
By: **Senators Hogan, Astle, Bromwell, DeGrange, Della, Dorman, Exum,
Hafer, Hooper, Kelley, Roesser, and Teitelbaum**

Introduced and read first time: February 14, 2002

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Debt Management Services Registration Act**

3 FOR the purpose of prohibiting certain nonprofit organizations from providing debt
4 management services in the State unless they are registered with the
5 Commissioner of Financial Regulation; authorizing the Commissioner to take
6 certain actions to carry out this Act; requiring the Commissioner to establish
7 certain fees by regulation; establishing a certain Debt Management Services
8 Fund; establishing certain qualifications for an applicant for registration;
9 requiring an applicant for registration to submit a certain application, pay
10 certain fees, and file a certain surety bond; requiring an applicant or registrant
11 to provide fingerprints under certain circumstances; requiring the
12 Commissioner to investigate an applicant and issue a registration or deny an
13 application for registration within a certain period of time; requiring the
14 Commissioner to include certain information on each registration; providing
15 that a valid registration authorizes the registrant to provide debt management
16 services to certain persons; prohibiting a registration from being transferred,
17 assigned, or pledged; requiring the registrant to display or maintain the
18 registration in a certain location under certain circumstances; requiring a
19 registrant that provides debt management services through the Internet to
20 include a certain notice on its website; providing for renewal of a registration;
21 requiring a surety bond to satisfy certain requirements; authorizing the
22 Commissioner to waive the surety bond requirement under certain
23 circumstances; requiring a registrant to provide certain information and make
24 certain reports to the Commissioner; establishing a certain penalty for failure to
25 make a certain report; authorizing the Commissioner to investigate certain
26 persons for certain purposes and to conduct certain on-site examinations of
27 registrants; requiring a registrant to keep certain books, accounts, and records
28 for a certain period of time and in a certain location and form; prohibiting a
29 registrant from advertising that the registrant is registered under this Act
30 under certain circumstances; providing that contracts for the performance of
31 any act for which registration is required under this Act are not enforceable
32 under certain circumstances; authorizing the Commissioner to deny registration
33 to an applicant, reprimand a registrant, or suspend or revoke the registration of
34 a registrant under certain circumstances; requiring the Commissioner to give an

1 applicant or registrant notice and an opportunity for a hearing under certain
2 circumstances; providing certain criminal penalties for certain violations of this
3 Act; establishing a certain short title; altering a certain definition; defining
4 certain terms; requiring the Commissioner to identify, document, and study
5 certain laws and report certain findings and recommendations to certain
6 committees of the General Assembly on or before a certain date; allowing certain
7 nonprofit organizations providing debt management services in the State on the
8 effective date of this Act to continue to provide debt management services
9 without being registered until a certain time under certain circumstances; and
10 generally relating to the Maryland Debt Management Services Registration Act.

11 BY repealing and reenacting, with amendments,
12 Article - Commercial Law
13 Section 14-1316
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2001 Supplement)
16 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
17 2002)

18 BY adding to
19 Article - Financial Institutions
20 Section 12-901 through 12-923, inclusive, to be under the new subtitle "Subtitle
21 9. Debt Management Services"
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 2001 Supplement)

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

26 **Article - Commercial Law**

27 14-1316.

28 (a) In this section, ["debt adjusting"] "DEBT MANAGEMENT SERVICES" means
29 the making of a contract, expressed or implied, with a debtor and another person
30 engaged in the debt [adjusting] MANAGEMENT SERVICES business by which the
31 debtor agrees to pay a certain amount of money periodically to the other, who for
32 consideration distributes the money among specified creditors in accordance with an
33 agreed plan.

34 (b) A person may not engage in the business of [debt adjusting] PROVIDING
35 DEBT MANAGEMENT SERVICES.

36 (c) A person who violates this section is guilty of a misdemeanor and on
37 conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding
38 \$500 or both.

1 (d) This section does not apply to the following when engaged in the regular
2 course of their respective businesses and professions:

3 (1) A lawyer;

4 (2) A bank or fiduciary, authorized to transact business in this State and
5 perform credit and financial adjusting service in the regular course of its principal
6 business;

7 (3) A title insurer or abstract company, while doing an escrow business;

8 (4) A judicial officer or a person acting under a court order;

9 (5) A nonprofit[, religious, fraternal, or cooperative] organization that
10 [offers debt management service exclusively for members, if a charge is not made and
11 a fee is not imposed] IS EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL
12 REVENUE CODE AND IS REGISTERED IN ACCORDANCE WITH TITLE 12, SUBTITLE 9 OF
13 THE FINANCIAL INSTITUTIONS ARTICLE;

14 (6) A certified public accountant; and

15 (7) A trade or mercantile association in the course of arranging the
16 adjustment of debts with a business establishment.

17 **Article - Financial Institutions**

18 Subtitle 9. Debt Management Services.

19 12-901.

20 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (B) "DEBT MANAGEMENT SERVICES" HAS THE MEANING STATED IN § 14-1316
23 OF THE COMMERCIAL LAW ARTICLE.

24 (C) "FUND" MEANS THE DEBT MANAGEMENT SERVICES FUND ESTABLISHED
25 UNDER § 12-904 OF THIS SUBTITLE.

26 (D) "ORGANIZATION" MEANS A NONPROFIT ORGANIZATION THAT IS EXEMPT
27 FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

28 (E) "REGISTRANT" MEANS AN ORGANIZATION REGISTERED UNDER THIS
29 SUBTITLE TO PROVIDE DEBT MANAGEMENT SERVICES.

30 12-902.

31 TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, THE COMMISSIONER MAY:

32 (1) ADOPT RULES AND REGULATIONS;

1 (2) ENTER INTO COOPERATIVE AND INFORMATION SHARING
2 AGREEMENTS WITH ANY OTHER FEDERAL OR STATE AGENCY HAVING SUPERVISORY
3 RESPONSIBILITY OVER DEBT MANAGEMENT SERVICES; AND

4 (3) PROVIDE ANY FEDERAL OR STATE AGENCY HAVING SUPERVISORY
5 RESPONSIBILITY OVER DEBT MANAGEMENT SERVICES WITH ANY DOCUMENTS OR
6 OTHER INFORMATION.

7 12-903.

8 (A) THE COMMISSIONER BY REGULATION SHALL ESTABLISH:

9 (1) A FEE SCHEDULE FOR THE ISSUANCE AND RENEWAL OF
10 REGISTRATIONS UNDER THIS SUBTITLE; AND

11 (2) A FEE FOR AN INVESTIGATION CONDUCTED UNDER § 12-909 OF THIS
12 SUBTITLE.

13 (B) ANY FEES CHARGED UNDER THIS SUBTITLE SHALL APPROXIMATE THE
14 DIRECT AND INDIRECT COSTS OF ADMINISTERING AND ENFORCING THIS SUBTITLE.

15 12-904.

16 (A) THERE IS A DEBT MANAGEMENT SERVICES FUND THAT CONSISTS OF:

17 (1) ALL REVENUE RECEIVED FOR THE REGISTERING OF
18 ORGANIZATIONS THAT PROVIDE DEBT MANAGEMENT SERVICES UNDER THIS
19 SUBTITLE;

20 (2) INCOME FROM INVESTMENTS THAT THE TREASURER MAKES FOR
21 THE FUND; AND

22 (3) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY
23 OTHER FEE OR REVENUE RECEIVED BY THE COMMISSIONER UNDER THIS SUBTITLE.

24 (B) THE COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED
25 BY THE COMMISSIONER UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE
26 STATE.

27 (C) THE PURPOSE OF THE FUND IS TO PAY ALL THE COSTS AND EXPENSES
28 INCURRED BY THE COMMISSIONER THAT ARE RELATED TO THE REGULATION OF THE
29 DEBT MANAGEMENT SERVICES BUSINESS UNDER THIS SUBTITLE, INCLUDING:

30 (1) EXPENDITURES AUTHORIZED UNDER THIS SUBTITLE; AND

31 (2) ANY OTHER EXPENSE AUTHORIZED IN THE STATE BUDGET.

32 (D) (1) THE TREASURER IS THE CUSTODIAN OF THE FUND.

33 (2) THE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM THE
34 COMMISSIONER INTO THE FUND.

1 (E) (1) THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT
2 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AND MAY
3 NOT BE DEEMED A PART OF THE GENERAL FUND OF THE STATE.

4 (2) UNLESS OTHERWISE PROVIDED BY LAW, NO PART OF THE FUND MAY
5 REVERT OR BE CREDITED TO:

6 (I) THE GENERAL FUND OF THE STATE; OR

7 (II) A SPECIAL FUND OF THE STATE.

8 (F) (1) ALL THE COSTS AND EXPENSES OF THE COMMISSIONER RELATING
9 TO THE REGULATION OF THE DEBT MANAGEMENT SERVICES BUSINESS UNDER THIS
10 SUBTITLE SHALL BE INCLUDED IN THE STATE BUDGET.

11 (2) ANY EXPENDITURES FROM THE FUND TO COVER COSTS AND
12 EXPENSES OF THE COMMISSIONER MAY BE MADE ONLY:

13 (I) BY AN APPROPRIATION FROM THE FUND APPROVED BY THE
14 GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

15 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §
16 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

17 (3) IF, IN ANY FISCAL YEAR, THE AMOUNT OF THE REVENUE COLLECTED
18 BY THE COMMISSIONER AND DEPOSITED INTO THE FUND EXCEEDS THE ACTUAL
19 APPROPRIATION FOR THE COMMISSIONER TO REGULATE THE DEBT MANAGEMENT
20 SERVICES BUSINESS UNDER THIS SUBTITLE, THE EXCESS AMOUNT SHALL BE
21 CARRIED FORWARD WITHIN THE FUND.

22 (G) THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT THE ACCOUNTS AND
23 TRANSACTIONS OF THE FUND UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

24 12-905.

25 AN ORGANIZATION MAY NOT PROVIDE DEBT MANAGEMENT SERVICES IN THE
26 STATE UNLESS THE ORGANIZATION IS REGISTERED UNDER THIS SUBTITLE.

27 12-906.

28 TO QUALIFY FOR REGISTRATION, AN APPLICANT SHALL SATISFY THE
29 COMMISSIONER THAT:

30 (1) THE APPLICANT PROVIDES DEBT MANAGEMENT SERVICES
31 EXCLUSIVELY FOR THE APPLICANT'S MEMBERS WITHOUT IMPOSING A CHARGE OR
32 FEE ON THE MEMBERS; AND

33 (2) THE APPLICANT OR, IF THE APPLICANT IS NOT AN INDIVIDUAL, EACH
34 OF THE OWNERS, OFFICERS, DIRECTORS, AND PRINCIPALS OF THE APPLICANT, HAS
35 SUFFICIENT EXPERIENCE, CHARACTER, FINANCIAL RESPONSIBILITY, AND GENERAL
36 FITNESS TO:

1 (I) ENGAGE IN THE BUSINESS OF PROVIDING DEBT MANAGEMENT
2 SERVICES;

3 (II) WARRANT THE BELIEF THAT THE DEBT MANAGEMENT
4 SERVICES BUSINESS WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND
5 EFFICIENTLY; AND

6 (III) COMMAND THE CONFIDENCE OF THE PUBLIC.

7 12-907.

8 (A) (1) TO APPLY FOR REGISTRATION, AN APPLICANT SHALL SUBMIT TO THE
9 COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER
10 PROVIDES.

11 (2) THE APPLICATION SHALL INCLUDE:

12 (I) THE APPLICANT'S NAME, BUSINESS ADDRESS, TELEPHONE
13 NUMBER, AND ELECTRONIC MAIL ADDRESS, IF ANY;

14 (II) IF THE APPLICANT IS NOT AN INDIVIDUAL, THE NAME AND
15 ADDRESS OF EACH OWNER, OFFICER, DIRECTOR, AND PRINCIPAL OF THE APPLICANT;

16 (III) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION
17 NUMBER;

18 (IV) A LIST OF ANY STATE IN WHICH:

19 1. THE APPLICANT ENGAGES IN THE BUSINESS OF
20 PROVIDING DEBT MANAGEMENT SERVICES;

21 2. THE APPLICANT IS REGISTERED OR LICENSED TO
22 PROVIDE DEBT MANAGEMENT SERVICES; AND

23 3. THE APPLICANT'S REGISTRATION OR LICENSE HAS BEEN
24 SUSPENDED OR REVOKED;

25 (V) A STATEMENT OF WHETHER ANY PENDING JUDGMENT, TAX
26 LIEN, MATERIAL LITIGATION, OR ADMINISTRATIVE ACTION BY ANY GOVERNMENT
27 AGENCY EXISTS AGAINST THE APPLICANT; AND

28 (VI) ANY OTHER INFORMATION THAT THE COMMISSIONER
29 REASONABLY REQUIRES.

30 (B) WITH THE APPLICATION, THE APPLICANT SHALL PAY TO THE
31 COMMISSIONER:

32 (1) AN APPLICATION FEE IN THE AMOUNT ESTABLISHED UNDER § 12-903
33 OF THIS SUBTITLE; AND

1 (2) A NONREFUNDABLE INVESTIGATION FEE IN THE AMOUNT
2 ESTABLISHED UNDER § 12-903 OF THIS SUBTITLE.

3 (C) WITH THE APPLICATION, THE APPLICANT SHALL FILE A SURETY BOND
4 WITH THE COMMISSIONER AS PROVIDED IN § 12-912 OF THIS SUBTITLE.

5 12-908.

6 (A) WITH AN INITIAL APPLICATION, A RENEWAL APPLICATION, AND AT ANY
7 OTHER TIME THE COMMISSIONER REQUIRES, AN APPLICANT OR REGISTRANT SHALL
8 PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF INVESTIGATION
9 AND THE MARYLAND CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL
10 REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
11 SERVICES TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

12 (B) AN APPLICANT OR REGISTRANT REQUIRED TO PROVIDE FINGERPRINTS
13 UNDER THIS SECTION SHALL PAY ANY PROCESSING OR OTHER REQUIRED FEE.

14 (C) IF THE APPLICANT OR REGISTRANT IS A CORPORATION, THE
15 FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL
16 APPLY TO THE PRESIDENT AND ANY OTHER OFFICER, DIRECTOR, PRINCIPAL, OR
17 OWNER OF THE CORPORATION AS REQUIRED BY THE COMMISSIONER.

18 12-909.

19 (A) WHEN AN APPLICANT FOR REGISTRATION FILES THE APPLICATION, FILES
20 THE SURETY BOND, AND PAYS THE FEES REQUIRED BY § 12-907 OF THIS SUBTITLE,
21 THE COMMISSIONER SHALL INVESTIGATE THE FACTS RELEVANT TO THE
22 APPLICATION TO DETERMINE IF THE APPLICANT MEETS THE REQUIREMENTS OF
23 THIS SUBTITLE.

24 (B) UNLESS THE COMMISSIONER NOTIFIES AN APPLICANT THAT A
25 DIFFERENT TIME PERIOD IS NECESSARY, THE COMMISSIONER SHALL APPROVE OR
26 DENY EACH APPLICATION FOR REGISTRATION WITHIN 60 DAYS AFTER THE DATE
27 WHEN THE COMPLETE APPLICATION IS FILED, THE SURETY BOND IS FILED, AND THE
28 FEES ARE PAID.

29 (C) THE COMMISSIONER SHALL ISSUE A REGISTRATION TO ANY APPLICANT
30 WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

31 (D) (1) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF THIS
32 SUBTITLE, THE COMMISSIONER:

33 (I) SUBJECT TO THE HEARING PROVISIONS OF § 12-921 OF THIS
34 SUBTITLE, SHALL DENY THE APPLICATION;

35 (II) SHALL NOTIFY THE APPLICANT IMMEDIATELY OF THE DENIAL;

36 (III) SHALL REFUND THE REGISTRATION FEE; AND

1 (IV) SHALL RETAIN THE INVESTIGATION FEE.

2 (2) WITHIN 30 DAYS AFTER THE COMMISSIONER DENIES AN
3 APPLICATION, THE COMMISSIONER SHALL STATE THE REASONS FOR THE DENIAL IN
4 WRITING AND MAIL THEM TO THE APPLICANT AT THE ADDRESS LISTED IN THE
5 APPLICATION.

6 12-910.

7 (A) THE COMMISSIONER SHALL INCLUDE ON EACH REGISTRATION:

8 (1) THE NAME OF THE REGISTRANT; AND

9 (2) THE DEBT MANAGEMENT SERVICES REGISTRATION NUMBER OF THE
10 REGISTRANT.

11 (B) A VALID REGISTRATION AUTHORIZES THE REGISTRANT TO PROVIDE DEBT
12 MANAGEMENT SERVICES EXCLUSIVELY FOR THE REGISTRANT'S MEMBERS WITHOUT
13 IMPOSING A CHARGE OR FEE ON THE MEMBERS.

14 (C) A REGISTRATION MAY NOT BE TRANSFERRED, ASSIGNED, OR PLEDGED.

15 (D) (1) IF THE REGISTRANT MAINTAINS AN OFFICE IN THE STATE, THE
16 REGISTRANT SHALL CONSPICUOUSLY DISPLAY THE REGISTRATION IN THE
17 LOCATION THAT IS OPEN TO THE PUBLIC AND AT WHICH THE REGISTRANT ENGAGES
18 IN THE BUSINESS OF PROVIDING DEBT MANAGEMENT SERVICES.

19 (2) IF THE REGISTRANT DOES NOT MAINTAIN AN OFFICE IN THE STATE,
20 THE REGISTRANT SHALL MAINTAIN THE REGISTRATION IN THE REGISTRANT'S
21 HEADQUARTERS.

22 (E) A REGISTRANT THAT PROVIDES DEBT MANAGEMENT SERVICES THROUGH
23 THE INTERNET SHALL INCLUDE THE FOLLOWING NOTICE ON ITS WEBSITE:

24 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF
25 MARYLAND WILL ACCEPT ALL QUESTIONS OR COMPLAINTS FROM MARYLAND
26 RESIDENTS REGARDING (NAME AND REGISTRATION NUMBER OF REGISTRANT) AT
27 (ADDRESS OF COMMISSIONER), PHONE (TOLL FREE TELEPHONE NUMBER OF THE
28 COMMISSIONER)".

29 12-911.

30 (A) A REGISTRATION EXPIRES ON DECEMBER 31 IN EACH ODD-NUMBERED
31 YEAR UNLESS IT IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.

32 (B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A
33 REGISTRATION MAY BE RENEWED FOR AN ADDITIONAL 2-YEAR TERM IF THE
34 REGISTRANT:

35 (1) OTHERWISE IS ENTITLED TO BE REGISTERED;

1 (2) PAYS TO THE COMMISSIONER A RENEWAL FEE IN THE AMOUNT
2 ESTABLISHED UNDER § 12-903 OF THIS SUBTITLE;

3 (3) FILES ANY BOND RENEWAL CERTIFICATE OR NEW SURETY BOND
4 REQUIRED BY § 12-912 OF THIS SUBTITLE; AND

5 (4) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE
6 FORM THAT THE COMMISSIONER PROVIDES.

7 (C) THE COMMISSIONER MAY DETERMINE THAT REGISTRATIONS ISSUED
8 UNDER THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

9 12-912.

10 (A) WITH THE APPLICATION FOR A NEW OR RENEWAL REGISTRATION, THE
11 APPLICANT SHALL FILE A SURETY BOND OR BOND RENEWAL CERTIFICATE WITH
12 THE COMMISSIONER AS PROVIDED IN THIS SECTION.

13 (B) (1) A SURETY BOND FILED UNDER THIS SECTION SHALL RUN TO THE
14 STATE FOR THE BENEFIT OF ANY INDIVIDUAL WHO RESIDES IN THE STATE AND WHO
15 HAS BEEN DAMAGED BY A VIOLATION OF THIS SUBTITLE OR A REGULATION
16 ADOPTED UNDER THIS SUBTITLE COMMITTED BY A REGISTRANT.

17 (2) THE SURETY BOND SHALL BE:

18 (I) IN AN AMOUNT OF NOT LESS THAN \$10,000 AND NOT MORE
19 THAN \$1,000,000, AS SET BY THE COMMISSIONER;

20 (II) ISSUED BY A BONDING, SURETY, OR INSURANCE COMPANY
21 THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND

22 (III) CONDITIONED SO THAT THE REGISTRANT SHALL COMPLY WITH
23 ALL STATE AND FEDERAL LAWS AND REGULATIONS GOVERNING THE BUSINESS OF
24 PROVIDING DEBT MANAGEMENT SERVICES.

25 (3) IN SETTING THE AMOUNT OF THE BOND, THE COMMISSIONER:

26 (I) SHALL CONSIDER:

27 1. THE FINANCIAL CONDITION OF THE APPLICANT OR
28 REGISTRANT;

29 2. FOR AN APPLICANT, THE PROJECTED MONTHLY VOLUME
30 OF DEBT MANAGEMENT SERVICES TO BE PROVIDED IN THE STATE AND THE
31 APPLICANT'S BUSINESS EXPERIENCE; AND

32 3. FOR A REGISTRANT, THE AVERAGE MONTHLY
33 OUTSTANDING LIABILITY RELATING TO DEBT MANAGEMENT SERVICES PROVIDED
34 DURING THE PREVIOUS 12 MONTHS; AND

35 (II) MAY CONSIDER ANY OTHER FACTOR DEEMED APPROPRIATE.

1 (C) IF THE PRINCIPAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A
2 CLAIM OR JUDGMENT, THE REGISTRANT SHALL FILE WITH THE COMMISSIONER ANY
3 NEW OR ADDITIONAL BOND IN THE AMOUNT THAT THE COMMISSIONER SETS.

4 (D) THE COMMISSIONER MAY WAIVE THE SURETY BOND REQUIREMENT
5 UNDER THIS SECTION IF THE COMMISSIONER DETERMINES THAT THE VOLUME OF
6 DEBT MANAGEMENT SERVICES PROVIDED BY THE APPLICANT OR REGISTRANT DOES
7 NOT WARRANT THE NEED FOR A SURETY BOND.

8 12-913.

9 (A) A REGISTRANT SHALL PROVIDE THE COMMISSIONER WRITTEN NOTICE OF
10 ANY CHANGE IN THE INFORMATION SUBMITTED TO THE COMMISSIONER UNDER §
11 12-907(A) OF THIS SUBTITLE WITHIN 10 BUSINESS DAYS AFTER THE CHANGE IS
12 EFFECTIVE.

13 (B) A REGISTRANT SHALL COMPLY WITH SUBSECTION (A) OF THIS SECTION
14 FOR 1 YEAR AFTER THE REGISTRANT CEASES TO BE REGISTERED.

15 12-914.

16 (A) (1) ON OR BEFORE APRIL 30 OF EACH YEAR, A REGISTRANT SHALL
17 REPORT TO THE COMMISSIONER ON THE DEBT MANAGEMENT SERVICES BUSINESS
18 OF THE REGISTRANT DURING THE PRECEDING CALENDAR YEAR.

19 (2) THE ANNUAL REPORT SHALL BE ON THE FORM THAT THE
20 COMMISSIONER REQUIRES.

21 (B) THE COMMISSIONER MAY REQUIRE ANY OTHER REPORTS FROM A
22 REGISTRANT THAT THE COMMISSIONER CONSIDERS NECESSARY.

23 (C) IF THE REGISTRANT FAILS TO MAKE ANY REPORT REQUIRED BY THIS
24 SUBTITLE, THE REGISTRANT SHALL PAY TO THE COMMISSIONER \$25 FOR EACH DAY
25 THAT THE REPORT IS OVERDUE.

26 12-915.

27 (A) TO DISCOVER ANY VIOLATIONS OF THIS SUBTITLE OR TO OBTAIN ANY
28 INFORMATION REQUIRED BY THIS SUBTITLE, THE COMMISSIONER AT ANY TIME MAY
29 INVESTIGATE THE BUSINESS OF:

30 (1) A REGISTRANT;

31 (2) A PERSON WHO IS ENGAGED OR PARTICIPATING IN THE BUSINESS OF
32 PROVIDING DEBT MANAGEMENT SERVICES; AND

33 (3) ANY OTHER PERSON WHO THE COMMISSIONER HAS CAUSE TO
34 BELIEVE IS VIOLATING THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS
35 SUBTITLE, WHETHER THAT PERSON CLAIMS TO BE WITHIN OR BEYOND THE SCOPE
36 OF THIS SUBTITLE.

1 (B) FOR THE PURPOSES OF THIS SECTION, THE COMMISSIONER:

2 (1) SHALL BE GIVEN ACCESS TO THE PLACE OF BUSINESS, BOOKS,
3 PAPERS, RECORDS, SAFES, AND VAULTS OF THE PERSON UNDER INVESTIGATION;
4 AND

5 (2) MAY SUMMON AND EXAMINE UNDER OATH ANY PERSON WHOSE
6 TESTIMONY THE COMMISSIONER REQUIRES.

7 (C) THE PERSON BEING INVESTIGATED SHALL PAY ALL REASONABLY
8 INCURRED COSTS OF AN INVESTIGATION CONDUCTED UNDER THIS SECTION.

9 (D) (1) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR SUMMONS OF
10 THE COMMISSIONER UNDER THIS SUBTITLE OR TO TESTIFY CONCERNING ANY
11 MATTER ABOUT WHICH THE PERSON MAY BE INTERROGATED UNDER THIS
12 SUBTITLE, THE COMMISSIONER MAY FILE A PETITION FOR ENFORCEMENT WITH THE
13 CIRCUIT COURT FOR ANY COUNTY.

14 (2) ON PETITION BY THE COMMISSIONER, THE COURT MAY ORDER THE
15 PERSON TO ATTEND AND TESTIFY OR PRODUCE EVIDENCE.

16 12-916.

17 (A) THE COMMISSIONER MAY CONDUCT AN ON-SITE EXAMINATION OF A
18 REGISTRANT WITH OR WITHOUT PRIOR NOTICE.

19 (B) THE REGISTRANT SHALL PAY ALL REASONABLY INCURRED COSTS OF AN
20 EXAMINATION CONDUCTED UNDER THIS SECTION.

21 (C) THE ON-SITE EXAMINATION MAY BE CONDUCTED IN CONJUNCTION WITH
22 AN EXAMINATION PERFORMED BY A REPRESENTATIVE OF A RESPONSIBLE
23 SUPERVISORY AGENCY OF ANOTHER STATE.

24 (D) (1) THE COMMISSIONER, IN LIEU OF AN ON-SITE EXAMINATION, MAY
25 ACCEPT THE EXAMINATION REPORT OF A RESPONSIBLE SUPERVISORY AGENCY OF
26 ANOTHER STATE.

27 (2) A REPORT ACCEPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS
28 CONSIDERED FOR ALL PURPOSES AS AN OFFICIAL REPORT OF THE COMMISSIONER.

29 (E) THE COMMISSIONER MAY:

30 (1) EXAMINE ALL BOOKS, ACCOUNTS, AND RECORDS THE
31 COMMISSIONER DETERMINES ARE NECESSARY TO CONDUCT A COMPLETE
32 EXAMINATION; AND

33 (2) EXAMINE UNDER OATH ANY OWNER, OFFICER, DIRECTOR,
34 PRINCIPAL, AND EMPLOYEE OF THE REGISTRANT.

1 12-917.

2 (A) A REGISTRANT SHALL KEEP THE BOOKS, ACCOUNTS, AND RECORDS THAT
3 THE COMMISSIONER REQUIRES TO DETERMINE COMPLIANCE WITH THIS SUBTITLE.

4 (B) UNLESS A LONGER PERIOD IS EXPRESSLY REQUIRED BY STATE OR
5 FEDERAL LAW, A REGISTRANT SHALL RETAIN THE BOOKS, ACCOUNTS, AND RECORDS
6 REQUIRED UNDER THIS SECTION FOR A PERIOD OF AT LEAST 3 YEARS.

7 (C) A REGISTRANT MAY RETAIN THE BOOKS, ACCOUNTS, AND RECORDS
8 REQUIRED UNDER THIS SECTION AT ANY LOCATION, PROVIDED THAT THE
9 REGISTRANT:

10 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE LOCATION OF
11 THE BOOKS, ACCOUNTS, AND RECORDS; AND

12 (2) MAKES THE BOOKS, ACCOUNTS, AND RECORDS AVAILABLE AT A
13 LOCATION IN THE STATE, AS AGREED BY THE COMMISSIONER AND THE REGISTRANT,
14 WITHIN 7 DAYS AFTER A WRITTEN REQUEST FOR EXAMINATION BY THE
15 COMMISSIONER.

16 (D) A REGISTRANT SHALL RETAIN THE BOOKS, ACCOUNTS, AND RECORDS
17 REQUIRED UNDER THIS SECTION IN:

18 (1) ORIGINAL FORM; OR

19 (2) PHOTOGRAPHIC, ELECTRONIC, OR OTHER SIMILAR FORM APPROVED
20 BY THE COMMISSIONER.

21 12-918.

22 A REGISTRANT MAY NOT ADVERTISE THAT THE REGISTRANT IS REGISTERED
23 UNDER THIS SUBTITLE UNLESS THE ADVERTISEMENT STATES THE DEBT
24 MANAGEMENT SERVICES REGISTRATION NUMBER OF THE REGISTRANT IN ONE OF
25 THE FOLLOWING FORMS:

26 "MARYLAND DEBT MANAGEMENT SERVICES REGISTRATION NO. ____"; OR

27 "MDMSR NO. ____".

28 12-919.

29 A CONTRACT FOR THE PERFORMANCE OF ANY ACT FOR WHICH REGISTRATION
30 IS REQUIRED UNDER THIS SUBTITLE IS NOT ENFORCEABLE UNLESS THE
31 ORGANIZATION ENGAGING IN THE BUSINESS OF PROVIDING DEBT MANAGEMENT
32 SERVICES WAS REGISTERED AT THE TIME THE CONTRACT WAS EXECUTED.

33 12-920.

34 (A) SUBJECT TO THE HEARING PROVISIONS OF § 12-921 OF THIS SUBTITLE,
35 THE COMMISSIONER MAY DENY REGISTRATION TO AN APPLICANT, REPRIMAND A

1 REGISTRANT, OR SUSPEND OR REVOKE THE REGISTRATION OF A REGISTRANT IF THE
2 APPLICANT OR REGISTRANT OR AN OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF
3 THE APPLICANT OR REGISTRANT:

4 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
5 OBTAIN A REGISTRATION;

6 (2) FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION OR DEBT
7 MANAGEMENT SERVICES REGISTRATION NUMBER;

8 (3) PRESENTS OR ATTEMPTS TO PRESENT THE DEBT MANAGEMENT
9 SERVICES REGISTRATION NUMBER OF ANOTHER REGISTRANT AS THE APPLICANT'S
10 OR REGISTRANT'S DEBT MANAGEMENT SERVICES REGISTRATION NUMBER;

11 (4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION
12 ADOPTED UNDER THIS SUBTITLE;

13 (5) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY
14 STATE OF:

15 (I) A FELONY; OR

16 (II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS
17 AND QUALIFICATION OF THE APPLICANT OR REGISTRANT TO PROVIDE DEBT
18 MANAGEMENT SERVICES;

19 (6) IN CONNECTION WITH THE PROVISION OF DEBT MANAGEMENT
20 SERVICES:

21 (I) COMMITS A FRAUD;

22 (II) ENGAGES IN AN ILLEGAL OR DISHONEST ACTIVITY; OR

23 (III) MISREPRESENTS OR FAILS TO DISCLOSE A MATERIAL FACT TO
24 A PERSON ENTITLED TO THAT INFORMATION; OR

25 (7) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,
26 DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE
27 APPLICANT OR REGISTRANT HAS NOT BEEN OR WILL NOT BE CONDUCTED
28 HONESTLY, FAIRLY, AND EQUITABLY.

29 (B) IN DETERMINING WHETHER TO DENY REGISTRATION TO AN APPLICANT,
30 REPRIMAND A REGISTRANT, OR SUSPEND OR REVOKE THE REGISTRATION OF A
31 REGISTRANT FOR A REASON LISTED IN SUBSECTION (A)(5) OF THIS SECTION, THE
32 COMMISSIONER SHALL CONSIDER:

33 (1) THE NATURE OF THE CRIME;

34 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED
35 BY THE REGISTRATION;

1 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION
2 TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR REGISTRANT TO
3 PROVIDE DEBT MANAGEMENT SERVICES;

4 (4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

5 (5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR REGISTRANT
6 SINCE THE CONVICTION.

7 12-921.

8 (A) BEFORE THE COMMISSIONER DENIES AN APPLICATION FOR
9 REGISTRATION UNDER § 12-909 OF THIS SUBTITLE OR TAKES ANY ACTION UNDER §
10 12-920 OF THIS SUBTITLE, THE COMMISSIONER SHALL GIVE THE APPLICANT OR
11 REGISTRANT AN OPPORTUNITY FOR A HEARING.

12 (B) NOTICE OF THE HEARING SHALL BE GIVEN AND THE HEARING SHALL BE
13 HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
14 ARTICLE.

15 12-922.

16 A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES ANY PROVISION OF
17 THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE
18 NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING \$5,000 FOR
19 EACH SUBSEQUENT VIOLATION OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR
20 BOTH.

21 12-923.

22 THIS SUBTITLE MAY BE CITED AS THE MARYLAND DEBT MANAGEMENT
23 SERVICES REGISTRATION ACT.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the Commissioner of
25 Financial Regulation shall identify, document, and study the laws regulating debt
26 management services in other states. On or before December 1, 2002, the
27 Commissioner shall report, in accordance with § 2-1246 of the State Government
28 Article, to the Senate Finance Committee and the House Commerce and Government
29 Matters Committee on the Commissioner's findings and recommendations for
30 changes to the Maryland Debt Management Services Registration Act, as enacted by
31 Section 1 of this Act.

32 SECTION 3. AND BE IT FURTHER ENACTED, That, in the absence of an
33 order by the Commissioner of Financial Regulation to the contrary, an organization
34 providing debt management services in the State on the effective date of this Act may
35 continue to provide debt management services in the State without being registered,
36 as required under Section 1 of this Act, until the Commissioner approves or
37 disapproves the organization's application for registration if:

1 (a) the organization applies for registration no later than 60 days after the
2 date the Commissioner makes available registration applications; and

3 (b) the organization complies with all other provisions of this Act.

4 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
5 this Act, this Act shall take effect October 1, 2002.