

HOUSE BILL 640

Unofficial Copy
12

2003 Regular Session
(3r1552)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by Delegates McIntosh and Bobo, Bobo, Burns, Conroy, D. Davis, Doory, Feldman, Glassman, Kirk, Krysiak, Love, McHale, Minnick, Moe, Parrott, Taylor, Trueschler, Vaughn, and Walkup

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Maryland Debt Management Services Act**

3 FOR the purpose of prohibiting a person from providing debt management services to
4 certain consumers unless licensed by the Commissioner of Financial Regulation
5 or exempt from licensing under this Act; authorizing the Commissioner to take
6 certain actions to carry out this Act; ~~authorizing~~ requiring the Commissioner by
7 regulation to establish certain fees; establishing a certain Debt Management
8 Services Fund; establishing certain qualifications for an applicant for a license;
9 requiring an applicant to submit a certain application, pay certain fees, ~~and~~ and
10 file a certain surety bond, ~~and file evidence of a certain surety bond~~; requiring
11 an applicant, ~~and~~ a licensee, and certain other individuals to provide
12 fingerprints under certain circumstances; requiring the Commissioner to
13 investigate an applicant and approve or deny each application for a license
14 within a certain period of time; requiring the Commissioner to include certain
15 information on each license; requiring a licensee that offers or provides debt

1 management services through the Internet to include a certain notice on its
2 website; providing for the renewal of a license; establishing procedures for
3 surrendering a license; specifying certain requirements for a certain surety bond
4 required under this Act; requiring a licensee to give certain notices to and file
5 certain reports with the Commissioner; requiring a licensee to give certain
6 notice to and obtain approval of the Commissioner before the licensee changes a
7 certain business location or undergoes a certain change in control; establishing
8 certain penalties for failing to provide timely notice of certain proposed changes
9 to the Commissioner in connection with certain proposed changes; establishing
10 authorizing a certain penalty for failure to file certain reports; prohibiting a
11 licensee from performing debt management services for a consumer unless
12 certain actions have been taken; specifying the contents of a debt management
13 services agreement; requiring a licensee to deposit, in a certain trust account,
14 certain funds received by the licensee; requiring a certain agent of a licensee to
15 maintain a certain surety bond in a certain amount; prohibiting a licensee from
16 imposing certain fees or other charges or receiving certain funds or payments
17 except under certain circumstances; requiring a licensee to disclose certain
18 services and charges to a consumer; prohibiting a licensee from requiring a
19 voluntary contribution; authorizing a licensee to accept a voluntary contribution
20 under certain circumstances; providing that a debt management services
21 agreement shall be void and the licensee shall return to the consumer certain
22 fees, charges, funds, or payments under certain circumstances; providing a
23 specific right of modification or rescission for a consumer and notification
24 within a certain period of time; requiring a licensee to provide certain
25 accountings to consumers at certain times; establishing certain prohibited acts;
26 requiring a licensee certain persons to make and preserve certain books,
27 accounts, and records for a certain period of time and in a certain location and
28 form; providing that certain government officials may disclose certain
29 information only in accordance with certain provisions of law; requiring a
30 licensee to include in any advertisement the licensee's debt management
31 services license number; authorizing the Commissioner to investigate certain
32 persons for certain purposes and to conduct certain on-site examinations of a
33 licensee; authorizing the Commissioner to deny a license to an applicant,
34 reprimand a licensee, or suspend or revoke the license of a licensee under
35 certain circumstances; requiring the Commissioner to deny a license to an
36 applicant and suspend or revoke the license of a licensee under certain
37 circumstances; requiring the Commissioner to give an applicant or licensee an
38 opportunity for a hearing under certain circumstances; authorizing the
39 Commissioner to issue certain orders, impose certain civil penalties, and file
40 certain petitions to enforce this Act; providing certain criminal penalties for
41 certain violations of this Act; providing that a consumer may bring a civil action
42 to recover for damages caused by a certain violation; establishing a certain short
43 title; establishing the scope of this Act; defining certain terms; repealing certain
44 provisions of law governing the business of debt adjusting; allowing certain
45 organizations providing debt management services in the State on the effective
46 date of this Act to continue to provide debt management services without being
47 licensed until a certain time under certain circumstances; establishing the
48 expiration date of a license issued within a certain time period; requiring the

1 Commissioner to report on certain information and recommendations to certain
 2 committees of the General Assembly on or before a certain date; ~~establishing the~~
 3 ~~Debt Management Services Fund as an account within a certain fund, subject to~~
 4 ~~a certain contingency;~~ and generally relating to the Maryland Debt
 5 Management Services Act.

6 BY repealing
 7 Article - Commercial Law
 8 Section 14-1316
 9 Annotated Code of Maryland
 10 (2000 Replacement Volume and 2002 Supplement)

11 BY adding to
 12 Article - Financial Institutions
 13 Section 12-901 through ~~12-930~~ 12-931, inclusive, to be under the new subtitle
 14 "Subtitle 9. Maryland Debt Management Services Act"
 15 Annotated Code of Maryland
 16 (1998 Replacement Volume and 2002 Supplement)

17 ~~BY repealing and reenacting, with amendments,~~
 18 ~~Article - Financial Institutions~~
 19 ~~Section 12-905~~
 20 ~~Annotated Code of Maryland~~
 21 ~~(1998 Replacement Volume and 2002 Supplement)~~
 22 ~~(As enacted by Section 1 of this Act)~~

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

25 **Article - Commercial Law**

26 [14-1316.

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

32 (b) A person may not engage in the business of debt adjusting.

33 (c) A person who violates this section is guilty of a misdemeanor and on
 34 conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding
 35 \$500 or both.

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

- 1 (1) A lawyer;
- 2 (2) A bank or fiduciary, authorized to transact business in this State and
3 perform credit and financial adjusting service in the regular course of its principal
4 business;
- 5 (3) A title insurer or abstract company, while doing an escrow business;
- 6 (4) A judicial officer or a person acting under a court order;
- 7 (5) A nonprofit, religious, fraternal, or cooperative organization that
8 offers debt management service exclusively for members, if a charge is not made and
9 a fee is not imposed;
- 10 (6) A certified public accountant; and
- 11 (7) A trade or mercantile association in the course of arranging the
12 adjustment of debts with a business establishment.]

13 Article - Financial Institutions

14 SUBTITLE 9. MARYLAND DEBT MANAGEMENT SERVICES ACT.

15 12-901.

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) ~~(1)~~ "CONSULTATION FEE" MEANS A FEE PAID BY A CONSUMER TO A
19 DEBT MANAGEMENT SERVICES PROVIDER IN CONNECTION WITH EVALUATION OF
20 AND CONSULTATION ABOUT THE CONSUMER'S FINANCIAL CONDITION.

21 ~~(2)~~ "CONSULTATION FEE" INCLUDES A FEE PAID IN CONNECTION WITH
22 THE PROCESSING OF ANY APPLICATION THAT THE CONSUMER MAKES FOR DEBT
23 MANAGEMENT SERVICES.

24 ~~(B)~~ (C) "CONSUMER" MEANS AN INDIVIDUAL WHO:

25 (1) RESIDES IN THE STATE; AND

26 (2) IS SEEKING DEBT MANAGEMENT SERVICES OR HAS ENTERED INTO A
27 DEBT MANAGEMENT SERVICES AGREEMENT.

28 ~~(C)~~ (D) "CONSUMER EDUCATION PROGRAM" MEANS A PROGRAM OR PLAN
29 THAT SEEKS TO IMPROVE THE FINANCIAL LITERACY OF CONSUMERS.

30 ~~(D)~~ (E) "DEBT MANAGEMENT COUNSELOR" MEANS A PERMANENT,
31 TEMPORARY, OR CONTRACTUAL EMPLOYEE OF A DEBT MANAGEMENT SERVICES
32 PROVIDER OR ITS AGENT WHO PROVIDES DEBT MANAGEMENT ADVICE COUNSELING
33 TO CONSUMERS ON BEHALF OF THE DEBT MANAGEMENT SERVICES PROVIDER.

1 ~~(E)~~ (F) "DEBT MANAGEMENT SERVICES" MEANS:

2 ~~(+)~~ RECEIVING FUNDS PERIODICALLY FROM A CONSUMER UNDER AN
3 AGREEMENT WITH THE CONSUMER FOR THE PURPOSE OF DISTRIBUTING THE FUNDS
4 AMONG THE CONSUMER'S CREDITORS IN PAYMENT FULL OR PARTIAL PAYMENT OF
5 THE CONSUMER'S DEBTS; ~~OR~~

6 ~~(=)~~ ~~SETTLING, ADJUSTING, PRORATING, POOLING, COMPROMISING, OR~~
7 ~~LIQUIDATING THE INDEBTEDNESS OF A CONSUMER.~~

8 ~~(F)~~ (G) "DEBT MANAGEMENT SERVICES AGREEMENT" MEANS A WRITTEN
9 CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT MANAGEMENT SERVICES
10 PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT MANAGEMENT
11 SERVICES.

12 ~~(G)~~ (H) "DEBT MANAGEMENT SERVICES PROVIDER" MEANS AN
13 ORGANIZATION THAT PROVIDES OR OFFERS TO PROVIDE DEBT MANAGEMENT
14 SERVICES TO A CONSUMER ~~IN THE STATE.~~

15 ~~(H)~~ (I) "FUND" MEANS THE DEBT MANAGEMENT SERVICES FUND
16 ESTABLISHED UNDER § 12-905 OF THIS SUBTITLE.

17 ~~(I)~~ (J) "LICENSEE" MEANS AN ORGANIZATION LICENSED UNDER THIS
18 SUBTITLE TO PROVIDE DEBT MANAGEMENT SERVICES.

19 ~~(J)~~ (K) "MAINTENANCE FEE" MEANS A FEE PAID BY A CONSUMER TO A DEBT
20 MANAGEMENT SERVICES PROVIDER FOR THE MAINTENANCE OR SERVICING OF THE
21 CONSUMER'S ACCOUNTS WITH THE CONSUMER'S CREDITORS IN ACCORDANCE WITH
22 A DEBT MANAGEMENT SERVICES AGREEMENT.

23 ~~(K)~~ (L) "ORGANIZATION" MEANS A NONPROFIT ORGANIZATION THAT IS
24 EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

25 ~~(L)~~ (M) "RESIDENT AGENT" MEANS AN INDIVIDUAL RESIDING IN THE STATE
26 OR A MARYLAND CORPORATION WHOSE NAME, ADDRESS, AND DESIGNATION AS A
27 RESIDENT AGENT ARE FILED OR RECORDED WITH THE STATE DEPARTMENT OF
28 ASSESSMENTS AND TAXATION IN ACCORDANCE WITH THE PROVISIONS OF THE
29 CORPORATIONS AND ASSOCIATIONS ARTICLE.

30 ~~(M)~~ ~~"SET-UP FEE" MEANS A FEE PAID BY A CONSUMER TO A DEBT~~
31 ~~MANAGEMENT SERVICES PROVIDER IN CONNECTION WITH THE PROCESSING OF THE~~
32 ~~CONSUMER'S APPLICATION FOR DEBT MANAGEMENT SERVICES.~~

33 (N) "TRUST ACCOUNT" MEANS AN ACCOUNT THAT IS:

34 (1) ESTABLISHED IN A FINANCIAL INSTITUTION THAT IS FEDERALLY
35 INSURED;

36 (2) SEPARATE FROM THE DEBT MANAGEMENT SERVICES PROVIDER'S
37 OPERATING ACCOUNT;

1 (3) ~~IMPRESSED WITH A TRUST THAT IS FREE FROM THE TRUSTEE~~
 2 ~~PROCESS DESIGNATED AS A "TRUST ACCOUNT" OR BY ANOTHER APPROPRIATE~~
 3 ~~DESIGNATION INDICATING THAT THE FUNDS IN THE ACCOUNT ARE NOT THE FUNDS~~
 4 ~~OF THE LICENSEE OR ITS OFFICERS, EMPLOYEES, OR AGENTS;~~

5 (4) UNAVAILABLE TO CREDITORS OF THE DEBT MANAGEMENT
 6 SERVICES PROVIDER; AND

7 (5) USED TO HOLD FUNDS PAID BY CONSUMERS TO A DEBT
 8 MANAGEMENT SERVICES PROVIDER FOR DISBURSEMENT TO CREDITORS OF THE
 9 CONSUMERS.

10 12-902.

11 THIS SUBTITLE DOES NOT APPLY TO:

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

14 (I) AN ATTORNEY AT LAW;

15 (II) AN ESCROW AGENT;

16 (III) A CERTIFIED PUBLIC ACCOUNTANT;

17 (IV) ~~A BANK, SAVINGS AND LOAN, CREDIT UNION, OR TRUST~~
 18 ~~COMPANY BANKING INSTITUTION, OTHER-STATE BANK, NATIONAL BANKING~~
 19 ~~ASSOCIATION, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION;~~

20 (V) A PERSON THAT:

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

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

26 3. DOES NOT PROVIDE ANY DEBT COUNSELING SERVICES;

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

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

31 ~~(VIII)~~ (VIII) A TITLE INSURER, TITLE INSURANCE AGENCY, OR
 32 ABSTRACT COMPANY; OR

33 ~~(IX)~~ (IX) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A
 34 COURT ORDER;

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

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

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

8 (I) IS LICENSED BY THE COMMISSIONER; AND

9 (II) DOES NOT RECEIVE FUNDS FROM A CONSUMER FOR THE
10 PURPOSE OF DISTRIBUTING THE FUNDS AMONG THE CONSUMER'S CREDITORS IN
11 FULL OR PARTIAL PAYMENT OF THE CONSUMER'S DEBTS.

12 12-903.

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

14 (1) ADOPT RULES AND REGULATIONS;

15 (2) ENTER INTO COOPERATIVE AND INFORMATION SHARING
16 AGREEMENTS WITH ANY OTHER FEDERAL OR STATE AGENCIES HAVING
17 SUPERVISORY RESPONSIBILITY OVER DEBT MANAGEMENT SERVICES BUSINESSES;
18 AND

19 (3) ~~PROVIDE ANY FEDERAL OR STATE AGENCY HAVING SUPERVISORY~~
20 ~~RESPONSIBILITY OVER DEBT MANAGEMENT SERVICES BUSINESSES WITH ANY~~
21 ~~DOCUMENTS OR OTHER INFORMATION EXCHANGE INFORMATION ABOUT A DEBT~~
22 ~~MANAGEMENT SERVICES PROVIDER, INCLUDING INFORMATION OBTAINED DURING~~
23 ~~AN EXAMINATION, WITH ANY STATE OR FEDERAL AGENCY HAVING AUTHORITY OVER~~
24 ~~THE DEBT MANAGEMENT SERVICES PROVIDER.~~

25 12-904.

26 (A) THE COMMISSIONER BY REGULATION SHALL ESTABLISH:

27 (1) (I) A FEE, NOT EXCEEDING ~~\$1,000~~ \$2,000, FOR THE ISSUANCE OF A
28 LICENSE UNDER THIS SUBTITLE IN AN EVEN-NUMBERED YEAR; AND

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

31 (2) A FEE, NOT EXCEEDING ~~\$1,000~~ \$2,000, FOR RENEWAL OF A LICENSE
32 ISSUED UNDER THIS SUBTITLE;

33 (3) A FEE, NOT EXCEEDING \$100, FOR EACH LOCATION IN THE STATE AT
34 WHICH A LICENSEE PROVIDES DEBT MANAGEMENT SERVICES UNDER THIS
35 SUBTITLE, PAYABLE AT THE TIME OF ISSUANCE OF AN INITIAL LICENSE AND AT
36 EACH RENEWAL OF A LICENSE; AND

1 (4) A FEE, NOT EXCEEDING \$1,000, FOR AN INVESTIGATION OF AN
2 APPLICANT OR LICENSEE UNDER THIS SUBTITLE.

3 (B) ANY FEES CHARGED BY THE COMMISSIONER UNDER THIS SUBTITLE
4 SHALL APPROXIMATE THE DIRECT AND INDIRECT COSTS OF ADMINISTERING AND
5 ENFORCING THIS SUBTITLE.

6 12-905.

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

8 (1) ALL REVENUE RECEIVED FOR THE LICENSING OF ORGANIZATIONS
9 THAT PROVIDE DEBT MANAGEMENT SERVICES UNDER THIS SUBTITLE;

10 (2) INCOME FROM INVESTMENTS THAT THE TREASURER MAKES FOR
11 THE FUND; AND

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

14 (B) THE COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED
15 BY THE COMMISSIONER UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE
16 STATE.

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

20 (1) EXPENDITURES AUTHORIZED UNDER THIS SUBTITLE; AND

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

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

23 (2) THE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM THE
24 COMMISSIONER INTO THE FUND.

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

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

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

31 (II) A SPECIAL FUND OF THE STATE.

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

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

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

5 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §
6 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

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

14 12-906.

15 A PERSON MAY NOT PROVIDE DEBT MANAGEMENT SERVICES ~~IF THAT PERSON,~~
16 ~~OR THE PERSON WITH WHOM THAT PERSON PROVIDES DEBT MANAGEMENT~~
17 ~~SERVICES, IS LOCATED IN THE STATE~~ TO CONSUMERS UNLESS ~~THAT THE~~ THE PERSON:

18 (1) IS LICENSED BY THE COMMISSIONER UNDER THIS SUBTITLE; OR

19 (2) IS EXEMPT FROM LICENSING UNDER THIS SUBTITLE.

20 12-907.

21 (A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE
22 COMMISSIONER THAT:

23 (1) THE APPLICANT IS AN ORGANIZATION;

24 (2) EACH OF THE OWNERS, OFFICERS, DIRECTORS, AND PRINCIPALS OF
25 THE APPLICANT HAS SUFFICIENT EXPERIENCE, CHARACTER, FINANCIAL
26 RESPONSIBILITY, AND GENERAL FITNESS TO:

27 (I) ENGAGE IN THE BUSINESS OF PROVIDING DEBT MANAGEMENT
28 SERVICES;

29 (II) WARRANT THE BELIEF THAT THE DEBT MANAGEMENT
30 SERVICES BUSINESS WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND
31 EFFICIENTLY; AND

32 (III) COMMAND THE CONFIDENCE OF THE PUBLIC;

33 (3) EACH AGENT ACTING ON BEHALF OF THE APPLICANT TO MANAGE A
34 TRUST ACCOUNT REQUIRED UNDER § 12-917 OF THIS SUBTITLE HAS SUFFICIENT
35 EXPERIENCE, CHARACTER, FINANCIAL RESPONSIBILITY, AND GENERAL FITNESS TO:

- 1 (I) ENGAGE IN THE BUSINESS OF MANAGING A TRUST ACCOUNT;
- 2 (II) WARRANT THE BELIEF THAT THE MANAGEMENT OF THE TRUST
3 ACCOUNT WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY;
4 AND
- 5 (III) COMMAND THE CONFIDENCE OF THE PUBLIC; AND
- 6 (4) THE APPLICANT HAS A NET WORTH COMPUTED ACCORDING TO
7 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OF AT LEAST \$50,000, PLUS AN
8 ADDITIONAL NET WORTH OF \$10,000 FOR EACH LOCATION AT WHICH DEBT
9 MANAGEMENT SERVICES WILL BE PROVIDED TO ~~THE PUBLIC CONSUMERS~~, UP TO A
10 MAXIMUM OF \$500,000 AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.

11 (B) THE COMMISSIONER MAY REQUIRE A NET WORTH OF UP TO \$500,000,
12 SUBJECT TO A CONSIDERATION OF THE FOLLOWING:

13 (1) THE NATURE AND VOLUME OF THE BUSINESS OR PROPOSED
14 BUSINESS OF THE APPLICANT;

15 (2) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF THE ASSETS OF
16 THE APPLICANT;

17 (3) THE AMOUNT AND NATURE OF THE LIABILITIES, INCLUDING
18 CONTINGENT LIABILITIES, OF THE APPLICANT;

19 (4) THE HISTORY OF AND PROSPECTS FOR THE APPLICANT TO EARN
20 AND RETAIN INCOME;

21 (5) THE QUALITY OF THE OPERATIONS OF THE APPLICANT;

22 (6) THE QUALITY OF THE MANAGEMENT OF THE APPLICANT;

23 (7) THE NATURE AND QUALITY OF THE PERSON THAT HAS CONTROL OF
24 THE APPLICANT; AND

25 (8) ANY OTHER FACTOR THAT THE COMMISSIONER CONSIDERS
26 RELEVANT.

27 12-908.

28 (A) TO APPLY FOR A LICENSE, AN APPLICANT SHALL SUBMIT TO THE
29 COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER
30 PROVIDES.

31 (B) THE APPLICATION SHALL INCLUDE:

32 (1) THE APPLICANT'S NAME, BUSINESS ADDRESS, TELEPHONE NUMBER,
33 ELECTRONIC MAIL ADDRESS, IF ANY, AND WEBSITE ADDRESS, IF ANY;

1 (2) THE ADDRESS OF EACH LOCATION IN THE STATE AT WHICH THE
2 APPLICANT WILL PROVIDE DEBT MANAGEMENT SERVICES;

3 (3) THE NAME AND ADDRESS OF EACH OWNER, OFFICER, DIRECTOR,
4 AND PRINCIPAL OF THE APPLICANT;

5 (4) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
6 APPLICANT'S RESIDENT AGENT IN THE STATE;

7 (5) A DESCRIPTION OF THE OWNERSHIP INTEREST OF ANY OFFICER,
8 DIRECTOR, AGENT, OR EMPLOYEE OF THE APPLICANT IN ANY AFFILIATE OR
9 SUBSIDIARY OF THE APPLICANT OR IN ANY OTHER BUSINESS ENTITY THAT
10 PROVIDES ANY SERVICE TO THE APPLICANT OR ANY CONSUMER RELATING TO THE
11 APPLICANT'S DEBT MANAGEMENT SERVICES BUSINESS;

12 (6) THE NAME AND ADDRESS OF ANY AGENT ACTING ON BEHALF OF THE
13 APPLICANT TO MANAGE A TRUST ACCOUNT REQUIRED UNDER § 12-917 OF THIS
14 SUBTITLE;

15 (7) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION NUMBER;

16 (8) A LIST OF ANY STATE IN WHICH:

17 (I) THE APPLICANT ENGAGES IN THE BUSINESS OF PROVIDING
18 DEBT MANAGEMENT SERVICES;

19 (II) THE APPLICANT IS REGISTERED OR LICENSED TO PROVIDE
20 DEBT MANAGEMENT SERVICES; AND

21 (III) THE APPLICANT'S REGISTRATION OR LICENSE HAS BEEN
22 SUSPENDED OR REVOKED;

23 (9) A STATEMENT OF WHETHER ANY PENDING JUDGMENT, TAX LIEN,
24 MATERIAL LITIGATION, OR ADMINISTRATIVE ACTION BY ANY GOVERNMENT AGENCY
25 EXISTS AGAINST THE APPLICANT;

26 (10) THE MOST RECENT, UNCONSOLIDATED FINANCIAL STATEMENT OF
27 THE APPLICANT THAT:

28 (I) IS PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED
29 ACCOUNTING PRINCIPLES APPLIED ON A CONSISTENT BASIS;

30 (II) INCLUDES A CERTIFIED OPINION AUDIT PREPARED BY AN
31 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; AND

32 (III) WAS PREPARED NO MORE THAN 12 MONTHS BEFORE THE DATE
33 OF APPLICATION;

34 (11) EVIDENCE OF NONPROFIT STATUS UNDER § 501(C) OF THE INTERNAL
35 REVENUE CODE;

1 (12) IF THE APPLICANT IS A CORPORATION, A DETAILED DESCRIPTION OF
2 THE APPLICANT'S CORPORATE STRUCTURE, INCLUDING PARENT COMPANIES,
3 SUBSIDIARIES, AND AFFILIATES;

4 (13) THE APPLICANT'S BUSINESS CREDIT REPORT;

5 (14) EVIDENCE OF GENERAL LIABILITY OR FIDELITY INSURANCE
6 ~~COVERAGE THAT RUNS TO THE STATE TO BE USED FOR THE BENEFIT OF ANY~~
7 ~~CONSUMER INJURED AS A RESULT OF THE THAT INSURES AGAINST DISHONESTY,~~
8 FRAUD, THEFT, OR OTHER MALFEASANCE ON THE PART OF AN EMPLOYEE OF THE
9 APPLICANT;

10 (15) A DESCRIPTION OF THE APPLICANT'S CONSUMER EDUCATION
11 PROGRAM THAT IS PROVIDED TO CONSUMERS;

12 (16) A DESCRIPTION OF THE APPLICANT'S FINANCIAL ANALYSIS AND
13 INITIAL BUDGET PLAN, INCLUDING ANY FORM OR ELECTRONIC MODEL, THAT IS ARE
14 USED TO EVALUATE THE FINANCIAL CONDITION OF CONSUMERS;

15 (17) A COPY OF THE DEBT MANAGEMENT SERVICES AGREEMENT THAT
16 THE APPLICANT WILL USE IN ITS DEBT MANAGEMENT SERVICES BUSINESS;

17 (18) A COPY OF THE APPLICANT'S PLAN TO ENSURE THAT EACH DEBT
18 MANAGEMENT COUNSELOR ~~EMPLOYED BY THE APPLICANT~~ IS CERTIFIED BY AN
19 INDEPENDENT ORGANIZATION WITHIN 6 MONTHS AFTER THE DEBT MANAGEMENT
20 COUNSELOR IS HIRED, AND THAT ANY EMPLOYEE WHO IS A SUPERVISOR OR
21 MANAGER OF A DEBT MANAGEMENT COUNSELOR IS CERTIFIED BY AN
22 INDEPENDENT ORGANIZATION WITHIN 3 MONTHS AFTER THE EMPLOYEE IS HIRED;
23 AND

24 (19) ANY OTHER INFORMATION THAT THE COMMISSIONER REASONABLY
25 REQUIRES.

26 (C) THE COMMISSIONER MAY REFUSE AN APPLICATION IF IT CONTAINS
27 ERRONEOUS OR INCOMPLETE INFORMATION.

28 (D) WITH THE APPLICATION, THE APPLICANT SHALL PAY TO THE
29 COMMISSIONER:

30 (1) A LICENSE FEE IN THE AMOUNT ESTABLISHED UNDER § 12-904 OF
31 THIS SUBTITLE; AND

32 (2) A NONREFUNDABLE INVESTIGATION FEE IN THE AMOUNT
33 ESTABLISHED UNDER § 12-904 OF THIS SUBTITLE.

34 (E) WITH THE APPLICATION, THE APPLICANT SHALL FILE A SURETY BOND
35 WITH THE COMMISSIONER AS PROVIDED IN § 12-914 OF THIS SUBTITLE.

1 12-909.

2 (A) IN CONNECTION WITH AN INITIAL APPLICATION, A RENEWAL
3 APPLICATION, AND AT ANY OTHER TIME THE COMMISSIONER REQUESTS, AN
4 APPLICANT OR LICENSEE SHALL PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL
5 BUREAU OF INVESTIGATION AND THE MARYLAND CRIMINAL JUSTICE INFORMATION
6 SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND
7 CORRECTIONAL SERVICES TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

8 (B) AN APPLICANT OR LICENSEE REQUIRED TO PROVIDE FINGERPRINTS
9 UNDER THIS SECTION SHALL PAY ANY PROCESSING OR OTHER REQUIRED FEE.

10 (C) IF THE APPLICANT OR LICENSEE IS A CORPORATION, THE
11 FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL
12 APPLY TO THE PRESIDENT AND ANY OTHER OFFICER, DIRECTOR, PRINCIPAL, OR
13 OWNER OF THE CORPORATION AS REQUIRED BY THE COMMISSIONER.

14 (D) THE COMMISSIONER ~~MAY~~ SHALL REQUIRE ANY AGENT ACTING ON
15 BEHALF OF A LICENSEE TO MANAGE A TRUST ACCOUNT REQUIRED UNDER § 12-917
16 OF THIS SUBTITLE, AND ANY AGENT OF THE LICENSEE WHO HAS ACCESS TO THE
17 ACCOUNT, TO PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF
18 INVESTIGATION AND THE MARYLAND CRIMINAL JUSTICE INFORMATION SYSTEM
19 CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND
20 CORRECTIONAL SERVICES TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

21 12-910.

22 (A) AFTER AN APPLICANT FOR A LICENSE FILES A COMPLETE APPLICATION,
23 FILES A SURETY BOND, AND PAYS THE LICENSE AND INVESTIGATION FEES
24 REQUIRED UNDER THIS SUBTITLE, THE COMMISSIONER SHALL INVESTIGATE THE
25 FACTS RELEVANT TO THE APPLICATION TO DETERMINE IF THE APPLICANT MEETS
26 THE REQUIREMENTS OF THIS SUBTITLE.

27 (B) UNLESS THE COMMISSIONER NOTIFIES AN APPLICANT THAT A
28 DIFFERENT TIME PERIOD IS NECESSARY, THE COMMISSIONER SHALL APPROVE OR
29 DENY EACH APPLICATION FOR A LICENSE WITHIN 60 DAYS AFTER THE DATE ON
30 WHICH THE COMPLETE APPLICATION IS FILED, THE SURETY BOND IS FILED, AND
31 THE FEES ARE PAID.

32 (C) THE COMMISSIONER SHALL ISSUE A LICENSE TO ANY APPLICANT THAT
33 MEETS THE REQUIREMENTS OF THIS SUBTITLE.

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

36 (I) SUBJECT TO THE HEARING PROVISIONS OF § 12-927 OF THIS
37 SUBTITLE, SHALL DENY THE APPLICATION;

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

1 (III) SHALL REFUND THE LICENSE FEE; AND

2 (IV) SHALL KEEP THE INVESTIGATION FEE.

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

7 12-911.

8 (A) THE COMMISSIONER SHALL INCLUDE ON EACH LICENSE:

9 (1) THE NAME OF THE LICENSEE;

10 (2) THE ADDRESS AT WHICH THE BUSINESS IS TO BE CONDUCTED; AND

11 (3) THE DEBT MANAGEMENT SERVICES LICENSE NUMBER OF THE
12 LICENSEE.

13 (B) A LICENSE AUTHORIZES THE LICENSEE TO PROVIDE DEBT MANAGEMENT
14 SERVICES.

15 (C) A LICENSE MAY NOT BE TRANSFERRED, ASSIGNED, OR PLEDGED.

16 (D) (1) IF THE LICENSEE HAS AN OFFICE IN THE STATE, THE LICENSEE
17 SHALL PROMINENTLY DISPLAY THE LICENSE IN A LOCATION THAT IS OPEN TO THE
18 PUBLIC AND AT WHICH THE LICENSEE ENGAGES IN THE BUSINESS OF PROVIDING
19 DEBT MANAGEMENT SERVICES.

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

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

25 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF
26 MARYLAND WILL ACCEPT ANY QUESTIONS AND COMPLAINTS FROM MARYLAND
27 RESIDENTS REGARDING (NAME AND LICENSE NUMBER OF THE DEBT MANAGEMENT
28 SERVICES PROVIDER) AT (ADDRESS OF COMMISSIONER), PHONE (TOLL-FREE
29 NUMBER OF THE COMMISSIONER)".

30 12-912.

31 (A) A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES ON DECEMBER 31 OF
32 EACH ODD-NUMBERED YEAR UNLESS IT IS RENEWED FOR A 2-YEAR TERM AS
33 PROVIDED IN SUBSECTION (B) OF THIS SECTION.

34 (B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A LICENSE
35 MAY BE RENEWED FOR A 2-YEAR TERM IF THE LICENSEE:

1 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

2 (2) PAYS TO THE COMMISSIONER THE RENEWAL FEE ESTABLISHED
3 UNDER § 12-904 OF THIS SUBTITLE;

4 (3) FILES WITH THE COMMISSIONER A SURETY BOND RENEWAL
5 CERTIFICATE OR A NEW SURETY BOND REQUIRED UNDER § 12-914 OF THIS
6 SUBTITLE; AND

7 (4) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE
8 FORM THAT THE COMMISSIONER REQUIRES.

9 (C) THE COMMISSIONER MAY DETERMINE THAT LICENSES ISSUED UNDER
10 THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

11 12-913.

12 (A) (1) A LICENSEE MAY SURRENDER A LICENSE BY SENDING TO THE
13 COMMISSIONER A WRITTEN STATEMENT THAT THE LICENSE IS SURRENDERED.

14 (2) THE STATEMENT SHALL PROVIDE:

15 (I) THE REASON FOR THE LICENSE SURRENDER;

16 (II) FOR EACH CONSUMER ~~LOCATED IN THE STATE~~ FOR WHOM THE
17 LICENSEE IS PROVIDING DEBT MANAGEMENT SERVICES, THE FOLLOWING
18 INFORMATION:

19 1. THE NAME OF THE CONSUMER;

20 2. THE TOTAL AMOUNT OF FUNDS HELD BY THE LICENSEE
21 FOR DISTRIBUTION TO THE CONSUMER'S CREDITORS; AND

22 3. THE NAME OF EACH CREDITOR OF THE CONSUMER THAT
23 IS RECEIVING PAYMENTS FROM THE LICENSEE FOR DEBTS OWED BY THE
24 CONSUMER TO THE CREDITOR, AND THE OUTSTANDING BALANCE OWED TO EACH
25 CREDITOR.

26 (B) THE SURRENDER OF A LICENSE DOES NOT:

27 (1) AFFECT ANY ADMINISTRATIVE, CIVIL, OR CRIMINAL LIABILITY OF
28 THE LICENSEE FOR ACTS COMMITTED BEFORE THE LICENSE IS SURRENDERED;

29 (2) AFFECT THE SURETY BOND REQUIRED UNDER § 12-914 OF THIS
30 SUBTITLE; OR

31 (3) ENTITLE THE LICENSEE TO THE RETURN OF ANY FEE PAID TO THE
32 COMMISSIONER UNDER § 12-904 OF THIS SUBTITLE.

1 12-914.

2 (A) WITH THE APPLICATION FOR A NEW OR RENEWAL LICENSE, THE
3 APPLICANT OR LICENSEE SHALL FILE A SURETY BOND OR BOND RENEWAL
4 CERTIFICATE WITH THE COMMISSIONER AS PROVIDED IN THIS SECTION.

5 (B) (1) A SURETY BOND FILED UNDER THIS SECTION SHALL RUN TO THE
6 STATE FOR THE BENEFIT OF ANY ~~INDIVIDUAL WHO RESIDES IN THE STATE AND~~
7 CONSUMER WHO HAS BEEN IS INJURED BY A VIOLATION OF THIS SUBTITLE OR A
8 REGULATION ADOPTED UNDER THIS SUBTITLE COMMITTED BY A LICENSEE OR AN
9 AGENT OF A LICENSEE, INCLUDING AN AGENT MANAGING A TRUST ACCOUNT.

10 ~~(2) THE SURETY BOND SHALL PROVIDE THAT, IF THE LICENSEE FAILS~~
11 ~~TO DISTRIBUTE TO THE CREDITORS OF A CONSUMER THE AMOUNTS REQUIRED~~
12 ~~UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT, THE COMMISSIONER~~
13 ~~SHALL HAVE, IN ADDITION TO ALL OTHER LEGAL REMEDIES, A RIGHT OF ACTION IN~~
14 ~~THE NAME OF THE CONSUMER TO RECOVER LOSSES SUSTAINED BY THE CONSUMER,~~
15 ~~NOT EXCEEDING THE FACE AMOUNT OF THE SURETY BOND, WITHOUT THE~~
16 ~~NECESSITY OF JOINING THE CONSUMER IN THE ACTION.~~

17 ~~(3)~~ (2) THE SURETY BOND SHALL BE:

18 (I) IN AN AMOUNT NOT LESS THAN \$10,000 AND NOT MORE THAN
19 ~~\$1,000,000~~ \$500,000 \$350,000, 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 LICENSEE AND ITS AGENT SHALL
23 COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS GOVERNING THE
24 BUSINESS OF PROVIDING DEBT MANAGEMENT SERVICES.

25 ~~(4)~~ (3) THE LIABILITY OF A SURETY:

26 (I) IS NOT AFFECTED BY THE INSOLVENCY OR BANKRUPTCY OF
27 THE LICENSEE OR ITS AGENT OR BY ANY MISREPRESENTATION, BREACH OF
28 WARRANTY, FAILURE TO PAY A PREMIUM, OR OTHER ACT OR OMISSION OF THE
29 LICENSEE OR ITS AGENT; AND

30 (II) CONTINUES AS TO ALL TRANSACTIONS OF THE LICENSEE, AND
31 TRANSACTIONS OF ITS AGENT ON BEHALF OF THE LICENSEE, FOR NO LONGER THAN
32 2 YEARS AFTER THE LICENSEE CEASES, FOR ANY REASON, TO BE LICENSED.

33 ~~(5)~~ (4) THE COMMISSIONER MAY ALLOW THE AMOUNT OF THE
34 SURETY BOND TO BE REDUCED IF THE AMOUNT OF THE LICENSEE'S OUTSTANDING
35 DEBT MANAGEMENT SERVICES LIABILITIES IN THE STATE IS REDUCED.

36 ~~(6)~~ (5) IN SETTING THE AMOUNT OF THE SURETY BOND, THE
37 COMMISSIONER SHALL CONSIDER:

1 (I) THE FINANCIAL CONDITION AND BUSINESS EXPERIENCE OF
2 THE APPLICANT OR LICENSEE AND THE AGENT OF THE APPLICANT OR LICENSEE;

3 (II) FOR AN APPLICANT, THE PROJECTED MONTHLY AND ANNUAL
4 VOLUME OF DEBT MANAGEMENT SERVICES TO BE PROVIDED IN THE STATE;

5 (III) FOR A LICENSEE, THE AVERAGE MONTHLY AND ANNUAL
6 VOLUME OF DEBT MANAGEMENT SERVICES PROVIDED IN THE STATE DURING THE
7 PREVIOUS 12-MONTH PERIOD;

8 (IV) THE POTENTIAL LOSS TO CONSUMERS WHO REMIT FUNDS TO
9 THE APPLICANT OR LICENSEE IF THE APPLICANT OR LICENSEE BECOMES
10 FINANCIALLY IMPAIRED; AND

11 (V) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS
12 APPROPRIATE.

13 (C) IF THE PRINCIPAL AMOUNT OF A SURETY BOND IS REDUCED BY PAYMENT
14 OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE WITH THE COMMISSIONER
15 ANY NEW OR ADDITIONAL SURETY BOND IN THE AMOUNT THAT THE COMMISSIONER
16 SETS.

17 (D) THE COMMISSIONER MAY WAIVE THE SURETY BOND REQUIREMENT
18 UNDER THIS SECTION IF THE COMMISSIONER DETERMINES THAT THE VOLUME OF
19 DEBT MANAGEMENT SERVICES PROVIDED BY THE APPLICANT OR LICENSEE DOES
20 NOT WARRANT THE NEED FOR A SURETY BOND.

21 (E) A PENALTY IMPOSED UNDER § 12-928 OR § 12-929 OF THIS SUBTITLE MAY
22 BE PAID AND COLLECTED FROM THE PROCEEDS OF A SURETY BOND REQUIRED
23 UNDER THIS SECTION.

24 12-915.

25 ~~(A) A LICENSEE SHALL GIVE THE COMMISSIONER WRITTEN NOTICE OF ANY~~
26 ~~CHANGE IN THE INFORMATION REQUIRED TO BE INCLUDED IN THE LICENSEE'S~~
27 ~~APPLICATION UNDER § 12-908(B)(1) AND (2) OF THIS SUBTITLE WITHIN 10 DAYS AFTER~~
28 ~~THE CHANGE IS EFFECTIVE.~~

29 ~~(B) UNLESS APPROVED BY THE COMMISSIONER, A LICENSEE MAY NOT~~
30 ~~CHANGE AN OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE LICENSEE, OR AN~~
31 ~~AGENT WHO IS ACTING ON BEHALF OF THE LICENSEE TO MANAGE A TRUST~~
32 ~~ACCOUNT, LISTED ON THE LICENSEE'S APPLICATION UNDER § 12-908(B)(3) AND (6) OF~~
33 ~~THIS SUBTITLE.~~

34 ~~(C) (1) TO REQUEST APPROVAL OF A PROPOSED CHANGE DESCRIBED IN~~
35 ~~SUBSECTION (B) OF THIS SECTION, THE LICENSEE SHALL NOTIFY THE~~
36 ~~COMMISSIONER IN WRITING OF THE PROPOSED CHANGE AND SUBMIT ANY~~
37 ~~INFORMATION THAT THE COMMISSIONER REQUIRES.~~

1 (2) FOR A PROPOSED CHANGE IN OWNER OR AGENT ACTING ON BEHALF
2 OF THE LICENSEE TO MANAGE A TRUST ACCOUNT, THE COMMISSIONER MAY
3 DETERMINE THAT THE FILING OF A NEW APPLICATION FOR THE ISSUANCE OF A
4 LICENSE IS WARRANTED.

5 (3) UNLESS THE COMMISSIONER NOTIFIES THE LICENSEE THAT A
6 DIFFERENT TIME PERIOD IS NECESSARY, THE COMMISSIONER SHALL APPROVE OR
7 DENY A REQUEST FOR A CHANGE DESCRIBED IN SUBSECTION (B) OF THIS SECTION
8 WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER RECEIVES ALL INFORMATION
9 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

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

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

14 (II) PROVIDES WITH THE NOTICE EVIDENCE THAT, AFTER THE
15 CHANGE DESCRIBED IN THE NOTICE, THE LICENSEE WILL CONTINUE TO SATISFY
16 THE SURETY BOND REQUIREMENT UNDER § 12-914 OF THIS SUBTITLE; AND

17 (III) RECEIVES THE WRITTEN APPROVAL OF THE COMMISSIONER.

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

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

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

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

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

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

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

36 (IV) RECEIVES THE WRITTEN APPROVAL OF THE COMMISSIONER.

1 ~~(3) WITHIN 60 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL OF A~~
2 ~~PROPOSED CHANGE IN CONTROL, THE COMMISSIONER MAY REQUIRE THE LICENSEE~~
3 ~~TO PROVIDE ANY INFORMATION THAT THE COMMISSIONER CONSIDERS NECESSARY~~
4 ~~TO DETERMINE WHETHER A NEW APPLICATION FOR A LICENSE IS REQUIRED~~
5 ~~BECAUSE OF THE PROPOSED CHANGE IN CONTROL.~~

6 ~~(4) THE COMMISSIONER SHALL APPROVE OR DENY A REQUEST FOR~~
7 ~~APPROVAL OF A PROPOSED CHANGE IN CONTROL.~~

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

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

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

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

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

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

26 ~~(A) (1) A LICENSEE SHALL GIVE THE COMMISSIONER WRITTEN NOTICE OF~~
27 ~~ANY CHANGE IN THE INFORMATION REQUIRED TO BE INCLUDED IN THE LICENSEE'S~~
28 ~~APPLICATION UNDER § 12-908(B)(1) AND (2) OF THIS SUBTITLE AT LEAST 30 DAYS~~
29 ~~BEFORE THE CHANGE IS EFFECTIVE.~~

30 ~~(2) THE LICENSEE SHALL PROVIDE WITH THE NOTICE EVIDENCE THAT,~~
31 ~~AFTER THE CHANGE DESCRIBED IN THE NOTICE, THE LICENSEE WILL CONTINUE TO~~
32 ~~SATISFY THE SURETY BOND REQUIREMENT UNDER § 12-914 OF THIS TITLE.~~

33 ~~(B) UNLESS APPROVED BY THE COMMISSIONER, A LICENSEE MAY NOT~~
34 ~~CHANGE AN OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE LICENSEE, OR AN~~
35 ~~AGENT WHO IS ACTING ON BEHALF OF THE LICENSEE TO MANAGE A TRUST~~
36 ~~ACCOUNT, LISTED ON THE LICENSEE'S APPLICATION UNDER § 12-908(B)(3) AND (6) OF~~
37 ~~THIS SUBTITLE.~~

38 ~~(C) (1) TO REQUEST APPROVAL OF A PROPOSED CHANGE DESCRIBED IN~~
39 ~~SUBSECTION (B) OF THIS SECTION, THE LICENSEE SHALL NOTIFY THE~~

1 COMMISSIONER IN WRITING OF THE PROPOSED CHANGE AND SUBMIT ANY
 2 INFORMATION THAT THE COMMISSIONER REQUIRES.

3 (2) FOR A PROPOSED CHANGE IN OWNER OR AGENT ACTING ON BEHALF
 4 OF THE LICENSEE TO MANAGE A TRUST ACCOUNT, THE COMMISSIONER MAY
 5 DETERMINE THAT THE FILING OF A NEW APPLICATION FOR THE ISSUANCE OF A
 6 LICENSE IS WARRANTED.

7 (3) UNLESS THE COMMISSIONER NOTIFIES THE LICENSEE THAT A
 8 DIFFERENT TIME PERIOD IS NECESSARY, THE COMMISSIONER SHALL APPROVE OR
 9 DENY A REQUEST FOR A CHANGE DESCRIBED IN SUBSECTION (B) OF THIS SECTION
 10 WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER RECEIVES ALL
 11 INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

12 12-916.

13 (A) (1) A LICENSEE MAY NOT PERFORM DEBT MANAGEMENT SERVICES FOR
 14 A CONSUMER UNLESS:

15 (1) (I) THE LICENSEE ~~HAS PROVIDED~~ PROVIDES THE CONSUMER
 16 WITH A CONSUMER EDUCATION PROGRAM;

17 (2) (II) THE LICENSEE, THROUGH A DEBT MANAGEMENT SERVICES
 18 COUNSELOR CERTIFIED BY AN INDEPENDENT ORGANIZATION, HAS:

19 (1) 1. PREPARED A FINANCIAL ANALYSIS OF AND AN INITIAL
 20 BUDGET PLAN FOR THE CONSUMER'S DEBT OBLIGATIONS; AND

21 (2) 2. PROVIDED A COPY OF THE FINANCIAL ANALYSIS AND THE
 22 INITIAL BUDGET PLAN TO THE CONSUMER; AND

23 (3) 3. PROVIDED TO THE CONSUMER, FOR ALL CREDITORS
 24 IDENTIFIED BY THE CONSUMER, A LIST OF:

25 1. A. THE CREDITORS THAT ~~WILL~~ THE LICENSEE
 26 REASONABLY EXPECTS TO PARTICIPATE IN THE MANAGEMENT OF THE CONSUMER'S
 27 DEBT UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT; AND

28 2. B. THE CREDITORS THAT ~~WILL~~ THE LICENSEE
 29 REASONABLY EXPECTS NOT TO PARTICIPATE IN THE MANAGEMENT OF THE
 30 CONSUMER'S DEBT UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT;

31 (3) (III) THE LICENSEE AND THE CONSUMER HAVE EXECUTED A DEBT
 32 MANAGEMENT SERVICES AGREEMENT THAT DESCRIBES THE DEBT MANAGEMENT
 33 SERVICES TO BE PROVIDED BY THE LICENSEE TO THE CONSUMER;

34 (4) (IV) THE LICENSEE HAS ~~ESTABLISHED AN AGREEMENT, WITH A~~
 35 REASONABLE EXPECTATION BASED ON THE LICENSEE'S PAST EXPERIENCE THAT
 36 EACH CREDITOR OF THE CONSUMER THAT IS LISTED AS A PARTICIPATING CREDITOR
 37 IN THE CONSUMER'S ~~FINAL~~ DEBT MANAGEMENT SERVICES AGREEMENT, ~~FOR THE~~

1 WILL ACCEPT PAYMENT OF THE CONSUMER'S DEBTS OWED TO THE CREDITOR AS
 2 PROVIDED IN THE CONSUMER'S ~~FINAL~~ DEBT MANAGEMENT SERVICES AGREEMENT;
 3 AND

4 ~~(5)~~ (V) A COPY OF THE ~~COMPLETED FINAL~~ COMPLETED DEBT
 5 MANAGEMENT SERVICES AGREEMENT HAS BEEN PROVIDED TO THE CONSUMER.

6 (2) (I) A LICENSEE MAY PROVIDE TO A CONSUMER THE MATERIALS
 7 REQUIRED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION USING THE INTERNET IF:

8 1. A DEBT MANAGEMENT COUNSELOR OF THE LICENSEE
 9 HAS REVIEWED AND APPROVED THE COMPUTER PROGRAM OR APPLICATION USED
 10 TO CREATE THE FINANCIAL ANALYSIS AND INITIAL BUDGET PLAN; AND

11 2. THE CONSUMER IS:

12 A. ADVISED OF THE AVAILABILITY OF COUNSELING; AND

13 B. AFFORDED THE OPPORTUNITY FOR COUNSELING AND
 14 FOR DISCUSSION OF THE FINANCIAL ANALYSIS AND INITIAL BUDGET PLAN WITH A
 15 DEBT MANAGEMENT COUNSELOR AT ANY TIME.

16 (II) TITLE 21 OF THE COMMERCIAL LAW ARTICLE APPLIES TO THE
 17 PROVISION OF MATERIALS AND ASSOCIATED TRANSACTIONS UNDER THIS
 18 PARAGRAPH.

19 (B) EACH ~~FINAL~~ DEBT MANAGEMENT SERVICES AGREEMENT SHALL:

20 (1) BE SIGNED AND DATED BY THE LICENSEE AND THE CONSUMER; AND

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

22 (I) THE NAME, ADDRESS, AND PHONE NUMBER OF THE
 23 CONSUMER;

24 (II) THE NAME, ADDRESS, PHONE NUMBER, AND LICENSE NUMBER
 25 OF THE LICENSEE;

26 (III) A DESCRIPTION OF THE DEBT MANAGEMENT SERVICES TO BE
 27 PROVIDED TO THE CONSUMER AND ANY FEES TO BE CHARGED TO THE CONSUMER
 28 FOR THE DEBT MANAGEMENT SERVICES;

29 (IV) A DISCLOSURE OF THE EXISTENCE OF THE SURETY BOND
 30 REQUIRED UNDER § 12-914 OF THIS SUBTITLE;

31 (V) THE NAME AND ADDRESS OF THE FINANCIAL INSTITUTION IN
 32 WHICH FUNDS, PAID BY THE CONSUMER TO THE LICENSEE FOR DISBURSEMENT TO
 33 THE CONSUMER'S CREDITORS, WILL BE HELD;

34 (VI) A NOTICE OF THE RIGHT OF A PARTY TO THE DEBT
 35 MANAGEMENT SERVICES AGREEMENT TO ~~CANCEL~~ RESCIND THE DEBT

1 MANAGEMENT SERVICES AGREEMENT BY GIVING WRITTEN NOTICE OF
 2 ~~CANCELLATION~~ RESCISSION TO THE OTHER PARTY;

3 (VII) A SCHEDULE OF PAYMENTS THAT THE CONSUMER MUST MAKE
 4 TO THE DEBT MANAGEMENT SERVICES PROVIDER, ~~FOR DISBURSEMENT TO THE~~
 5 ~~CONSUMER'S CREDITORS~~, INCLUDING:

6 1. THE AMOUNT ~~AND DATE~~ OF EACH PAYMENT AND THE
 7 DATE ON WHICH EACH PAYMENT IS DUE; AND

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

12 (VIII) ~~+~~ A LIST OF:

13 1. A. EACH PARTICIPATING CREDITOR OF THE CONSUMER
 14 TO WHICH PAYMENTS WILL BE MADE UNDER THE DEBT MANAGEMENT SERVICES
 15 AGREEMENT;

16 ~~2.~~ B. THE AMOUNT OWED TO EACH CREDITOR; AND

17 ~~3.~~ C. A SCHEDULE OF PAYMENTS THAT THE DEBT
 18 MANAGEMENT SERVICES PROVIDER ~~MUST~~ WILL MAKE TO EACH PARTICIPATING
 19 CREDITOR FROM THE CONSUMER'S PAYMENTS, INCLUDING THE AMOUNT ~~AND DATE~~
 20 OF EACH PAYMENT AND THE DATE ON WHICH EACH PAYMENT WILL BE MADE; AND

21 2. EACH CREDITOR THAT ~~WILL~~ *THE LICENSEE REASONABLY*
 22 *EXPECTS NOT TO PARTICIPATE IN THE MANAGEMENT OF THE CONSUMER'S DEBT*
 23 *UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT;*

24 (IX) A DISCLOSURE THAT THE LICENSEE ALSO MAY RECEIVE
 25 COMPENSATION FROM THE CONSUMER'S CREDITORS FOR PROVIDING DEBT
 26 MANAGEMENT SERVICES TO THE CONSUMER;

27 ~~(X)~~ *A DISCLOSURE THAT THE LICENSEE MAY NOT, AS A CONDITION*
 28 *OF ENTERING INTO A DEBT MANAGEMENT SERVICES AGREEMENT, REQUIRE A*
 29 *CONSUMER TO PURCHASE FOR A FEE A COUNSELING SESSION, AN EDUCATIONAL*
 30 *PROGRAM, OR MATERIALS AND SUPPLIES;*

31 ~~(XI)~~ *(XI)* A DISCLOSURE THAT THE LICENSEE MAY NOT REQUIRE A
 32 *VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED BY*
 33 *THE LICENSEE TO THE CONSUMER;*

34 ~~(XII)~~ ~~(XII)~~ *(XII)* A DISCLOSURE THAT, BY EXECUTING THE DEBT
 35 MANAGEMENT SERVICES AGREEMENT, THE CONSUMER AUTHORIZES ANY
 36 FINANCIAL INSTITUTION IN WHICH THE LICENSEE HAS ESTABLISHED A TRUST
 37 ACCOUNT FOR DEPOSIT OF THE CONSUMER'S FUNDS TO DISCLOSE TO THE
 38 COMMISSIONER ANY FINANCIAL RECORDS RELATING TO THE TRUST ACCOUNT

1 DURING THE COURSE OF ANY INVESTIGATION OR EXAMINATION OF THE LICENSEE
2 BY THE COMMISSIONER;

3 ~~(XI)~~ ~~(XII)~~ (XIII) A DISCLOSURE THAT EXECUTION OF A DEBT
4 MANAGEMENT SERVICES AGREEMENT MAY IMPACT THE CONSUMER'S CREDIT
5 RATING AND CREDIT SCORES; AND

6 ~~(XII)~~ ~~(XIII)~~ (XIV) THE FOLLOWING NOTICE:

7 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF
8 MARYLAND WILL ACCEPT QUESTIONS AND COMPLAINTS FROM MARYLAND
9 RESIDENTS REGARDING (NAME AND LICENSE NUMBER OF THE DEBT MANAGEMENT
10 SERVICE PROVIDER) AT (ADDRESS OF THE COMMISSIONER) PHONE (TOLL-FREE
11 NUMBER OF THE COMMISSIONER). DO NOT SIGN THIS AGREEMENT BEFORE YOU
12 READ IT. YOU MUST BE GIVEN A COPY OF THIS AGREEMENT."

13 (C) A DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN A CONSUMER
14 AND A PERSON THAT IS NOT A LICENSEE UNDER THIS SUBTITLE SHALL BE NULL AND
15 VOID, AND ALL FEES PAID TO THE PERSON UNDER THE DEBT MANAGEMENT
16 SERVICES AGREEMENT SHALL BE RECOVERABLE BY THE CONSUMER, TOGETHER
17 WITH REASONABLE ATTORNEY'S FEES.

18 12-917.

19 (A) WITHIN 2 BUSINESS DAYS AFTER RECEIPT, A LICENSEE SHALL DEPOSIT,
20 IN A TRUST ACCOUNT ESTABLISHED FOR THE BENEFIT OF ~~THE CONSUMER~~
21 CONSUMERS, ANY FUNDS PAID TO THE LICENSEE BY OR ON BEHALF OF A CONSUMER
22 FOR DISBURSEMENT TO THE CONSUMER'S CREDITORS.

23 (B) A LICENSEE SHALL:

24 (1) MAINTAIN SEPARATE RECORDS OF ACCOUNT FOR EACH CONSUMER
25 TO WHOM THE LICENSEE IS PROVIDING DEBT MANAGEMENT SERVICES;

26 (2) DISBURSE ANY FUNDS PAID BY OR ON BEHALF OF A CONSUMER TO
27 THE CONSUMER'S CREDITORS WITHIN ~~5~~ 8 BUSINESS DAYS AFTER RECEIPT OF THE
28 FUNDS; AND

29 (3) (I) CORRECT ANY MISDIRECTED PAYMENTS RESULTING FROM AN
30 ERROR BY THE LICENSEE; AND

31 (II) REIMBURSE THE CONSUMER FOR ANY ACTUAL FEES OR OTHER
32 CHARGES IMPOSED BY A CREDITOR AS A RESULT OF THE MISDIRECTION.

33 (C) A LICENSEE MAY NOT COMMINGLE ANY TRUST ACCOUNT ESTABLISHED
34 FOR THE BENEFIT OF CONSUMERS WITH ANY OPERATING ACCOUNTS OF THE
35 LICENSEE.

36 ~~(D)~~ ~~(1)~~ AN AGENT THAT ACTS ON BEHALF OF A LICENSEE TO MANAGE A
37 TRUST ACCOUNT REQUIRED UNDER THIS SECTION SHALL MAINTAIN A SURETY BOND

1 ~~IN AN AMOUNT NOT LESS THAN \$10,000 AND NOT MORE THAN \$500,000, AS SET BY THE~~
 2 ~~COMMISSIONER.~~

3 ~~(2) THE SURETY BOND SHALL RUN TO THE STATE FOR THE BENEFIT OF~~
 4 ~~ANY CONSUMER WHO IS INJURED BY AN ACT OR OMISSION OF THE AGENT RELATING~~
 5 ~~TO THE MANAGEMENT OF A TRUST ACCOUNT REQUIRED UNDER THIS SECTION.~~

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

9 12-918.

10 (A) WITH RESPECT TO THE PROVISION OF DEBT MANAGEMENT SERVICES, A
 11 LICENSEE MAY NOT IMPOSE ANY FEES OR OTHER CHARGES ON A CONSUMER, OR
 12 RECEIVE ANY FUNDS OR OTHER PAYMENTS FROM A CONSUMER OR ANOTHER
 13 PERSON ON BEHALF OF A CONSUMER:

14 (1) EXCEPT AS PROVIDED IN SUBSECTIONS (G)(3) AND (I) OF THIS
 15 SECTION, UNTIL AFTER THE LICENSEE AND CONSUMER HAVE EXECUTED A FINAL
 16 DEBT MANAGEMENT SERVICES AGREEMENT; AND

17 (2) ONLY AS ALLOWED UNDER THIS SECTION.

18 (B) (1) A LICENSEE MAY CHARGE A ~~SET-UP~~ CONSULTATION FEE NOT
 19 EXCEEDING \$50.

20 (2) THE COST OF A CREDIT REPORT ON A CONSUMER SHALL BE PAID
 21 FROM THE ~~SET-UP~~ CONSULTATION FEE PAID BY THE CONSUMER.

22 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LICENSEE MAY
 23 CHARGE A MONTHLY MAINTENANCE FEE NOT EXCEEDING ~~\$5~~ \$8 FOR EACH CREDITOR
 24 OF A CONSUMER THAT IS LISTED IN THE DEBT MANAGEMENT SERVICES AGREEMENT
 25 BETWEEN THE LICENSEE AND THE CONSUMER.

26 (2) THE TOTAL FEES CHARGED TO A CONSUMER UNDER PARAGRAPH (1)
 27 OF THIS SUBSECTION MAY NOT EXCEED ~~\$50~~ \$30 \$40 PER MONTH.

28 (D) A LICENSEE MAY COLLECT FROM OR ON BEHALF OF A CONSUMER THE
 29 FUNDS THE CONSUMER HAS AGREED TO PAY TO THE LICENSEE UNDER THE DEBT
 30 MANAGEMENT SERVICES AGREEMENT.

31 (E) A LICENSEE MAY NOT CHARGE A FEE TO:±

32 (1) PREPARE A FINANCIAL ANALYSIS OR AN INITIAL BUDGET PLAN FOR
 33 THE CONSUMER;

34 (2) COUNSEL A CONSUMER ABOUT DEBT MANAGEMENT;

35 (3) PROVIDE A CONSUMER WITH THE CONSUMER EDUCATION PROGRAM
 36 DESCRIBED IN THE LICENSEE'S LICENSE APPLICATION; OR

- 1 ~~(1) COUNSEL A CONSUMER ABOUT DEBT MANAGEMENT;~~
- 2 ~~(2) PROVIDE A CONSUMER WITH A CONSUMER EDUCATION PROGRAM;~~
- 3 ~~OR~~
- 4 ~~(3) CANCEL~~
- 5 (4) RESCIND A DEBT MANAGEMENT SERVICES AGREEMENT.
- 6 (F) (1) A LICENSEE MAY NOT REQUIRE A VOLUNTARY CONTRIBUTION FROM
- 7 A CONSUMER FOR ANY SERVICE PROVIDED BY THE LICENSEE TO THE CONSUMER.
- 8 (2) A LICENSEE MAY ACCEPT A VOLUNTARY CONTRIBUTION FROM A
- 9 CONSUMER FOR ANY A DEBT MANAGEMENT SERVICE PROVIDED BY THE LICENSEE
- 10 TO THE CONSUMER IF THE AGGREGATE AMOUNT OF THE VOLUNTARY
- 11 CONTRIBUTION AND ANY OTHER FEES RECEIVED BY THE LICENSEE FROM THE
- 12 CONSUMER FOR DEBT MANAGEMENT SERVICES DOES NOT EXCEED THE TOTAL
- 13 AMOUNT THE LICENSEE IS AUTHORIZED TO CHARGE THE CONSUMER UNDER
- 14 SUBSECTIONS (B) AND (C) OF THIS SECTION.
- 15 (G) (1) BEFORE PROVIDING DEBT MANAGEMENT SERVICES TO A
- 16 CONSUMER, A LICENSEE SHALL PROVIDE THE CONSUMER A LIST OF SERVICES AND
- 17 THEIR CHARGES DESCRIBING:
- 18 (I) THOSE SERVICES THAT THE LICENSEE OFFERS:
- 19 1. FREE OF CHARGE IF THE CONSUMER ENTERS INTO A
- 20 DEBT MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE; AND
- 21 2. FOR A CHARGE IF THE CONSUMER DOES NOT ENTER INTO
- 22 A DEBT MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE; AND
- 23 (II) THOSE SERVICES THAT THE LICENSEE OFFERS FOR A CHARGE
- 24 THAT ARE NOT OFFERED AS A PART OF DEBT MANAGEMENT SERVICES.
- 25 (2) A LICENSEE MAY NOT, AS A CONDITION OF ENTERING INTO A DEBT
- 26 MANAGEMENT SERVICES AGREEMENT, REQUIRE A CONSUMER TO PURCHASE FOR A
- 27 FEE A COUNSELING SESSION, AN EDUCATIONAL PROGRAM, OR MATERIALS AND
- 28 SUPPLIES.
- 29 (3) A LICENSEE MAY CHARGE A CONSUMER A FEE FOR A COUNSELING
- 30 SESSION, AN EDUCATIONAL PROGRAM, OR MATERIALS AND SUPPLIES IF THE
- 31 CONSUMER DOES NOT ENTER INTO A DEBT MANAGEMENT SERVICES AGREEMENT
- 32 WITH THE LICENSEE.
- 33 (H) (1) IN ADDITION TO ANY OTHER RIGHT OF RESCISSION CONTAINED IN
- 34 THE DEBT MANAGEMENT SERVICES AGREEMENT, A CONSUMER MAY MODIFY OR
- 35 RESCIND A DEBT MANAGEMENT SERVICES AGREEMENT IF THE CONSUMER IS
- 36 NOTIFIED OF A CREDITOR'S NONPARTICIPATION UNDER THIS SUBSECTION.

1 (2) IF A CREDITOR THAT IS LISTED AS PARTICIPATING IN THE DEBT
 2 MANAGEMENT SERVICES AGREEMENT DECLINES TO PARTICIPATE IN DEBT
 3 MANAGEMENT SERVICES UNDER THE AGREEMENT, THE LICENSEE SHALL NOTIFY
 4 THE CONSUMER BY CERTIFIED MAIL, OR OTHER VERIFIABLE MEANS APPROVED BY
 5 THE CONSUMER, AT LEAST 5 BUSINESS DAYS BEFORE THE CONSUMER'S NEXT
 6 SCHEDULED PAYMENT UNDER THE AGREEMENT.

7 (3) THE NOTICE SHALL INCLUDE:

8 (I) THE IDENTITY OF THE CREDITOR; AND

9 (II) THE RIGHT OF THE CONSUMER TO MODIFY OR RESCIND THE
 10 AGREEMENT.

11 (4) A CONSUMER WHO RESCINDS A DEBT MANAGEMENT SERVICES
 12 AGREEMENT UNDER THIS SUBSECTION IS ENTITLED TO A REFUND OF ALL
 13 UNEXPENDED FUNDS THAT THE CONSUMER HAS PAID TO THE LICENSEE FOR THE
 14 REDUCTION OF THE CONSUMER'S DEBT.

15 (I) IF A PAYMENT BY A CONSUMER UNDER THIS SECTION TO A LICENSEE IS
 16 DISHONORED, THE LICENSEE MAY CHARGE THE CONSUMER THE AMOUNT
 17 ALLOWABLE FOR DISHONORED CHECKS OR OTHER INSTRUMENTS UNDER § 15-802
 18 OF THE COMMERCIAL LAW ARTICLE, WHETHER OR NOT THE CONSUMER HAS
 19 ENTERED INTO A DEBT MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE.

20 ~~(F)~~ ~~(G)~~ (J) WITH RESPECT TO THE PROVISION OF DEBT MANAGEMENT
 21 SERVICES, IF A LICENSEE IMPOSES ANY FEE OR OTHER CHARGE OR RECEIVES ANY
 22 FUNDS OR OTHER PAYMENTS NOT AUTHORIZED UNDER THIS SECTION, EXCEPT AS A
 23 RESULT OF AN ACCIDENTAL AND BONA FIDE ERROR:

24 (1) THE DEBT MANAGEMENT SERVICES AGREEMENT SHALL BE VOID;
 25 AND

26 (2) THE LICENSEE SHALL RETURN THE AMOUNT OF THE
 27 UNAUTHORIZED FEES, CHARGES, FUNDS, OR PAYMENTS TO THE CONSUMER.

28 ~~(H)~~ ~~(I)~~ IN ADDITION TO ANY OTHER RIGHT OF RESCISSION CONTAINED IN
 29 THE DEBT MANAGEMENT SERVICES AGREEMENT, A CONSUMER MAY RESCIND A
 30 DEBT MANAGEMENT SERVICES AGREEMENT WITHIN 3 DAYS AFTER THE FINAL DEBT
 31 MANAGEMENT SERVICES AGREEMENT IS EXECUTED.

32 ~~(2)~~ A CONSUMER WHO RESCINDS A DEBT MANAGEMENT SERVICES
 33 AGREEMENT UNDER THIS SUBSECTION IS ENTITLED TO A REFUND OF ALL
 34 PAYMENTS MADE UNDER THE AGREEMENT, INCLUDING ANY VOLUNTARY
 35 CONTRIBUTION, LESS ANY PORTION OF THE CONSULTATION FEE THAT THE
 36 LICENSEE HAS EXPENDED IN PROVIDING SERVICES TO THE CONSUMER.

1 12-919.

2 (A) A LICENSEE SHALL PROVIDE TO EACH CONSUMER WITH WHOM THE
3 LICENSEE HAS A DEBT MANAGEMENT SERVICES AGREEMENT A WRITTEN
4 ACCOUNTING OF:

5 (1) THE AMOUNT OF FUNDS RECEIVED FROM THE CONSUMER FOR
6 PAYMENT TO THE CONSUMER'S CREDITORS SINCE THE LAST REPORT; AND

7 (2) THE AMOUNTS AND DATES OF DISBURSEMENTS MADE TO EACH
8 CREDITOR OF THE CONSUMER SINCE THE LAST REPORT.

9 (B) A LICENSEE SHALL PROVIDE THE ACCOUNTING REQUIRED UNDER
10 SUBSECTION (A) OF THIS SECTION:

11 (1) AT LEAST ONCE DURING EACH CALENDAR QUARTER; AND

12 (2) ON CANCELLATION OR TERMINATION OF THE DEBT MANAGEMENT
13 SERVICES AGREEMENT.

14 12-920.

15 (A) A LICENSEE MAY NOT:

16 (1) PURCHASE ANY DEBT OR OBLIGATION OF A CONSUMER;

17 (2) LEND MONEY OR PROVIDE CREDIT TO A CONSUMER;

18 (3) OBTAIN A MORTGAGE OR OTHER SECURITY INTEREST IN PROPERTY
19 OWNED BY A CONSUMER;

20 (4) OPERATE AS A COLLECTION AGENCY, AS DEFINED IN § 7-101 OF THE
21 BUSINESS REGULATION ARTICLE;

22 (5) STRUCTURE A DEBT MANAGEMENT SERVICES AGREEMENT IN A
23 MANNER THAT WOULD RESULT IN A NEGATIVE AMORTIZATION OF ANY OF THE
24 CONSUMER'S DEBTS;

25 (6) ~~ENGAGE IN FALSE, MISLEADING, OR DECEPTIVE ADVERTISING~~
26 ~~ABOUT THE TERMS AND CONDITIONS OF ANY SERVICE OR ASSISTANCE OFFERED TO~~
27 ~~CONSUMERS MAKE ANY FALSE, MISLEADING, OR DECEPTIVE REPRESENTATIONS OR~~
28 ~~OMISSIONS OF INFORMATION IN CONNECTION WITH THE OFFER, SALE, OR~~
29 ~~PERFORMANCE OF ANY SERVICE;~~

30 (7) OFFER, PAY, OR GIVE A SUBSTANTIAL GIFT, BONUS, PREMIUM,
31 REWARD, OR OTHER COMPENSATION TO A PERSON FOR REFERRING A PROSPECTIVE
32 CUSTOMER TO THE LICENSEE;

33 (8) OFFER AN INCENTIVE, INCLUDING A GIFT, BONUS, PREMIUM,
34 REWARD, OR OTHER COMPENSATION, TO A CONSUMER FOR EXECUTING A DEBT
35 MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE;

1 (9) CHARGE FOR OR PROVIDE CREDIT INSURANCE; OR

2 (10) COMPROMISE ANY DEBTS OF A CONSUMER UNLESS THE LICENSEE
3 HAS OBTAINED THE PRIOR WRITTEN APPROVAL OF THE CONSUMER, AND THE
4 COMPROMISE ~~INURES SOLELY TO THE BENEFIT OF~~ BENEFITS THE CONSUMER.

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

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

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

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

22 12-921.

23 (A) (1) ON OR BEFORE APRIL 30 OF EACH YEAR, A LICENSEE SHALL REPORT
24 TO THE COMMISSIONER ON THE DEBT MANAGEMENT SERVICES BUSINESS OF THE
25 LICENSEE CONDUCTED DURING THE PRECEDING CALENDAR YEAR.

26 (2) THE ANNUAL REPORT SHALL BE ON THE FORM THAT THE
27 COMMISSIONER REQUIRES.

28 (3) THE REPORT SHALL INCLUDE:

29 (I) AN AUDITED FINANCIAL STATEMENT THAT IS PREPARED IN
30 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND
31 INCLUDES A BALANCE SHEET, INCOME STATEMENT, STATEMENT OF CHANGES IN
32 FUND BALANCES, AND STATEMENT OF CASH FLOW;

33 (II) AN ALPHABETICAL LIST OF ALL DEBT MANAGEMENT
34 COUNSELORS ~~EMPLOYED BY~~ WHO PROVIDED SERVICES FOR THE LICENSEE DURING
35 THE PREVIOUS CALENDAR YEAR;

36 (III) THE NUMBER OF CONSUMERS ~~IN THE STATE~~ FOR WHOM THE
37 LICENSEE PROVIDED DEBT MANAGEMENT SERVICES UNDER A DEBT MANAGEMENT
38 SERVICES AGREEMENT DURING THE PRECEDING CALENDAR YEAR;

1 (IV) THE NUMBER OF CONSUMERS ~~IN THE STATE~~ WHO SIGNED NEW
2 DEBT MANAGEMENT SERVICES AGREEMENTS WITH THE LICENSEE DURING THE
3 PRECEDING CALENDAR YEAR;

4 (V) THE HIGHEST NUMBER OF CONSUMERS ~~IN THE STATE~~ FOR
5 WHOM THE LICENSEE PROVIDED DEBT MANAGEMENT SERVICES UNDER A DEBT
6 MANAGEMENT SERVICES AGREEMENT DURING ANY MONTH IN THE PRECEDING
7 CALENDAR YEAR; AND

8 (VI) THE AMOUNTS PAID BY CONSUMERS ~~IN THE STATE~~ TO THE
9 LICENSEE, BOTH IN TOTAL AND FOR EACH MONTH, DURING THE PRECEDING
10 CALENDAR YEAR, BROKEN DOWN BY:

11 1. PAYMENTS TO BE DISBURSED TO CREDITORS; AND

12 2. PAYMENTS FOR THE LICENSEE'S SERVICES.

13 (B) (1) WITHIN 15 DAYS AFTER THE OCCURRENCE OF ANY OF THE
14 FOLLOWING EVENTS, A LICENSEE SHALL FILE A WRITTEN REPORT WITH THE
15 COMMISSIONER DESCRIBING THE EVENT AND ITS EXPECTED IMPACT ON THE
16 LICENSEE'S ACTIVITIES IN THE STATE:

17 (I) THE FILING FOR BANKRUPTCY OR REORGANIZATION BY THE
18 LICENSEE;

19 (II) THE INSTITUTION OF A REVOCATION OR SUSPENSION
20 PROCEEDING AGAINST THE LICENSEE BY A GOVERNMENTAL AUTHORITY THAT IS
21 RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS IN ANY
22 STATE;

23 (III) A FELONY INDICTMENT OR CONVICTION OF THE LICENSEE, OR
24 ANY OF ITS OFFICERS ~~OR~~ DIRECTORS, OR DEBT MANAGEMENT COUNSELORS, THAT
25 IS RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS;

26 (IV) THE COMMENCEMENT OF A CIVIL ACTION BY A CONSUMER
27 AGAINST THE LICENSEE, OR ITS OWNERS, OFFICERS, DIRECTORS, ~~OR~~ PRINCIPALS, OR
28 DEBT MANAGEMENT COUNSELORS, THAT IS RELATED TO THE LICENSEE'S DEBT
29 MANAGEMENT SERVICES BUSINESS; ~~AND~~

30 (V) THE FILING OF ANY MATERIAL LITIGATION AGAINST THE
31 LICENSEE, OR ITS OWNERS, OFFICERS, DIRECTORS, ~~OR~~ PRINCIPALS, OR DEBT
32 MANAGEMENT COUNSELORS, THAT IS RELATED TO THE LICENSEE'S DEBT
33 MANAGEMENT SERVICES BUSINESS; AND

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

1 (2) THE WRITTEN REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
2 SUBSECTION SHALL BE SENT TO THE COMMISSIONER BY CERTIFIED MAIL, RETURN
3 RECEIPT REQUESTED, AND INCLUDE DETAILS SUFFICIENT TO IDENTIFY THE EVENT.

4 (C) THE COMMISSIONER MAY REQUIRE ANY OTHER REPORTS FROM A
5 LICENSEE THAT THE COMMISSIONER CONSIDERS NECESSARY.

6 (D) IF A LICENSEE FAILS TO MAKE ANY REPORT REQUIRED BY THIS SUBTITLE,
7 ~~THE LICENSEE SHALL PAY TO THE COMMISSIONER \$25~~ MAY REQUIRE THE LICENSEE
8 TO PAY A SURCHARGE NOT EXCEEDING \$50 FOR EACH DAY THAT THE REPORT IS
9 OVERDUE.

10 12-922.

11 (A) TO ENABLE THE COMMISSIONER TO DETERMINE COMPLIANCE WITH THIS
12 SUBTITLE, A LICENSEE SHALL MAKE AND PRESERVE THE FOLLOWING BOOKS,
13 ACCOUNTS, AND RECORDS FOR A PERIOD OF AT LEAST ~~5~~ 7 YEARS:

14 (1) A GENERAL LEDGER CONTAINING ALL ASSETS, LIABILITY, CAPITAL,
15 INCOME, AND EXPENSE ACCOUNTS;

16 (2) EACH DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN THE
17 LICENSEE AND A CONSUMER;

18 (3) BOOKS AND RECORDS FOR EACH CONSUMER WITH WHOM THE
19 LICENSEE HAS A DEBT MANAGEMENT SERVICES AGREEMENT; AND

20 (4) BANK STATEMENTS AND BANK RECONCILIATION RECORDS.

21 (B) A LICENSEE MAY RETAIN THE BOOKS, ACCOUNTS, AND RECORDS
22 REQUIRED UNDER THIS SECTION AT ANY LOCATION, PROVIDED THAT THE LICENSEE:

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

25 (2) MAKES THE BOOKS, ACCOUNTS, AND RECORDS AVAILABLE AT A
26 LOCATION IN THE STATE, AS AGREED BY THE COMMISSIONER AND THE LICENSEE,
27 WITHIN 7 DAYS AFTER A WRITTEN REQUEST FOR EXAMINATION BY THE
28 COMMISSIONER.

29 (C) A LICENSEE SHALL RETAIN THE BOOKS, ACCOUNTS, AND RECORDS
30 REQUIRED UNDER THIS SECTION IN:

31 (1) ORIGINAL FORM; OR

32 (2) PHOTOGRAPHIC, ELECTRONIC, OR OTHER SIMILAR FORM APPROVED
33 BY THE COMMISSIONER.

34 (D) IF THE COMMISSIONER FINDS THAT THE BOOKS, ACCOUNTS, AND
35 RECORDS OF THE LICENSEE ARE INSUFFICIENT TO DETERMINE COMPLIANCE WITH
36 THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE THE LICENSEE TO HAVE A

1 CERTIFIED PUBLIC ACCOUNTANT AUDIT THE LICENSEE, AT THE LICENSEE'S
2 EXPENSE, FOR ANY PERIOD OF TIME THAT THE COMMISSIONER CONSIDERS
3 NECESSARY.

4 (E) (1) A LICENSEE SHALL KEEP ALL BOOKS, ACCOUNTS, AND RECORDS
5 RELATING TO A CONSUMER CONFIDENTIAL, AND MAY NOT DISCLOSE ANY
6 INFORMATION ABOUT A CONSUMER EXCEPT TO A DULY AUTHORIZED GOVERNMENT
7 OFFICIAL, THE CONSUMER, OR THE CONSUMER'S REPRESENTATIVE.

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

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

15 12-923.

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

19 (1) A LICENSEE;

20 (2) A PERSON THAT IS ENGAGED OR PARTICIPATING IN THE BUSINESS
21 OF PROVIDING DEBT MANAGEMENT SERVICES; AND

22 (3) ANY OTHER PERSON THAT THE COMMISSIONER HAS CAUSE TO
23 BELIEVE IS VIOLATING THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS
24 SUBTITLE, WHETHER THAT PERSON CLAIMS TO BE WITHIN OR BEYOND THE SCOPE
25 OF THIS SUBTITLE.

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

27 (1) SHALL BE GIVEN ACCESS TO THE PLACE OF BUSINESS, BOOKS,
28 PAPERS, RECORDS, SAFES, AND VAULTS OF THE PERSON UNDER INVESTIGATION;
29 AND

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

32 (C) IF, AFTER AN INVESTIGATION CONDUCTED UNDER THIS SUBSECTION,
33 THE COMMISSIONER FINDS THAT THE PERSON THAT WAS INVESTIGATED VIOLATED
34 THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE PERSON
35 BEING INVESTIGATED SHALL PAY ALL REASONABLY INCURRED COSTS OF AN THE
36 INVESTIGATION CONDUCTED UNDER THIS SECTION.

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

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

8 12-924.

9 (A) THE COMMISSIONER MAY CONDUCT AN ON-SITE EXAMINATION OF A
10 LICENSEE WITH OR WITHOUT PRIOR NOTICE.

11 (B) THE LICENSEE SHALL PAY ALL REASONABLY INCURRED COSTS ~~OF~~
12 DIRECTLY RELATED TO AN EXAMINATION CONDUCTED UNDER THIS SECTION,
13 INCLUDING THE TRAVEL EXPENSES, LODGING EXPENSES, AND A PER DIEM FOR
14 EXAMINERS.

15 (C) AN ON-SITE EXAMINATION MAY BE CONDUCTED IN CONJUNCTION WITH
16 AN EXAMINATION PERFORMED BY A REPRESENTATIVE OF A RESPONSIBLE
17 SUPERVISORY AGENCY OF ANOTHER STATE.

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

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

23 (E) THE COMMISSIONER MAY:

24 (1) EXAMINE ALL BOOKS, ACCOUNTS, AND RECORDS THAT THE
25 COMMISSIONER DETERMINES ARE NECESSARY TO CONDUCT A COMPLETE
26 EXAMINATION, INCLUDING THE BOOKS, ACCOUNTS, AND RECORDS IN THE
27 POSSESSION OF A SUBSIDIARY, AFFILIATE, OR OTHER PERSON THAT RELATE TO THE
28 OPERATION OF AND SERVICES PROVIDED BY THE LICENSEE'S DEBT MANAGEMENT
29 SERVICES BUSINESS; AND

30 (2) EXAMINE UNDER OATH ANY OWNER, OFFICER, DIRECTOR,
31 PRINCIPAL, AND EMPLOYEE OF THE LICENSEE OR ANY OTHER INDIVIDUAL WHO MAY
32 PROVIDE INFORMATION ON BEHALF OF THE LICENSEE.

33 12-925.

34 A LICENSEE SHALL INCLUDE IN ANY ADVERTISEMENT THE LICENSEE'S DEBT
35 MANAGEMENT SERVICES LICENSE NUMBER.

1 12-926.

2 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AND SUBJECT
3 TO THE HEARING PROVISIONS OF § 12-927 OF THIS SUBTITLE, THE COMMISSIONER
4 MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A LICENSEE, OR SUSPEND OR
5 REVOKE THE LICENSE OF A LICENSEE IF THE APPLICANT OR LICENSEE OR AN
6 OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE APPLICANT OR LICENSEE:

7 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
8 OBTAIN A LICENSE;

9 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE OR DEBT
10 MANAGEMENT SERVICES LICENSE NUMBER;

11 (3) PRESENTS OR ATTEMPTS TO PRESENT THE DEBT MANAGEMENT
12 SERVICES LICENSE NUMBER OF ANOTHER LICENSEE AS THE APPLICANT'S OR
13 LICENSEE'S DEBT MANAGEMENT SERVICES LICENSE NUMBER;

14 (4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION
15 ADOPTED UNDER THIS SUBTITLE;

16 (5) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY
17 STATE OF:

18 (I) A FELONY; OR

19 (II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS
20 AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO ENGAGE IN THE BUSINESS
21 OF PROVIDING DEBT MANAGEMENT SERVICES;

22 (6) IN CONNECTION WITH THE PROVISION OF DEBT MANAGEMENT
23 SERVICES:

24 (I) COMMITS A FRAUD;

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

26 (III) HAS ENGAGED OR PARTICIPATED IN AN UNSAFE OR UNSOUND
27 ACT; OR

28 (IV) MISREPRESENTS OR FAILS TO DISCLOSE A MATERIAL FACT TO
29 A PERSON ENTITLED TO THAT INFORMATION;

30 (7) ENGAGES IN FALSE, MISLEADING, OR DECEPTIVE ADVERTISING; OR

31 (8) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,
32 DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE
33 APPLICANT OR LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY,
34 FAIRLY, AND EQUITABLY.

1 (B) IN DETERMINING WHETHER TO DENY A LICENSE TO AN APPLICANT,
 2 REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE THE LICENSE OF A LICENSEE FOR
 3 A REASON LISTED IN SUBSECTION (A)(5) OF THIS SECTION, THE COMMISSIONER
 4 SHALL CONSIDER:

5 (1) THE NATURE OF THE CRIME;

6 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED
 7 BY THE LICENSE;

8 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION
 9 TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO PROVIDE
 10 DEBT MANAGEMENT SERVICES;

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

12 (5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE
 13 SINCE THE CONVICTION.

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

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

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

23 12-927.

24 (A) BEFORE THE COMMISSIONER DENIES AN APPLICATION FOR A LICENSE
 25 UNDER § 12-910 OF THIS SUBTITLE OR TAKES ANY ACTION UNDER § 12-926 OF THIS
 26 SUBTITLE, THE COMMISSIONER SHALL GIVE THE APPLICANT OR LICENSEE AN
 27 OPPORTUNITY FOR A HEARING.

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

31 12-928.

32 ~~(A) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE~~
 33 ~~BY ISSUING AN ORDER REQUIRING THE VIOLATOR TO:~~

34 ~~(1) CEASE AND DESIST FROM THE VIOLATION AND ANY FURTHER~~
 35 ~~SIMILAR VIOLATIONS; AND~~

1 ~~(2)~~ TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION,
 2 INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON AGGRIEVED
 3 BY THE VIOLATION.

4 ~~(B)~~ IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER
 5 SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL
 6 PENALTY NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING
 7 \$5,000 FOR EACH SUBSEQUENT VIOLATION FROM WHICH THE VIOLATOR FAILED TO
 8 CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE AFFIRMATIVE
 9 ACTION.

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

12 (I) ISSUING AN ORDER REQUIRING THE VIOLATOR:

13 1. TO CEASE AND DESIST FROM THE VIOLATION AND ANY
 14 FURTHER SIMILAR VIOLATIONS; AND

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

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

20 (2) AN ORDER ISSUED UNDER THIS SUBSECTION MAY APPLY TO A
 21 LICENSEE'S AGENT THAT VIOLATES ANY PROVISION OF THIS SUBTITLE OR THE
 22 REGULATIONS ADOPTED UNDER THIS SUBTITLE.

23 ~~(2)~~ (3) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED
 24 UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSIONER MAY IMPOSE A
 25 CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION FROM WHICH THE
 26 VIOLATOR FAILED TO CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO
 27 TAKE CORRECTIVE AFFIRMATIVE ACTION.

28 ~~(B)~~ (B) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT
 29 FOR ANY COUNTY SEEKING ENFORCEMENT OF AN ORDER ISSUED UNDER THIS
 30 SECTION.

31 ~~(D)~~ (C) IN DETERMINING THE AMOUNT OF FINANCIAL PENALTY TO BE
 32 IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL
 33 CONSIDER THE FOLLOWING:

34 (1) THE SERIOUSNESS OF THE VIOLATION;

35 (2) THE GOOD FAITH OF THE VIOLATOR;

36 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

- 1 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;
2 (5) THE ASSETS OF THE VIOLATOR; AND
3 (6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE
4 FINANCIAL PENALTY.

5 12-929.

6 A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES ANY PROVISION OF
7 THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE
8 NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING \$5,000 FOR
9 EACH SUBSEQUENT VIOLATION OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR
10 BOTH.

11 12-930.

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

16 ~~12-930.~~ 12-931.

17 THIS SUBTITLE MAY BE CITED AS THE MARYLAND DEBT MANAGEMENT
18 SERVICES ACT.

19 SECTION 2. AND BE IT FURTHER ENACTED, That, in the absence of an
20 order by the Commissioner of Financial Regulation to the contrary, an organization
21 providing debt management services ~~in the State to Maryland consumers~~ on the
22 effective date of this Act may continue to provide debt management services ~~in the~~
23 ~~State to Maryland consumers~~ without being licensed, as required under Section 1 of
24 this Act, until the Commissioner approves or disapproves the organization's
25 application for a license if:

26 (a) the organization applies for a license no later than 60 days after the date
27 the Commissioner makes license applications available; and

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

29 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding §
30 12-912(a) of the Financial Institutions Article, as enacted by Section 1 of this Act, a
31 license issued on or after October 1, 2003, and on or before December 31, 2003,
32 expires on December 31, 2005, unless it is renewed for a 2-year term as provided in
33 § 12-912(b) of the Financial Institutions Article, as enacted by Section 1 of this Act.

34 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1,
35 2004, the Commissioner of Financial Regulation shall report, in accordance with §
36 2-1246 of the State Government Article, to the Senate Finance Committee and the
37 House Economic Matters Committee on the number of licenses that the

1 Commissioner has issued under this Act and any recommendations for changes to the
 2 Maryland Debt Management Services Act, as enacted by Section 1 of this Act.

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

5 **Article -- Financial Institutions**

6 12-905.

7 (a) ~~(1)~~ There is a Debt Management Services [Fund that] FUND:

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

10 ~~(3)~~ THE FUND consists of:

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

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

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

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

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

22 ~~(1)~~ Expenditures authorized under this subtitle; and

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

24 (d) ~~[(1)]~~ The Treasurer is the custodian of the Fund.

25 ~~(2)~~ The Treasurer shall deposit payments received from the
 26 Commissioner into the Fund.

27 (e) ~~(1)~~ The Fund is a continuing, nonlapsing fund that is not subject to §
 28 7-302 of the State Finance and Procurement Article, and may not be deemed a part of
 29 the General Fund of the State.

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

32 ~~(i)~~ The General Fund of the State; or

- 1 (ii) ~~A special fund of the State.~~
- 2 ~~(f) (1) All the costs and expenses of the Commissioner relating to the~~
3 ~~regulation of the debt management services business under this subtitle shall be~~
4 ~~included in the State budget.~~
- 5 (2) ~~Any expenditures from the Fund to cover costs and expenses of the~~
6 ~~Commissioner may be made only:~~
- 7 (i) ~~By an appropriation from the Fund approved by the General~~
8 ~~Assembly in the annual State budget; or~~
- 9 (ii) ~~By the budget amendment procedure provided for in § 7-209 of~~
10 ~~the State Finance and Procurement Article.~~
- 11 ~~(3) If, in any fiscal year, the amount of the revenue collected by the~~
12 ~~Commissioner and deposited into the Fund exceeds the actual appropriation for the~~
13 ~~Commissioner to regulate the debt management services business under this subtitle,~~
14 ~~the excess amount shall be carried forward within the Fund.~~
- 15 ~~(g) The Office of Legislative Audits shall audit the accounts and transactions~~
16 ~~of the Fund under § 2-1220 of the State Government Article.]~~
- 17 ~~SECTION 6. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall~~
18 ~~take effect October 1, 2003, contingent on the taking effect of Chapter _____ (H.B.~~
19 ~~1155) of the Acts of the General Assembly of 2003, and if Chapter _____ does not~~
20 ~~become effective, Section 5 of this Act shall be null and void without the necessity of~~
21 ~~further action by the General Assembly.~~
- 22 ~~SECTION 3, 7, 5. AND BE IT FURTHER ENACTED, That, subject to Section 6~~
23 ~~of this Act, this Act shall take effect October 1, 2003.~~