

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL NO. 640

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Bobo” and substitute “, Bobo, Burns, Conroy, D. Davis, Doory, Feldman, Glassman, Kirk, Krysiak, Love, McHale, Minnick, Moe, Parrott, Taylor, Trueschler, Vaughn, and Walkup”; in line 3, after “services” insert “to certain consumers”; in line 6, strike “authorizing” and substitute “requiring”; in line 9, strike “and”; in line 10, after “bond” insert “, and file evidence of a certain surety bond”; in the same line, after “applicant” insert a comma; in the same line, strike “and” and substitute “a”; in the same line, after “licensee” insert “, and certain other individuals”; in line 17, after the first “a” insert “certain”; in line 19, after “Commissioner;” insert “requiring a licensee to give certain notice to and obtain approval of the Commissioner before the licensee changes a certain business location or undergoes a certain change in control; establishing certain penalties for failing to provide timely notice of certain proposed changes to the Commissioner;”; in the same line, strike “establishing” and substitute “authorizing”; in line 23, after “licensee;” insert “requiring a certain agent of a licensee to maintain a certain surety bond in a certain amount;”; in line 25, after “circumstances;” insert “prohibiting a licensee from requiring a voluntary contribution; authorizing a licensee to accept a voluntary contribution under certain circumstances; providing that a debt management services agreement shall be void and the licensee shall return to the consumer certain fees, charges, funds, or payments under certain circumstances; providing a specific right of rescission for a consumer within a certain period of time;”; in line 27, strike “a licensee” and substitute “certain persons”; in line 29, after “form;” insert “providing that certain government officials may disclose certain information only in accordance with certain provisions of law;”; and in line 34, after “circumstances;” insert “requiring the Commissioner to deny a license to an applicant and suspend or revoke the license of a licensee under certain circumstances;”.

On page 2, in line 3, after “Act;” insert “providing that a consumer may bring a civil action to recover for damages caused by a certain violation;”; in line 8, after “circumstances;” insert “establishing the expiration date of a license issued within a certain time period; requiring the Commissioner to report on certain information and recommendations to certain committees of the

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General Assembly on or before a certain date; establishing the Debt Management Services Fund as an account within a certain fund, subject to a certain contingency;”; in line 17, strike “12-930” and substitute “12-931”; and after line 20, insert:

“BY repealing and reenacting, with amendments,

Article - Financial Institutions

Section 12-905

Annotated Code of Maryland

(1998 Replacement Volume and 2002 Supplement)

(As enacted by Section 1 of this Act)””.

AMENDMENT NO. 2

On page 3, after line 16, insert:

“(B) (1) “CONSULTATION FEE” MEANS A FEE PAID BY A CONSUMER TO A DEBT MANAGEMENT SERVICES PROVIDER IN CONNECTION WITH EVALUATION OF AND CONSULTATION ABOUT THE CONSUMER’S FINANCIAL CONDITION.

(2) “CONSULTATION FEE” INCLUDES A FEE PAID IN CONNECTION WITH THE PROCESSING OF ANY APPLICATION THAT THE CONSUMER MAKES FOR DEBT MANAGEMENT SERVICES.”;

in lines 17, 20, 22, 26, and 32, strike “(B)”, “(C)”, “(D)”, “(E)”, and “(F)”, respectively, and substitute “(C)”, “(D)”, “(E)”, “(F)”, and “(G)”, respectively; in line 17, after “WHO” insert “:

(1) RESIDES IN THE STATE; AND

(2)”;

in line 24, strike “DEBT MANAGEMENT ADVICE” and substitute “COUNSELING TO CONSUMERS”; in line 26, strike the colon; in line 27, strike “(1)”; in the same line, after “FUNDS” insert “PERIODICALLY”; in the same line, after “CONSUMER” insert “UNDER AN AGREEMENT WITH THE CONSUMER”; in line 28, strike “PAYMENT” and substitute “FULL”; and strike beginning with the semicolon in line 29 down through “CONSUMER” in line 31.

On page 4, in lines 3, 6, 8, 10, 14, and 16, strike “(G)”, “(H)”, “(I)”, “(J)”, “(K)”, and “(L)”, respectively, and substitute “(H)”, “(I)”, “(J)”, “(K)”, “(L)”, and “(M)”, respectively; in line 5, strike “IN THE STATE”; strike in their entirety lines 21 through 23, inclusive; in line 25, after “INSTITUTION” insert “THAT IS FEDERALLY INSURED”; and strike beginning with “IMPRESSED” in line 28 down through “PROCESS” in line 29 and substitute “DESIGNATED AS A “TRUST ACCOUNT” OR BY ANOTHER APPROPRIATE DESIGNATION INDICATING THAT THE FUNDS IN THE ACCOUNT ARE NOT THE FUNDS OF THE LICENSEE OR ITS OFFICERS, EMPLOYEES, OR AGENTS”.

On page 5, strike beginning with “BANK” in line 8 down through “COMPANY” in line 9 and substitute “BANKING INSTITUTION, OTHER-STATE BANK, NATIONAL BANKING ASSOCIATION, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION;”

(V) A PERSON THAT:

1. PROVIDES BILL PAYER SERVICES, AS DEFINED IN § 12-401 OF THIS TITLE;

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

3. DOES NOT PROVIDE ANY DEBT COUNSELING SERVICES;

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

(VII) AN APPROVED SERVICER, AS DEFINED IN § 11-522 OF THIS ARTICLE”;

in lines 10 and 11, strike “(V)” and “(VI)”, respectively, and substitute “(VIII)” and “(IX)”, respectively; in line 10, after “INSURER” insert “, TITLE INSURANCE AGENCY,”; in line 15,

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strike “OR”; in line 17, after “ESTABLISHMENT” insert “; OR”

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

(I) IS LICENSED BY THE COMMISSIONER; AND

(II) DOES NOT RECEIVE FUNDS FROM A CONSUMER FOR THE
PURPOSE OF DISTRIBUTING THE FUNDS AMONG THE CONSUMER’S CREDITORS IN
FULL OR PARTIAL PAYMENT OF THE CONSUMER’S DEBTS”;

and strike beginning with “PROVIDE” in line 25 down through “INFORMATION” in line 27 and substitute “EXCHANGE INFORMATION ABOUT A DEBT MANAGEMENT SERVICES PROVIDER, INCLUDING INFORMATION OBTAINED DURING AN EXAMINATION, WITH ANY STATE OR FEDERAL AGENCY HAVING AUTHORITY OVER THE DEBT MANAGEMENT SERVICES PROVIDER”.

On page 5, in line 30, after “(1)” insert “(I)”; in the same line, strike “\$1,000” and substitute “\$2,000”; and in line 31, after “SUBTITLE” insert “IN AN EVEN-NUMBERED YEAR; AND”

(II) A FEE, NOT EXCEEDING \$1,000, FOR THE ISSUANCE OF A
LICENSE UNDER THIS SUBTITLE IN AN ODD-NUMBERED YEAR”.

On page 6, in line 1, strike “\$1,000” and substitute “\$2,000”.

On page 7, strike beginning with “IF” in line 20 down through “STATE” in line 22 and substitute “TO CONSUMERS”; and in line 22, strike “THAT” and substitute “THE”.

On page 8, in line 16, strike “THE PUBLIC” and substitute “CONSUMERS”.

On page 9, in line 17, after “APPLICANT” insert “OR ANY CONSUMER”.

On page 10, strike beginning with “COVERAGE” in line 14 down through “THE” in line 15 and substitute “THAT INSURES AGAINST”; in line 18, after “PROGRAM” insert “THAT IS PROVIDED TO CONSUMERS”; in line 19, after “PLAN” insert “, INCLUDING ANY FORM OR”

ELECTRONIC MODEL.”; and in line 24, strike “EMPLOYED BY THE APPLICANT”.

On page 11, in line 20, strike “MAY” and substitute “SHALL”; and in line 22, after “SUBTITLE” insert “, AND ANY AGENT OF THE LICENSEE WHO HAS ACCESS TO THE ACCOUNT.”.

On page 13, in line 22, strike “LOCATED IN THE STATE”; in line 33, after “ANY” insert “ADMINISTRATIVE.”; and in the same line, after “CIVIL” insert a comma.

On page 14, in line 10, strike “INDIVIDUAL WHO RESIDES IN THE STATE AND” and substitute “CONSUMER”; in line 11, strike “HAS BEEN” and substitute “IS”; strike in their entirety lines 13 through 19, inclusive; and in lines 20, 28, and 35, strike “(3)”, “(4)”, and “(5)”, respectively, and substitute “(2)”, “(3)” and “(4)”, respectively.

On page 15, in line 1, strike “(6)” and substitute “(5)”.

AMENDMENT NO. 3

On page 14, in line 22, strike “\$1,000,000” and substitute “\$500,000”.

On page 15, in line 4, after “LICENSEE” insert “AND THE AGENT OF THE APPLICANT OR LICENSEE”.

On pages 15 and 16, strike in their entirety the lines beginning with line 27 on page 15 through line 11 on page 16, inclusive, and substitute:

“(A) (1) A LICENSEE MAY NOT CHANGE A BUSINESS LOCATION FOR WHICH A LICENSE IS ISSUED UNLESS THE LICENSEE:

(I) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED CHANGE;

(II) PROVIDES WITH THE NOTICE EVIDENCE THAT, AFTER THE CHANGE DESCRIBED IN THE NOTICE, THE LICENSEE WILL CONTINUE TO SATISFY

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THE SURETY BOND REQUIREMENT UNDER § 12-914 OF THIS SUBTITLE; AND

(III) RECEIVES THE WRITTEN APPROVAL OF THE COMMISSIONER.

(2) WITHIN 60 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL OF A CHANGE IN A BUSINESS LOCATION OF A LICENSEE, THE COMMISSIONER SHALL APPROVE OR DENY THE REQUEST.

(3) IF THE COMMISSIONER FAILS TO APPROVE OR DENY A REQUEST FOR APPROVAL WITHIN THE 60-DAY PERIOD UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE REQUEST IS DEEMED TO BE APPROVED.

(B) (1) IN THIS SUBSECTION, "CONTROL" MEANS THE DIRECT OR INDIRECT POSSESSION OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF A LICENSEE, WHETHER THROUGH OWNERSHIP, BY CONTRACT, OR OTHERWISE.

(2) A LICENSEE MAY NOT UNDERGO A CHANGE IN CONTROL UNLESS THE LICENSEE:

(I) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED CHANGE;

(II) MAKES A WRITTEN REQUEST THAT THE COMMISSIONER APPROVE THE PROPOSED CHANGE;

(III) PROVIDES ANY INFORMATION THE COMMISSIONER MAY REQUIRE UNDER PARAGRAPH (3) OF THIS SUBSECTION; AND

(IV) RECEIVES THE WRITTEN APPROVAL OF THE COMMISSIONER.

(3) WITHIN 60 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL OF A PROPOSED CHANGE IN CONTROL, THE COMMISSIONER MAY REQUIRE THE

LICENSEE TO PROVIDE ANY INFORMATION THAT THE COMMISSIONER CONSIDERS NECESSARY TO DETERMINE WHETHER A NEW APPLICATION FOR A LICENSE IS REQUIRED BECAUSE OF THE PROPOSED CHANGE IN CONTROL.

(4) THE COMMISSIONER SHALL APPROVE OR DENY A REQUEST FOR APPROVAL OF A PROPOSED CHANGE IN CONTROL:

(I) WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER RECEIVES THE REQUEST; OR

(II) IF THE COMMISSIONER REQUIRES THE LICENSEE TO PROVIDE INFORMATION UNDER PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 60 DAYS AFTER THE DATE THAT THE COMMISSIONER RECEIVES THE REQUIRED INFORMATION.

(5) IF THE COMMISSIONER FAILS TO APPROVE OR DENY A REQUEST FOR APPROVAL OF A PROPOSED CHANGE IN CONTROL WITHIN THE APPLICABLE PERIOD UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE REQUEST IS DEEMED TO BE APPROVED.

(C) IN ADDITION TO ANY OTHER SANCTION THAT THE COMMISSIONER MAY IMPOSE UNDER THIS SUBTITLE, A LICENSEE WHO FAILS TO PROVIDE TIMELY NOTICE OF A PROPOSED CHANGE UNDER SUBSECTION (A)(1) OR (B)(2) OF THIS SECTION SHALL:

(1) PAY TO THE COMMISSIONER A SURCHARGE OF \$500 FOR EACH FAILURE; AND

(2) IF THE COMMISSIONER SO REQUIRES, FILE WITH THE COMMISSIONER AN APPLICATION FOR A NEW LICENSE, TOGETHER WITH ALL APPLICABLE APPLICATION AND INVESTIGATION FEES.”.

On page 16, in line 15, strike “HAS PROVIDED” and substitute “PROVIDES”; in line 17,

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after “(2)” insert “THE LICENSEE, THROUGH”; in the same line, strike “SERVICES”; in line 18, after “ORGANIZATION” insert a comma; in line 19, after “OF” insert “AND AN INITIAL BUDGET PLAN FOR”; in line 20, strike “AND”; in line 21, after “FINANCIAL ANALYSIS” insert “AND THE INITIAL BUDGET PLAN”; in line 22, after the semicolon insert “AND

(III) PROVIDED TO THE CONSUMER, FOR ALL CREDITORS IDENTIFIED BY THE CONSUMER, A LIST OF:

1. THE CREDITORS THAT WILL PARTICIPATE IN THE MANAGEMENT OF THE CONSUMER’S DEBT UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT; AND

2. THE CREDITORS THAT WILL NOT PARTICIPATE IN THE MANAGEMENT OF THE CONSUMER’S DEBT UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT;”;

in line 27, after “LISTED” insert “AS A PARTICIPATING CREDITOR”; in the same line, after “CONSUMER’S” insert “FINAL”; in line 29, after “CREDITOR” insert “AS PROVIDED IN THE CONSUMER’S FINAL DEBT MANAGEMENT SERVICES AGREEMENT”; in line 30, strike “COMPLETED” and substitute “FINAL”; in line 32, after “EACH” insert “FINAL”; and in line 34, after “INCLUDE” insert “, IN AT LEAST 12 POINT TYPE”.

On page 17, in lines 16 and 17, strike “FOR DISBURSEMENT TO THE CONSUMER’S CREDITORS,”; in line 17, after “INCLUDING” insert “:

1.”;

in the same line, strike “AND DATE”; in the same line, after “PAYMENT” insert “AND THE DATE ON WHICH EACH PAYMENT IS DUE; AND

2. AN ITEMIZATION OF THE MAINTENANCE FEES THAT WILL BE RETAINED BY THE DEBT MANAGEMENT SERVICES PROVIDER, AND THE AMOUNT OF MONEY THAT WILL BE PAID TO THE CONSUMER’S CREDITORS, FROM EACH PAYMENT THE CONSUMER MAKES TO THE DEBT MANAGEMENT SERVICES PROVIDER”;

in line 18, strike “1.”; in the same line, after the first “OF” insert “:

1. A.”;

in the same line, after “EACH” insert “PARTICIPATING”; in lines 20 and 21, strike “2.” and “3.”, respectively, and substitute “B.” and “C.”, respectively; in line 22, strike “MUST” and substitute “WILL”; in the same line, after “EACH” insert “PARTICIPATING”; in the same line, after “CREDITOR” insert “FROM THE CONSUMER’S PAYMENTS”; in line 23, strike “AND DATE”; in the same line, after “PAYMENT” insert “AND THE DATE ON WHICH EACH PAYMENT WILL BE MADE; AND

2. EACH CREDITOR THAT WILL NOT PARTICIPATE IN THE MANAGEMENT OF THE CONSUMER’S DEBT UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT”;

after line 26, insert:

“(X) A DISCLOSURE THAT THE LICENSEE MAY NOT REQUIRE A VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED BY THE LICENSEE TO THE CONSUMER.”;

and in lines 27, 33, and 36, strike “(X)”, “(XI)”, and “(XII)”, respectively, and substitute “(XI)”, “(XII)”, and “(XIII)”, respectively.

On page 18, after line 29, insert:

“(D) (1) AN AGENT THAT ACTS ON BEHALF OF A LICENSEE TO MANAGE A TRUST ACCOUNT REQUIRED UNDER THIS SECTION SHALL MAINTAIN A SURETY BOND IN AN AMOUNT NOT LESS THAN \$10,000 AND NOT MORE THAN \$500,000, AS SET BY THE COMMISSIONER.

(2) THE SURETY BOND SHALL RUN TO THE STATE FOR THE BENEFIT OF ANY CONSUMER WHO IS INJURED BY AN ACT OR OMISSION OF THE AGENT

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RELATING TO THE MANAGEMENT OF A TRUST ACCOUNT REQUIRED UNDER THIS SECTION.

(3) THE LICENSEE SHALL FILE EVIDENCE OF THE SURETY BOND WITH THE COMMISSIONER WITH THE LICENSEE'S APPLICATION FOR A NEW OR RENEWAL LICENSE."

AMENDMENT NO. 4

On page 18, in line 14, strike "THE CONSUMER" and substitute "CONSUMERS"; and in line 34, after "A" insert "FINAL".

On page 19, in lines 1 and 3, in each instance, strike "SET-UP" and substitute "CONSULTATION"; in line 4, after "SUBSECTION" insert a comma; in line 9, strike "\$50" and substitute "\$30"; strike beginning with the colon in line 13 down through "(3)" in line 17; after line 17, insert:

"(F) (1) A LICENSEE MAY NOT REQUIRE A VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED BY THE LICENSEE TO THE CONSUMER.

(2) A LICENSEE MAY ACCEPT A VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED BY THE LICENSEE TO THE CONSUMER IF THE AGGREGATE AMOUNT OF THE VOLUNTARY CONTRIBUTION AND ANY OTHER FEES RECEIVED BY THE LICENSEE FROM THE CONSUMER DOES NOT EXCEED THE TOTAL AMOUNT THE LICENSEE IS AUTHORIZED TO CHARGE THE CONSUMER UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION."

in line 18, strike "(F)" and substitute "(G)"; and after line 24, insert:

"(H) (1) IN ADDITION TO ANY OTHER RIGHT OF RESCISSION CONTAINED IN THE DEBT MANAGEMENT SERVICES AGREEMENT, A CONSUMER MAY RESCIND A DEBT MANAGEMENT SERVICES AGREEMENT WITHIN 3 DAYS AFTER THE FINAL DEBT MANAGEMENT SERVICES AGREEMENT IS EXECUTED.

(2) A CONSUMER WHO RESCINDS A DEBT MANAGEMENT SERVICES

AGREEMENT UNDER THIS SUBSECTION IS ENTITLED TO A REFUND OF ALL PAYMENTS MADE UNDER THE AGREEMENT, INCLUDING ANY VOLUNTARY CONTRIBUTION, LESS ANY PORTION OF THE CONSULTATION FEE THAT THE LICENSEE HAS EXPENDED IN PROVIDING SERVICES TO THE CONSUMER.”.

On page 20, strike beginning with “ENGAGE” in line 15 down through “CONSUMERS” in line 17 and substitute “MAKE ANY FALSE, MISLEADING, OR DECEPTIVE REPRESENTATIONS OR OMISSIONS OF INFORMATION IN CONNECTION WITH THE OFFER, SALE, OR PERFORMANCE OF ANY SERVICE”; in line 27, strike “INURES SOLELY TO THE BENEFIT OF” and substitute “BENEFITS”; and after line 27, insert:

“(B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW, A LICENSEE MAY NOT, DIRECTLY OR INDIRECTLY, COLLECT ANY FEE FOR REFERRING, ADVISING, PROCURING, ARRANGING, OR ASSISTING A CONSUMER IN OBTAINING ANY EXTENSION OF CREDIT OR OTHER CONSUMER SERVICE FROM A LENDER OR SERVICE PROVIDER IF THE LICENSEE, OR ANY OWNER, OFFICER, DIRECTOR, PRINCIPAL, OR EMPLOYEE OF THE LICENSEE, IS AN OWNER, PARTNER, DIRECTOR, OFFICER, OR EMPLOYEE OF THE LENDER OR SERVICE PROVIDER.

(2) THIS SUBSECTION DOES NOT PROHIBIT A LICENSEE FROM REFERRING, ADVISING, PROCURING, ARRANGING, OR ASSISTING A CONSUMER IN OBTAINING ANY EXTENSION OF CREDIT OR OTHER CONSUMER SERVICE FROM A LENDER OR SERVICE PROVIDER OF WHICH THE LICENSEE, OR ANY OWNER, OFFICER, DIRECTOR, PRINCIPAL, OR EMPLOYEE OF THE LICENSEE, IS AN OWNER, PARTNER, DIRECTOR, OFFICER, OR EMPLOYEE, IF:

(I) THE LICENSEE DOES NOT DIRECTLY OR INDIRECTLY COLLECT ANY FEE; AND

(II) THE CONSUMER IS PROVIDED WITH A WRITTEN DISCLOSURE OF THE RELATIONSHIP.”.

On page 21, in line 6, strike “EMPLOYED BY” and substitute “WHO PROVIDED

SERVICES FOR"; in lines 8, 11, 14, and 18, in each instance, strike "IN THE STATE"; in line 34, strike "OR" and substitute a comma; in the same line, after "DIRECTORS," insert "OR DEBT MANAGEMENT COUNSELORS,"; in line 37, strike the second "OR"; and in the same line, after "PRINCIPALS," insert "OR DEBT MANAGEMENT COUNSELORS,".

On page 22, in line 2, strike "AND"; in line 4, strike the second "OR"; in the same line, after "PRINCIPALS," insert "OR DEBT MANAGEMENT COUNSELORS,"; in line 5, after "BUSINESS" insert "; AND

(VI) A LIST OF ALL THIRD-PARTY VENDORS AND OTHER SERVICE PROVIDERS THAT THE LICENSEE USED IN PROVIDING DEBT MANAGEMENT SERVICES AT ANY TIME IN THE PRECEDING CALENDAR YEAR";

in line 12, strike "LICENSEE SHALL PAY TO THE"; in the same line, strike "\$25" and substitute "MAY REQUIRE THE LICENSEE TO PAY A SURCHARGE NOT EXCEEDING \$50"; and in line 17, strike "5" and substitute "7".

On page 23, in line 30, after "(C)" insert "IF, AFTER AN INVESTIGATION CONDUCTED UNDER THIS SUBSECTION, THE COMMISSIONER FINDS THAT THE PERSON THAT WAS INVESTIGATED VIOLATED THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE,"; in the same line, strike "BEING INVESTIGATED"; in line 31, strike "AN" and substitute "THE"; and in the same line, strike "CONDUCTED UNDER THIS SECTION".

On page 24, in line 6, strike "OF" and substitute "DIRECTLY RELATED TO"; and in line 7, after "SECTION" insert ", INCLUDING THE TRAVEL EXPENSES, LODGING EXPENSES, AND A PER DIEM FOR EXAMINERS".

On page 26, strike in their entirety lines 12 through 24, inclusive, and substitute:

"(A) (1) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE AND REGULATIONS ADOPTED UNDER THIS SUBTITLE BY:

(I) ISSUING AN ORDER REQUIRING THE VIOLATOR:

1. TO CEASE AND DESIST FROM THE VIOLATION AND

ANY FURTHER SIMILAR VIOLATIONS; AND

2. TO TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION, INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON AGGRIEVED BY THE VIOLATION; AND

(II) IMPOSING A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION.

(2) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION FROM WHICH THE VIOLATOR FAILED TO CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE CORRECTIVE AFFIRMATIVE ACTION.”;

and in lines 25 and 27, strike “(C)” and “(D)”, respectively, and substitute “(B)” and “(C)”, respectively.

AMENDMENT NO. 5

On page 23, in line 9, after “(E)” insert “(1)”; and after line 12, insert:

“(2) A DULY AUTHORIZED GOVERNMENT OFFICIAL MAY DISCLOSE INFORMATION OBTAINED UNDER PARAGRAPH (1) OF THIS SUBSECTION ONLY IN ACCORDANCE WITH TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

(F) THE REQUIREMENTS OF THIS SECTION ALSO APPLY TO BOOKS, ACCOUNTS, AND RECORDS IN THE POSSESSION OF A SUBSIDIARY, AFFILIATE, OR OTHER PERSON THAT RELATE TO THE OPERATION OF AND SERVICES PROVIDED BY THE LICENSEE’S DEBT MANAGEMENT SERVICES BUSINESS.”.

On page 24, in line 19, after “EXAMINATION” insert “, INCLUDING THE BOOKS, ACCOUNTS, AND RECORDS IN THE POSSESSION OF A SUBSIDIARY, AFFILIATE, OR OTHER PERSON THAT RELATE TO THE OPERATION OF AND SERVICES PROVIDED BY

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THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS"; and in line 27, after "(A)" insert "EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AND".

On page 26, after line 2, insert:

"(C) SUBJECT TO THE HEARING PROVISIONS OF § 12-927 OF THIS SUBTITLE, THE COMMISSIONER SHALL DENY A LICENSE TO AN APPLICANT AND SUSPEND OR REVOKE THE LICENSE OF A LICENSEE IF THE APPLICANT OR LICENSEE OR AN OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE APPLICANT OR LICENSEE HAS:

(1) COMMITTED A VIOLATION OF SUBSECTION (A) OF THIS SECTION THAT DIRECTLY RESULTS IN PROPERTY DAMAGE OR MONETARY LOSS BY ANY OTHER PERSON; AND

(2) HAS NOT RESTORED THE PROPERTY OR MONEY TO THE PERSON OR PAID THE VALUE OF THE PROPERTY TO THE PERSON."

On page 27, after line 8, insert:

"12-930.

IN ADDITION TO ANY OTHER REMEDIES PROVIDED IN THIS SUBTITLE, A CONSUMER MAY BRING A CIVIL ACTION TO RECOVER FOR ANY DAMAGES CAUSED BY A VIOLATION OF THIS SUBTITLE, INCLUDING COURT COSTS AND REASONABLE ATTORNEY'S FEES."

in line 9, strike "12-930." and substitute "12-931."; in lines 14 and 15, in each instance, strike "in the State" and substitute "to Maryland consumers"; after line 20, insert:

"SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding § 12-912(a) of the Financial Institutions Article, as enacted by Section 1 of this Act, a license issued on or after October 1, 2003, and on or before December 31, 2003, expires on December 31, 2005, unless it is renewed for a 2-year term as provided in § 12-912(b) of the Financial Institutions Article, as enacted by Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1, 2004, the Commissioner of Financial Regulation shall report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee on the number of licenses that the Commissioner has issued under this Act and any recommendations for changes to the Maryland Debt Management Services Act, as enacted by Section 1 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Financial Institutions

12-905.

(a) (1) There is a Debt Management Services [Fund that] FUND.

(2) THE FUND IS AN ACCOUNT MAINTAINED WITHIN THE STATE FINANCIAL REGULATION FUND ESTABLISHED UNDER § 2-109 OF THIS ARTICLE.

(3) THE FUND consists of:

[(1)] (I) All revenue received for the licensing of organizations that provide debt management services under this subtitle;

[(2)] (II) Income from investments that the Treasurer makes for the Fund; and

[(3)] (III) Except as provided in subsection (b) of this section, any other fee or revenue received by the Commissioner under this subtitle.

(b) The Commissioner shall pay all fines and penalties collected by the Commissioner under this subtitle into the General Fund of the State.

(c) The purpose of the Fund is to pay all the costs and expenses incurred by the Commissioner that are related to the regulation of the debt management services business under this

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subtitle, including:

- (1) Expenditures authorized under this subtitle; and
- (2) Any other expense authorized in the State budget.
- (d) [(1) The Treasurer is the custodian of the Fund.
- (2) The Treasurer shall deposit payments received from the Commissioner into the Fund.
- (e) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.
- (2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:
 - (i) The General Fund of the State; or
 - (ii) A special fund of the State.
- (f)] (1) All the costs and expenses of the Commissioner relating to the regulation of the debt management services business under this subtitle shall be included in the State budget.
- (2) Any expenditures from the Fund to cover costs and expenses of the Commissioner may be made only:
 - (i) By an appropriation from the Fund approved by the General Assembly in the annual State budget; or
 - (ii) By the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.
- [(3) If, in any fiscal year, the amount of the revenue collected by the Commissioner

and deposited into the Fund exceeds the actual appropriation for the Commissioner to regulate the debt management services business under this subtitle, the excess amount shall be carried forward within the Fund.

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

SECTION 6. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall take effect October 1, 2003, contingent on the taking effect of Chapter _____ (H.B. 1155) of the Acts of the General Assembly of 2003, and if Chapter _____ does not become effective, Section 5 of this Act shall be null and void without the necessity of further action by the General Assembly.”;

in line 21, strike “3.” and substitute “7.”; and in the same line, after “That” insert “, subject to Section 6 of this Act.”.