBSECTION (C) OF THIS SECTION DOES NOT PROHIBIT A**
19 **REGISTRANT FROM REQUESTING OR REQUIRING A CONSUMER TO DEPOSIT**
20 **FUNDS IN AN ACCOUNT TO BE USED FOR DEBT SETTLEMENT SERVICES FEES**
21 **AND FOR PAYMENTS TO CREDITORS OR DEBT COLLECTORS IN CONNECTION**
22 **WITH A DEBT SETTLEMENT SERVICES AGREEMENT, PROVIDED THAT:**

23 **(1) THE FUNDS ARE HELD IN AN ACCOUNT AT AN INSURED**
24 **FINANCIAL INSTITUTION, AS DEFINED IN § 1-101 OF THIS ARTICLE;**

25 **(2) THE CONSUMER OWNS THE FUNDS HELD IN THE ACCOUNT,**
26 **INCLUDING ANY ACCRUED INTEREST;**

27 **(3) THE FINANCIAL INSTITUTION OR ENTITY ADMINISTERING THE**
28 **ACCOUNT IS NOT OWNED OR CONTROLLED BY, OR IN ANY WAY AFFILIATED**
29 **WITH, THE REGISTRANT;**

30 **(4) THE FINANCIAL INSTITUTION OR ENTITY ADMINISTERING THE**
31 **ACCOUNT DOES NOT PAY OR ACCEPT ANY MONEY OR OTHER COMPENSATION IN**

1 EXCHANGE FOR REFERRALS OF BUSINESS INVOLVING THE REGISTRANT, BUT
2 MAY CHARGE ACCOUNT RELATED FEES; AND

3 (5) IF THE CONSUMER REQUESTS TO WITHDRAW FROM THE DEBT
4 SETTLEMENT SERVICES AGREEMENT, WITHIN 7 DAYS AFTER THE CONSUMER'S
5 REQUEST, ALL FUNDS IN THE ACCOUNT, INCLUDING ACCRUED INTEREST, LESS
6 ANY DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN
7 COMPLIANCE WITH THIS SECTION, ARE PAID TO THE CONSUMER.

8 (E) (1) A REGISTRANT MAY NOT CHARGE A DEBT SETTLEMENT
9 SERVICES FEE THAT EXCEEDS:

10 (I) WITH RESPECT TO EACH INDIVIDUAL DEBT, 30% OF THE
11 EXCESS OF THE PRINCIPAL AMOUNT OF THE DEBT OVER THE AMOUNT PAID TO
12 THE CREDITOR OR DEBT COLLECTOR TO SETTLE THE INDIVIDUAL DEBT; OR

13 (II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,
14 WITH RESPECT TO THE TOTAL DEBT, 20% OF THE PRINCIPAL AMOUNT OF THE
15 TOTAL DEBT.

16 (2) THE AMOUNT OF A DEBT SETTLEMENT SERVICES FEE UNDER
17 PARAGRAPH (1)(II) OF THIS SUBSECTION FOR EACH INDIVIDUAL DEBT:

18 (I) MUST BEAR THE SAME PROPORTIONAL RELATIONSHIP
19 TO THE DEBT SETTLEMENT SERVICES FEE FOR THE TOTAL DEBT AS THE
20 INDIVIDUAL DEBT BEARS TO THE TOTAL DEBT; AND

21 (II) MAY NOT EXCEED THE AMOUNT BY WHICH THE
22 CONSUMER'S DEBT IS REDUCED.

23 (F) (1) A REGISTRANT SHALL ALLOW A CONSUMER TO WITHDRAW
24 FROM A DEBT SETTLEMENT SERVICES AGREEMENT AT ANY TIME.

25 (2) IF A CONSUMER WITHDRAWS FROM THE DEBT SETTLEMENT
26 SERVICES AGREEMENT, THE REGISTRANT:

27 (I) MAY NOT CHARGE THE CONSUMER A PENALTY; AND

28 (II) MAY COLLECT DEBT SETTLEMENT SERVICES FEES
29 EARNED BY THE REGISTRANT IN COMPLIANCE WITH THIS SECTION.

30 12-1011.

1 A REGISTRANT MAY NOT MISREPRESENT ANY MATERIAL ASPECT OF ANY
2 DEBT SETTLEMENT SERVICE.

3 **12-1012.**

4 **(A) A DEBT SETTLEMENT SERVICES AGREEMENT SHALL:**

5 **(1) BE SIGNED AND DATED BY THE REGISTRANT AND THE**
6 **CONSUMER; AND**

7 **(2) INCLUDE, IN AT LEAST 12 POINT TYPE:**

8 **(I) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF**
9 **THE CONSUMER;**

10 **(II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF**
11 **THE REGISTRANT;**

12 **(III) A DESCRIPTION OF THE DEBT SETTLEMENT SERVICES**
13 **TO BE PROVIDED TO THE CONSUMER;**

14 **(IV) 1. ANY DEBT SETTLEMENT SERVICES FEES TO BE**
15 **CHARGED TO THE CONSUMER; AND**

16 **2. A STATEMENT THAT THE REGISTRANT MAY NOT:**

17 **A. CHARGE THE CONSUMER A FEE FOR**
18 **CONSULTATION OR FOR OBTAINING A CONSUMER'S CREDIT REPORT; OR**

19 **B. REQUIRE A VOLUNTARY CONTRIBUTION FROM**
20 **THE CONSUMER FOR ANY SERVICE PROVIDED BY THE REGISTRANT;**

21 **(V) THE IDENTITY OF EACH INDIVIDUAL CREDITOR OR**
22 **DEBT COLLECTOR WHOSE DEBTS ARE ~~TO BE SETTLED UNDER~~ INCLUDED IN THE**
23 **DEBT SETTLEMENT SERVICES AGREEMENT AND THE PRINCIPAL AMOUNT OF**
24 **THE DEBT OWED TO EACH INDIVIDUAL CREDITOR OR DEBT COLLECTOR;**

25 **(VI) THE PRINCIPAL AMOUNT OF THE TOTAL DEBT ~~TO BE~~**
26 **~~SETTLED UNDER~~ INCLUDED IN THE DEBT SETTLEMENT SERVICES AGREEMENT;**

27 **(VII) A GOOD FAITH ESTIMATE OF THE AMOUNT OF TIME**
28 **NECESSARY TO ACHIEVE THE REPRESENTED RESULTS;**

1 **(VIII) TO THE EXTENT THAT THE DEBT SETTLEMENT**
2 **SERVICES MAY INCLUDE A DEBT SETTLEMENT OFFER TO ANY OF THE**
3 **CONSUMER’S CREDITORS OR DEBT COLLECTORS, A GOOD FAITH ESTIMATE OF:**

4 **1. THE TIME BY WHICH THE REGISTRANT WILL MAKE**
5 **A BONA FIDE DEBT SETTLEMENT OFFER TO EACH OF THEM; AND**

6 **2. THE AMOUNT OF MONEY OR PERCENTAGE OF**
7 **EACH DEBT THAT THE CONSUMER MUST ACCUMULATE BEFORE THE**
8 **REGISTRANT WILL MAKE A BONA FIDE DEBT SETTLEMENT OFFER TO EACH OF**
9 **THEM;**

10 **(IX) A STATEMENT THAT:**

11 **1. THE CONSUMER MAY WITHDRAW FROM THE DEBT**
12 **SETTLEMENT SERVICES AGREEMENT AT ANY TIME; AND**

13 **2. IF A CONSUMER WITHDRAWS FROM THE DEBT**
14 **SETTLEMENT SERVICES AGREEMENT, THE REGISTRANT:**

15 **A. MAY NOT CHARGE A PENALTY; AND**

16 **B. MAY COLLECT DEBT SETTLEMENT SERVICES FEES**
17 **EARNED BY THE REGISTRANT;**

18 **(X) IF THE REGISTRANT REQUESTS OR REQUIRES THE**
19 **CONSUMER TO DEPOSIT FUNDS IN A DEDICATED ACCOUNT, A STATEMENT THAT:**

20 **1. THE CONSUMER OWNS THE FUNDS HELD IN THE**
21 **ACCOUNT, INCLUDING ANY ACCRUED INTEREST; AND**

22 **2. IF THE CONSUMER REQUESTS TO WITHDRAW**
23 **FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, WITHIN 7 DAYS AFTER**
24 **THE REQUEST, ALL FUNDS IN THE ACCOUNT, INCLUDING ACCRUED INTEREST,**
25 **LESS ANY DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN**
26 **COMPLIANCE WITH § 12-1010 OF THIS SUBTITLE, MUST BE PAID TO THE**
27 **CONSUMER; AND**

28 **(XI) A STATEMENT THAT THE CONSUMER MAY BE REQUIRED**
29 **TO PAY TAXES ON THE AMOUNT BY WHICH THE CONSUMER’S DEBT IS REDUCED.**

30 **(B) THE DISCLOSURES REQUIRED UNDER SUBSECTION (A)(2)(VII)**
31 **THROUGH (XI) OF THIS SECTION SHALL BE PROVIDED TO THE CONSUMER IN A**

1 CLEAR AND CONSPICUOUS MANNER IN THE DEBT SETTLEMENT SERVICES
2 AGREEMENT.

3 12-1013.

4 AN ADVERTISEMENT FOR DEBT SETTLEMENT SERVICES SHALL INCLUDE
5 CLEARLY AND CONSPICUOUSLY A DISCLOSURE THAT, TO THE EXTENT THAT ANY
6 ASPECT OF THE DEBT SETTLEMENT SERVICES RELIES ON OR RESULTS IN THE
7 CONSUMER'S FAILURE TO MAKE TIMELY PAYMENTS TO THE CONSUMER'S
8 CREDITORS OR DEBT COLLECTORS, THE USE OF THE DEBT SETTLEMENT
9 SERVICES:

10 (1) WILL LIKELY ADVERSELY AFFECT THE CONSUMER'S
11 CREDITWORTHINESS;

12 (2) MAY RESULT IN THE CONSUMER BEING SUBJECT TO
13 COLLECTIONS OR BEING SUED BY CREDITORS OR DEBT COLLECTORS; AND

14 (3) MAY INCREASE THE AMOUNT OF MONEY THE CONSUMER
15 OWES DUE TO THE ACCRUAL OF FEES AND INTEREST BY CREDITORS OR DEBT
16 COLLECTORS.

17 12-1014.

18 (A) A REGISTRANT THAT ESTABLISHES A DEDICATED ACCOUNT IN
19 ACCORDANCE WITH § 12-1010(D) OF THIS SUBTITLE SHALL FILE A SURETY
20 BOND WITH THE COMMISSIONER AT THE TIME THE DEDICATED ACCOUNT IS
21 ESTABLISHED.

22 (B) A SURETY BOND FILED UNDER THIS SECTION SHALL:

23 (1) RUN TO THE COMMISSIONER FOR THE BENEFIT OF ANY
24 CONSUMER WHO IS INJURED BY A VIOLATION OF THIS SUBTITLE COMMITTED BY
25 A REGISTRANT;

26 (2) ~~(H) BE IN AN THE AMOUNT NOT LESS THAN \$10,000 AT THE~~
27 ~~TIME IT IS FILED OF \$50,000; AND~~

28 ~~(H) BEGINNING 3 MONTHS AFTER IT IS FILED, BE IN AN~~
29 ~~AMOUNT NOT LESS THAN THE AVERAGE OF THE BALANCE OF FUNDS HELD IN A~~
30 ~~DEDICATED ACCOUNT DURING THE PRECEDING 3 MONTHS, BUT NOT LESS THAN~~
31 ~~\$10,000 AND NOT MORE THAN \$1,000,000;~~

1 **(3) ~~ISSUED~~ BE ISSUED BY A BONDING, SURETY, OR INSURANCE**
2 **COMPANY THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND**

3 **(4) ~~CONDITIONED~~ BE CONDITIONED SO THAT THE REGISTRANT**
4 **SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS**
5 **GOVERNING THE BUSINESS OF PROVIDING DEBT SETTLEMENT SERVICES.**

6 **(C) IF THE AMOUNT OF THE SURETY BOND INITIALLY FILED WITH THE**
7 **COMMISSIONER MUST BE INCREASED TO MEET THE MINIMUM REQUIREMENTS**
8 **UNDER SUBSECTION (B)(2) OF THIS SECTION, THE REGISTRANT SHALL FILE**
9 **WITH THE COMMISSIONER EVIDENCE OF THE INCREASED BOND AMOUNT IN A**
10 **FORM SATISFACTORY TO THE COMMISSIONER.**

11 **12-1015.**

12 **(A) ON OR BEFORE APRIL 30 EACH YEAR, A REGISTRANT SHALL**
13 **REPORT TO THE COMMISSIONER ON THE DEBT SETTLEMENT SERVICES**
14 **BUSINESS OF THE REGISTRANT CONDUCTED DURING THE PRECEDING**
15 **CALENDAR YEAR.**

16 **(B) THE ANNUAL REPORT SHALL BE ON THE FORM THAT THE**
17 **COMMISSIONER REQUIRES.**

18 **12-1016.**

19 **A VIOLATION OF THIS SUBTITLE IS:**

20 **(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE**
21 **MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND**

22 **(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS**
23 **OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

24 **12-1017.**

25 **THIS SUBTITLE MAY BE CITED AS THE MARYLAND DEBT SETTLEMENT**
26 **SERVICES ACT.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That:

28 (a) On or before April 30 of each year beginning with April 30, 2012, and
29 ending with April 30, 2015, each debt settlement services provider that is registered
30 with the Commissioner of Financial Regulation, as required under Section 1 of this
31 Act, shall report to the Commissioner on the debt settlement services business the
32 registrant conducted during the preceding calendar year.

1 **(b)** The report required under subsection (a) of this section shall include:

2 **(1)** for each consumer in Maryland for whom the registrant provided
3 debt settlement services during the reporting period:

4 **(i)** the number of debts included in the debt settlement services
5 agreement with the consumer;

6 **(ii)** the principal amount of each debt at the time the debt
7 settlement services agreement was signed;

8 **(iii)** whether each debt is active, terminated, or settled;

9 **(iv)** if a debt has been settled, the settlement amount of the debt;

10 **(v)** the total amount of fees paid by the consumer to the
11 registrant;

12 **(vi)** for each debt, whether the creditor has filed suit on the debt;

13 **(vii)** the date the consumer is expected to complete the debt
14 settlement program; and

15 **(viii)** the date the consumer became inactive in, cancelled, or
16 terminated the debt settlement program, if applicable;

17 **(2)** for Maryland consumers who completed a debt settlement program
18 during the reporting period, the mean and median percentage of savings to the
19 consumers and the mean and median percentage of fees paid to the registrant;

20 **(3)** for Maryland consumers who became inactive in, cancelled, or
21 terminated a debt settlement program during the reporting period, the mean and
22 median percentage of savings to the consumers and the mean and median percentage
23 of fees paid to the registrant;

24 **(4)** the percentage of Maryland consumers who became inactive in,
25 cancelled, or terminated a debt settlement program during the reporting period
26 without settlement of all of the consumer's debts; and

27 **(5)** the total amount of fees collected from Maryland consumers during
28 the reporting period.

29 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That, on or before December
30 1, ~~2012~~ 2013, the Office of the Commissioner of Financial Regulation in the
31 Department of Labor, Licensing, and Regulation, in consultation with the Consumer
32 Protection Division of the Office of the Attorney General, shall report, in accordance

1 with § 2–1246 of the State Government Article, to the Senate Finance Committee and
2 the House Economic Matters Committee on its recommendations regarding changes to
3 the Maryland Debt Settlement Services Act, including:

4 (1) whether to transition from a registration requirement to a
5 licensure requirement for debt settlement services providers; and

6 (2) whether the calculation of and cap on debt settlement services fees,
7 as provided under § 12–1010(e) of the Financial Institutions Article, as enacted by
8 Section 1 of this Act, should be altered.

9 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
10 effect October 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.