
By: **Senators Hogan, Astle, Della, Exum, Gladden, Hafer, Hooper, Kelley,
Klausmeier, Middleton, and Teitelbaum**

Introduced and read first time: January 31, 2003

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Debt Management Services Act**

3 FOR the purpose of prohibiting a person from providing debt management services
4 unless licensed by the Commissioner of Financial Regulation or exempt from
5 licensing under this Act; authorizing the Commissioner to take certain actions to
6 carry out this Act; authorizing the Commissioner by regulation to establish
7 certain fees; establishing a certain Debt Management Services Fund;
8 establishing certain qualifications for an applicant for a license; requiring an
9 applicant to submit a certain application, pay certain fees, and file a certain
10 surety bond; requiring an applicant and licensee to provide fingerprints under
11 certain circumstances; requiring the Commissioner to investigate an applicant
12 and approve or deny each application for a license within a certain period of
13 time; requiring the Commissioner to include certain information on each license;
14 requiring a licensee that offers or provides debt management services through
15 the Internet to include a certain notice on its website; providing for the renewal
16 of a license; establishing procedures for surrendering a license; specifying
17 certain requirements for a surety bond required under this Act; requiring a
18 licensee to give certain notices to and file certain reports with the
19 Commissioner; establishing a certain penalty for failure to file certain reports;
20 prohibiting a licensee from performing debt management services for a
21 consumer unless certain actions have been taken; specifying the contents of a
22 debt management services agreement; requiring a licensee to deposit, in a
23 certain trust account, certain funds received by the licensee; prohibiting a
24 licensee from imposing certain fees or other charges or receiving certain funds
25 or payments except under certain circumstances; requiring a licensee to provide
26 certain accountings to consumers at certain times; establishing certain
27 prohibited acts; requiring a licensee to make and preserve certain books,
28 accounts, and records for a certain period of time and in a certain location and
29 form; requiring a licensee to include in any advertisement the licensee's debt
30 management services license number; authorizing the Commissioner to
31 investigate certain persons for certain purposes and to conduct certain on-site
32 examinations of a licensee; authorizing the Commissioner to deny a license to an
33 applicant, reprimand a licensee, or suspend or revoke the license of a licensee
34 under certain circumstances; requiring the Commissioner to give an applicant

1 or licensee an opportunity for a hearing under certain circumstances;
2 authorizing the Commissioner to issue certain orders, impose certain civil
3 penalties, and file certain petitions to enforce this Act; providing certain
4 criminal penalties for certain violations of this Act; establishing a certain short
5 title; establishing the scope of this Act; defining certain terms; repealing certain
6 provisions of law governing the business of debt adjusting; allowing certain
7 organizations providing debt management services in the State on the effective
8 date of this Act to continue to provide debt management services without being
9 licensed until a certain time under certain circumstances; and generally relating
10 to the Maryland Debt Management Services Act.

11 BY repealing

12 Article - Commercial Law
13 Section 14-1316
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2002 Supplement)

16 BY adding to

17 Article - Financial Institutions
18 Section 12-901 through 12-930, inclusive, to be under the new subtitle "Subtitle
19 9. Maryland Debt Management Services Act"
20 Annotated Code of Maryland
21 (1998 Replacement Volume and 2002 Supplement)

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

24 **Article - Commercial Law**

25 [14-1316.

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

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

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

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

37 (1) A lawyer;

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

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

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

6 (5) A nonprofit, religious, fraternal, or cooperative organization that
 7 offers debt management service exclusively for members, if a charge is not made and
 8 a fee is not imposed;

9 (6) A certified public accountant; and

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

12 **Article - Financial Institutions**

13 **SUBTITLE 9. MARYLAND DEBT MANAGEMENT SERVICES ACT.**

14 12-901.

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

17 (B) "CONSUMER" MEANS AN INDIVIDUAL WHO IS SEEKING DEBT
 18 MANAGEMENT SERVICES OR HAS ENTERED INTO A DEBT MANAGEMENT SERVICES
 19 AGREEMENT.

20 (C) "CONSUMER EDUCATION PROGRAM" MEANS A PROGRAM OR PLAN THAT
 21 SEEKS TO IMPROVE THE FINANCIAL LITERACY OF CONSUMERS.

22 (D) "DEBT MANAGEMENT COUNSELOR" MEANS A PERMANENT, TEMPORARY,
 23 OR CONTRACTUAL EMPLOYEE OF A DEBT MANAGEMENT SERVICES PROVIDER WHO
 24 PROVIDES DEBT MANAGEMENT ADVICE ON BEHALF OF THE DEBT MANAGEMENT
 25 SERVICES PROVIDER.

26 (E) "DEBT MANAGEMENT SERVICES" MEANS:

27 (1) RECEIVING FUNDS FROM A CONSUMER FOR THE PURPOSE OF
 28 DISTRIBUTING THE FUNDS AMONG THE CONSUMER'S CREDITORS IN PAYMENT OR
 29 PARTIAL PAYMENT OF THE CONSUMER'S DEBTS; OR

30 (2) SETTling, ADJUSTING, PRORATING, POOLING, COMPROMISING, OR
 31 LIQUIDATING THE INDEBTEDNESS OF A CONSUMER.

32 (F) "DEBT MANAGEMENT SERVICES AGREEMENT" MEANS A WRITTEN
 33 CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT MANAGEMENT SERVICES

1 PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT MANAGEMENT
2 SERVICES.

3 (G) "DEBT MANAGEMENT SERVICES PROVIDER" MEANS AN ORGANIZATION
4 THAT PROVIDES OR OFFERS TO PROVIDE DEBT MANAGEMENT SERVICES TO A
5 CONSUMER IN THE STATE.

6 (H) "FUND" MEANS THE DEBT MANAGEMENT SERVICES FUND ESTABLISHED
7 UNDER § 12-905 OF THIS SUBTITLE.

8 (I) "LICENSEE" MEANS AN ORGANIZATION LICENSED UNDER THIS SUBTITLE
9 TO PROVIDE DEBT MANAGEMENT SERVICES.

10 (J) "MAINTENANCE FEE" MEANS A FEE PAID BY A CONSUMER TO A DEBT
11 MANAGEMENT SERVICES PROVIDER FOR THE MAINTENANCE OR SERVICING OF THE
12 CONSUMER'S ACCOUNTS WITH THE CONSUMER'S CREDITORS IN ACCORDANCE WITH
13 A DEBT MANAGEMENT SERVICES AGREEMENT.

14 (K) "ORGANIZATION" MEANS A NONPROFIT ORGANIZATION THAT IS EXEMPT
15 FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

16 (L) "RESIDENT AGENT" MEANS AN INDIVIDUAL RESIDING IN THE STATE OR A
17 MARYLAND CORPORATION WHOSE NAME, ADDRESS, AND DESIGNATION AS A
18 RESIDENT AGENT ARE FILED OR RECORDED WITH THE STATE DEPARTMENT OF
19 ASSESSMENTS AND TAXATION IN ACCORDANCE WITH THE PROVISIONS OF THE
20 CORPORATIONS AND ASSOCIATIONS ARTICLE.

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

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

25 (1) ESTABLISHED IN A FINANCIAL INSTITUTION;

26 (2) SEPARATE FROM THE DEBT MANAGEMENT SERVICES PROVIDER'S
27 OPERATING ACCOUNT;

28 (3) IMPRESSED WITH A TRUST THAT IS FREE FROM THE TRUSTEE
29 PROCESS;

30 (4) UNAVAILABLE TO CREDITORS OF THE DEBT MANAGEMENT
31 SERVICES PROVIDER; AND

32 (5) USED TO HOLD FUNDS PAID BY CONSUMERS TO A DEBT
33 MANAGEMENT SERVICES PROVIDER FOR DISBURSEMENT TO CREDITORS OF THE
34 CONSUMERS.

1 12-902.

2 THIS SUBTITLE DOES NOT APPLY TO:

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

5 (I) AN ATTORNEY AT LAW;

6 (II) AN ESCROW AGENT;

7 (III) A CERTIFIED PUBLIC ACCOUNTANT;

8 (IV) A BANK, SAVINGS AND LOAN, CREDIT UNION, OR TRUST
9 COMPANY;

10 (V) A TITLE INSURER OR ABSTRACT COMPANY; OR

11 (VI) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A COURT
12 ORDER;

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

16 (3) A TRADE OR MERCANTILE ASSOCIATION ACTING IN THE COURSE OF
17 ARRANGING THE ADJUSTMENT OF DEBTS WITH A BUSINESS ESTABLISHMENT.

18 12-903.

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

20 (1) ADOPT RULES AND REGULATIONS;

21 (2) ENTER INTO COOPERATIVE AND INFORMATION SHARING
22 AGREEMENTS WITH ANY OTHER FEDERAL OR STATE AGENCIES HAVING
23 SUPERVISORY RESPONSIBILITY OVER DEBT MANAGEMENT SERVICES BUSINESSES;
24 AND

25 (3) PROVIDE ANY FEDERAL OR STATE AGENCY HAVING SUPERVISORY
26 RESPONSIBILITY OVER DEBT MANAGEMENT SERVICES BUSINESSES WITH ANY
27 DOCUMENTS OR OTHER INFORMATION.

28 12-904.

29 (A) THE COMMISSIONER BY REGULATION SHALL ESTABLISH:

30 (1) A FEE, NOT EXCEEDING \$1,000, FOR THE ISSUANCE OF A LICENSE
31 UNDER THIS SUBTITLE;

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

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

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

9 (B) ANY FEES CHARGED BY THE COMMISSIONER UNDER THIS SUBTITLE
10 SHALL APPROXIMATE THE DIRECT AND INDIRECT COSTS OF ADMINISTERING AND
11 ENFORCING THIS SUBTITLE.

12 12-905.

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

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

16 (2) INCOME FROM INVESTMENTS THAT THE TREASURER MAKES FOR
17 THE FUND; AND

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

20 (B) THE COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED
21 BY THE COMMISSIONER UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE
22 STATE.

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

26 (1) EXPENDITURES AUTHORIZED UNDER THIS SUBTITLE; AND

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

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

29 (2) THE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM THE
30 COMMISSIONER INTO THE FUND.

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

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

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

2 (II) A SPECIAL FUND OF THE STATE.

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

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

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

10 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §
11 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

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

19 12-906.

20 A PERSON MAY NOT PROVIDE DEBT MANAGEMENT SERVICES IF THAT PERSON,
21 OR THE PERSON WITH WHOM THAT PERSON PROVIDES DEBT MANAGEMENT
22 SERVICES, IS LOCATED IN THE STATE UNLESS THAT PERSON:

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

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

25 12-907.

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

28 (1) THE APPLICANT IS AN ORGANIZATION;

29 (2) EACH OF THE OWNERS, OFFICERS, DIRECTORS, AND PRINCIPALS OF
30 THE APPLICANT HAS SUFFICIENT EXPERIENCE, CHARACTER, FINANCIAL
31 RESPONSIBILITY, AND GENERAL FITNESS TO:

32 (I) ENGAGE IN THE BUSINESS OF PROVIDING DEBT MANAGEMENT
33 SERVICES;

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

4 (III) COMMAND THE CONFIDENCE OF THE PUBLIC;

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

8 (I) ENGAGE IN THE BUSINESS OF MANAGING A TRUST ACCOUNT;

9 (II) WARRANT THE BELIEF THAT THE MANAGEMENT OF THE TRUST
10 ACCOUNT WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY;
11 AND

12 (III) COMMAND THE CONFIDENCE OF THE PUBLIC; AND

13 (4) THE APPLICANT HAS A NET WORTH COMPUTED ACCORDING TO
14 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OF AT LEAST \$50,000, PLUS AN
15 ADDITIONAL NET WORTH OF \$10,000 FOR EACH LOCATION AT WHICH DEBT
16 MANAGEMENT SERVICES WILL BE PROVIDED TO THE PUBLIC, UP TO A MAXIMUM OF
17 \$500,000 AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.

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

20 (1) THE NATURE AND VOLUME OF THE BUSINESS OR PROPOSED
21 BUSINESS OF THE APPLICANT;

22 (2) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF THE ASSETS OF
23 THE APPLICANT;

24 (3) THE AMOUNT AND NATURE OF THE LIABILITIES, INCLUDING
25 CONTINGENT LIABILITIES, OF THE APPLICANT;

26 (4) THE HISTORY OF AND PROSPECTS FOR THE APPLICANT TO EARN
27 AND RETAIN INCOME;

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

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

30 (7) THE NATURE AND QUALITY OF THE PERSON THAT HAS CONTROL OF
31 THE APPLICANT; AND

32 (8) ANY OTHER FACTOR THAT THE COMMISSIONER CONSIDERS
33 RELEVANT.

1 12-908.

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

5 (B) THE APPLICATION SHALL INCLUDE:

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

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

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

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

14 (5) A DESCRIPTION OF THE OWNERSHIP INTEREST OF ANY OFFICER,
15 DIRECTOR, AGENT, OR EMPLOYEE OF THE APPLICANT IN ANY AFFILIATE OR
16 SUBSIDIARY OF THE APPLICANT OR IN ANY OTHER BUSINESS ENTITY THAT
17 PROVIDES ANY SERVICE TO THE APPLICANT RELATING TO THE APPLICANT'S DEBT
18 MANAGEMENT SERVICES BUSINESS;

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

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

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

24 (I) THE APPLICANT ENGAGES IN THE BUSINESS OF PROVIDING
25 DEBT MANAGEMENT SERVICES;

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

28 (III) THE APPLICANT'S REGISTRATION OR LICENSE HAS BEEN
29 SUSPENDED OR REVOKED;

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

33 (10) THE MOST RECENT, UNCONSOLIDATED FINANCIAL STATEMENT OF
34 THE APPLICANT THAT:

- 1 (I) IS PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED
2 ACCOUNTING PRINCIPLES APPLIED ON A CONSISTENT BASIS;
- 3 (II) INCLUDES A CERTIFIED OPINION AUDIT PREPARED BY AN
4 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; AND
- 5 (III) WAS PREPARED NO MORE THAN 12 MONTHS BEFORE THE DATE
6 OF APPLICATION;
- 7 (11) EVIDENCE OF NONPROFIT STATUS UNDER § 501(C) OF THE INTERNAL
8 REVENUE CODE;
- 9 (12) IF THE APPLICANT IS A CORPORATION, A DETAILED DESCRIPTION OF
10 THE APPLICANT'S CORPORATE STRUCTURE, INCLUDING PARENT COMPANIES,
11 SUBSIDIARIES, AND AFFILIATES;
- 12 (13) THE APPLICANT'S BUSINESS CREDIT REPORT;
- 13 (14) EVIDENCE OF GENERAL LIABILITY OR FIDELITY INSURANCE
14 COVERAGE THAT RUNS TO THE STATE TO BE USED FOR THE BENEFIT OF ANY
15 CONSUMER INJURED AS A RESULT OF THE DISHONESTY, FRAUD, THEFT, OR OTHER
16 MALFEASANCE ON THE PART OF AN EMPLOYEE OF THE APPLICANT;
- 17 (15) A DESCRIPTION OF THE APPLICANT'S CONSUMER EDUCATION
18 PROGRAM;
- 19 (16) A DESCRIPTION OF THE APPLICANT'S FINANCIAL ANALYSIS PLAN
20 THAT IS USED TO EVALUATE THE FINANCIAL CONDITION OF CONSUMERS;
- 21 (17) A COPY OF THE DEBT MANAGEMENT SERVICES AGREEMENT THAT
22 THE APPLICANT WILL USE IN ITS DEBT MANAGEMENT SERVICES BUSINESS;
- 23 (18) A COPY OF THE APPLICANT'S PLAN TO ENSURE THAT EACH DEBT
24 MANAGEMENT COUNSELOR EMPLOYED BY THE APPLICANT IS CERTIFIED BY AN
25 INDEPENDENT ORGANIZATION WITHIN 6 MONTHS AFTER THE DEBT MANAGEMENT
26 COUNSELOR IS HIRED, AND THAT ANY EMPLOYEE WHO IS A SUPERVISOR OR
27 MANAGER OF A DEBT MANAGEMENT COUNSELOR IS CERTIFIED BY AN
28 INDEPENDENT ORGANIZATION WITHIN 3 MONTHS AFTER THE EMPLOYEE IS HIRED;
29 AND
- 30 (19) ANY OTHER INFORMATION THAT THE COMMISSIONER REASONABLY
31 REQUIRES.
- 32 (C) THE COMMISSIONER MAY REFUSE AN APPLICATION IF IT CONTAINS
33 ERRONEOUS OR INCOMPLETE INFORMATION.
- 34 (D) WITH THE APPLICATION, THE APPLICANT SHALL PAY TO THE
35 COMMISSIONER:

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

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

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

7 12-909.

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

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

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

20 (D) THE COMMISSIONER MAY REQUIRE ANY AGENT ACTING ON BEHALF OF A
21 LICENSEE TO MANAGE A TRUST ACCOUNT REQUIRED UNDER § 12-917 OF THIS
22 SUBTITLE TO PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF
23 INVESTIGATION AND THE MARYLAND CRIMINAL JUSTICE INFORMATION SYSTEM
24 CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND
25 CORRECTIONAL SERVICES TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

26 12-910.

27 (A) AFTER AN APPLICANT FOR A LICENSE FILES A COMPLETE APPLICATION,
28 FILES A SURETY BOND, AND PAYS THE LICENSE AND INVESTIGATION FEES
29 REQUIRED UNDER THIS SUBTITLE, THE COMMISSIONER SHALL INVESTIGATE THE
30 FACTS RELEVANT TO THE APPLICATION TO DETERMINE IF THE APPLICANT MEETS
31 THE REQUIREMENTS OF THIS SUBTITLE.

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

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

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

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

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

6 (III) SHALL REFUND THE LICENSE FEE; AND

7 (IV) SHALL KEEP THE INVESTIGATION FEE.

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

12 12-911.

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

14 (1) THE NAME OF THE LICENSEE;

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

16 (3) THE DEBT MANAGEMENT SERVICES LICENSE NUMBER OF THE
17 LICENSEE.

18 (B) A LICENSE AUTHORIZES THE LICENSEE TO PROVIDE DEBT MANAGEMENT
19 SERVICES.

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

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

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

27 (E) A LICENSEE THAT OFFERS OR PROVIDES DEBT MANAGEMENT SERVICES
28 THROUGH THE INTERNET SHALL INCLUDE THE FOLLOWING NOTICE ON ITS
29 WEBSITE:

30 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF
31 MARYLAND WILL ACCEPT ANY QUESTIONS AND COMPLAINTS FROM MARYLAND
32 RESIDENTS REGARDING (NAME AND LICENSE NUMBER OF THE DEBT MANAGEMENT
33 SERVICES PROVIDER) AT (ADDRESS OF COMMISSIONER), PHONE (TOLL-FREE
34 NUMBER OF THE COMMISSIONER)".

1 12-912.

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

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

7 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

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

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

13 (4) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE
14 FORM THAT THE COMMISSIONER REQUIRES.

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

17 12-913.

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

20 (2) THE STATEMENT SHALL PROVIDE:

21 (I) THE REASON FOR THE LICENSE SURRENDER;

22 (II) FOR EACH CONSUMER LOCATED IN THE STATE FOR WHOM THE
23 LICENSEE IS PROVIDING DEBT MANAGEMENT SERVICES, THE FOLLOWING
24 INFORMATION:

25 1. THE NAME OF THE CONSUMER;

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

28 3. THE NAME OF EACH CREDITOR OF THE CONSUMER THAT
29 IS RECEIVING PAYMENTS FROM THE LICENSEE FOR DEBTS OWED BY THE
30 CONSUMER TO THE CREDITOR, AND THE OUTSTANDING BALANCE OWED TO EACH
31 CREDITOR.

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

33 (1) AFFECT ANY CIVIL OR CRIMINAL LIABILITY OF THE LICENSEE FOR
34 ACTS COMMITTED BEFORE THE LICENSE IS SURRENDERED;

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

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

5 12-914.

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

9 (B) (1) A SURETY BOND FILED UNDER THIS SECTION SHALL RUN TO THE
10 STATE FOR THE BENEFIT OF ANY INDIVIDUAL WHO RESIDES IN THE STATE AND WHO
11 HAS BEEN INJURED BY A VIOLATION OF THIS SUBTITLE OR A REGULATION ADOPTED
12 UNDER THIS SUBTITLE COMMITTED BY A LICENSEE.

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

20 (3) THE SURETY BOND SHALL BE:

21 (I) IN AN AMOUNT NOT LESS THAN \$10,000 AND NOT MORE THAN
22 \$1,000,000, AS SET BY THE COMMISSIONER;

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

25 (III) CONDITIONED SO THAT THE LICENSEE SHALL COMPLY WITH
26 ALL STATE AND FEDERAL LAWS AND REGULATIONS GOVERNING THE BUSINESS OF
27 PROVIDING DEBT MANAGEMENT SERVICES.

28 (4) THE LIABILITY OF A SURETY:

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

32 (II) CONTINUES AS TO ALL TRANSACTIONS OF THE LICENSEE FOR
33 NO LONGER THAN 2 YEARS AFTER THE LICENSEE CEASES, FOR ANY REASON, TO BE
34 LICENSED.

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

1 (6) IN SETTING THE AMOUNT OF THE SURETY BOND, THE
2 COMMISSIONER SHALL CONSIDER:

3 (I) THE FINANCIAL CONDITION AND BUSINESS EXPERIENCE OF
4 THE APPLICANT OR LICENSEE;

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

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

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

13 (V) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS
14 APPROPRIATE.

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

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

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

26 12-915.

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

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

36 (C) (1) TO REQUEST APPROVAL OF A PROPOSED CHANGE DESCRIBED IN
37 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 INFORMATION
11 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

12 12-916.

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

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

17 (2) A DEBT MANAGEMENT SERVICES COUNSELOR CERTIFIED BY AN
18 INDEPENDENT ORGANIZATION HAS:

19 (I) PREPARED A FINANCIAL ANALYSIS OF THE CONSUMER'S DEBT
20 OBLIGATIONS; AND

21 (II) PROVIDED A COPY OF THE FINANCIAL ANALYSIS TO THE
22 CONSUMER;

23 (3) THE LICENSEE AND THE CONSUMER HAVE EXECUTED A DEBT
24 MANAGEMENT SERVICES AGREEMENT THAT DESCRIBES THE DEBT MANAGEMENT
25 SERVICES TO BE PROVIDED BY THE LICENSEE TO THE CONSUMER;

26 (4) THE LICENSEE HAS ESTABLISHED AN AGREEMENT, WITH EACH
27 CREDITOR OF THE CONSUMER THAT IS LISTED IN THE CONSUMER'S DEBT
28 MANAGEMENT SERVICES AGREEMENT, FOR THE PAYMENT OF THE CONSUMER'S
29 DEBTS OWED TO THE CREDITOR; AND

30 (5) A COPY OF THE COMPLETED DEBT MANAGEMENT SERVICES
31 AGREEMENT HAS BEEN PROVIDED TO THE CONSUMER.

32 (B) EACH DEBT MANAGEMENT SERVICES AGREEMENT SHALL:

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

34 (2) INCLUDE:

35 (I) THE NAME, ADDRESS, AND PHONE NUMBER OF THE
36 CONSUMER;

1 (II) THE NAME, ADDRESS, PHONE NUMBER, AND LICENSE NUMBER
2 OF THE LICENSEE;

3 (III) A DESCRIPTION OF THE DEBT MANAGEMENT SERVICES TO BE
4 PROVIDED TO THE CONSUMER AND ANY FEES TO BE CHARGED TO THE CONSUMER
5 FOR THE DEBT MANAGEMENT SERVICES;

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

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

11 (VI) A NOTICE OF THE RIGHT OF A PARTY TO THE DEBT
12 MANAGEMENT SERVICES AGREEMENT TO CANCEL THE DEBT MANAGEMENT
13 SERVICES AGREEMENT BY GIVING WRITTEN NOTICE OF CANCELLATION TO THE
14 OTHER PARTY;

15 (VII) A SCHEDULE OF PAYMENTS THAT THE CONSUMER MUST MAKE
16 TO THE DEBT MANAGEMENT SERVICES PROVIDER, FOR DISBURSEMENT TO THE
17 CONSUMER'S CREDITORS, INCLUDING THE AMOUNT AND DATE OF EACH PAYMENT;

18 (VIII) 1. A LIST OF EACH CREDITOR OF THE CONSUMER TO WHICH
19 PAYMENTS WILL BE MADE UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT;

20 2. THE AMOUNT OWED TO EACH CREDITOR; AND

21 3. A SCHEDULE OF PAYMENTS THAT THE DEBT
22 MANAGEMENT SERVICES PROVIDER MUST MAKE TO EACH CREDITOR, INCLUDING
23 THE AMOUNT AND DATE OF EACH PAYMENT;

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, BY EXECUTING THE DEBT MANAGEMENT
28 SERVICES AGREEMENT, THE CONSUMER AUTHORIZES ANY FINANCIAL INSTITUTION
29 IN WHICH THE LICENSEE HAS ESTABLISHED A TRUST ACCOUNT FOR DEPOSIT OF
30 THE CONSUMER'S FUNDS TO DISCLOSE TO THE COMMISSIONER ANY FINANCIAL
31 RECORDS RELATING TO THE TRUST ACCOUNT DURING THE COURSE OF ANY
32 INVESTIGATION OR EXAMINATION OF THE LICENSEE BY THE COMMISSIONER;

33 (XI) A DISCLOSURE THAT EXECUTION OF A DEBT MANAGEMENT
34 SERVICES AGREEMENT MAY IMPACT THE CONSUMER'S CREDIT RATING AND CREDIT
35 SCORES; AND

36 (XII) THE FOLLOWING NOTICE:

1 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF
2 MARYLAND WILL ACCEPT QUESTIONS AND COMPLAINTS FROM MARYLAND
3 RESIDENTS REGARDING (NAME AND LICENSE NUMBER OF THE DEBT MANAGEMENT
4 SERVICE PROVIDER) AT (ADDRESS OF THE COMMISSIONER) PHONE (TOLL-FREE
5 NUMBER OF THE COMMISSIONER). DO NOT SIGN THIS AGREEMENT BEFORE YOU
6 READ IT. YOU MUST BE GIVEN A COPY OF THIS AGREEMENT."

7 (C) A DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN A CONSUMER
8 AND A PERSON THAT IS NOT A LICENSEE UNDER THIS SUBTITLE SHALL BE NULL AND
9 VOID, AND ALL FEES PAID TO THE PERSON UNDER THE DEBT MANAGEMENT
10 SERVICES AGREEMENT SHALL BE RECOVERABLE BY THE CONSUMER, TOGETHER
11 WITH REASONABLE ATTORNEY'S FEES.

12 12-917.

13 (A) WITHIN 2 BUSINESS DAYS AFTER RECEIPT, A LICENSEE SHALL DEPOSIT,
14 IN A TRUST ACCOUNT ESTABLISHED FOR THE BENEFIT OF THE CONSUMER, ANY
15 FUNDS PAID TO THE LICENSEE BY OR ON BEHALF OF A CONSUMER FOR
16 DISBURSEMENT TO THE CONSUMER'S CREDITORS.

17 (B) A LICENSEE SHALL:

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

20 (2) DISBURSE ANY FUNDS PAID BY OR ON BEHALF OF A CONSUMER TO
21 THE CONSUMER'S CREDITORS WITHIN 5 BUSINESS DAYS AFTER RECEIPT OF THE
22 FUNDS; AND

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

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

27 (C) A LICENSEE MAY NOT COMMINGLE ANY TRUST ACCOUNT ESTABLISHED
28 FOR THE BENEFIT OF CONSUMERS WITH ANY OPERATING ACCOUNTS OF THE
29 LICENSEE.

30 12-918.

31 (A) A LICENSEE MAY NOT IMPOSE ANY FEES OR OTHER CHARGES ON A
32 CONSUMER, OR RECEIVE ANY FUNDS OR OTHER PAYMENTS FROM A CONSUMER OR
33 ANOTHER PERSON ON BEHALF OF A CONSUMER:

34 (1) UNTIL AFTER THE LICENSEE AND CONSUMER HAVE EXECUTED A
35 DEBT MANAGEMENT SERVICES AGREEMENT; AND

36 (2) ONLY AS ALLOWED UNDER THIS SECTION.

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

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

4 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION A LICENSEE MAY
5 CHARGE A MONTHLY MAINTENANCE FEE NOT EXCEEDING \$5 FOR EACH CREDITOR
6 OF A CONSUMER THAT IS LISTED IN THE DEBT MANAGEMENT SERVICES AGREEMENT
7 BETWEEN THE LICENSEE AND THE CONSUMER.

8 (2) THE TOTAL FEES CHARGED TO A CONSUMER UNDER PARAGRAPH (1)
9 OF THIS SUBSECTION MAY NOT EXCEED \$50 PER MONTH.

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

13 (E) A LICENSEE MAY NOT CHARGE A FEE TO:

14 (1) COUNSEL A CONSUMER ABOUT DEBT MANAGEMENT;

15 (2) PROVIDE A CONSUMER WITH A CONSUMER EDUCATION PROGRAM;
16 OR

17 (3) CANCEL A DEBT MANAGEMENT SERVICES AGREEMENT.

18 (F) IF A LICENSEE IMPOSES ANY FEE OR OTHER CHARGE OR RECEIVES ANY
19 FUNDS OR OTHER PAYMENTS NOT AUTHORIZED UNDER THIS SECTION, EXCEPT AS A
20 RESULT OF AN ACCIDENTAL AND BONA FIDE ERROR:

21 (1) THE DEBT MANAGEMENT SERVICES AGREEMENT SHALL BE VOID;
22 AND

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

25 12-919.

26 (A) A LICENSEE SHALL PROVIDE TO EACH CONSUMER WITH WHOM THE
27 LICENSEE HAS A DEBT MANAGEMENT SERVICES AGREEMENT A WRITTEN
28 ACCOUNTING OF:

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

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

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

- 1 (1) AT LEAST ONCE DURING EACH CALENDAR QUARTER; AND
- 2 (2) ON CANCELLATION OR TERMINATION OF THE DEBT MANAGEMENT
3 SERVICES AGREEMENT.
- 4 12-920.
- 5 (A) A LICENSEE MAY NOT:
- 6 (1) PURCHASE ANY DEBT OR OBLIGATION OF A CONSUMER;
- 7 (2) LEND MONEY OR PROVIDE CREDIT TO A CONSUMER;
- 8 (3) OBTAIN A MORTGAGE OR OTHER SECURITY INTEREST IN PROPERTY
9 OWNED BY A CONSUMER;
- 10 (4) OPERATE AS A COLLECTION AGENCY, AS DEFINED IN § 7-101 OF THE
11 BUSINESS REGULATION ARTICLE;
- 12 (5) STRUCTURE A DEBT MANAGEMENT SERVICES AGREEMENT IN A
13 MANNER THAT WOULD RESULT IN A NEGATIVE AMORTIZATION OF ANY OF THE
14 CONSUMER'S DEBTS;
- 15 (6) ENGAGE IN FALSE, MISLEADING, OR DECEPTIVE ADVERTISING
16 ABOUT THE TERMS AND CONDITIONS OF ANY SERVICE OR ASSISTANCE OFFERED TO
17 CONSUMERS;
- 18 (7) OFFER, PAY, OR GIVE A SUBSTANTIAL GIFT, BONUS, PREMIUM,
19 REWARD, OR OTHER COMPENSATION TO A PERSON FOR REFERRING A PROSPECTIVE
20 CUSTOMER TO THE LICENSEE;
- 21 (8) OFFER AN INCENTIVE, INCLUDING A GIFT, BONUS, PREMIUM,
22 REWARD, OR OTHER COMPENSATION, TO A CONSUMER FOR EXECUTING A DEBT
23 MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE;
- 24 (9) CHARGE FOR OR PROVIDE CREDIT INSURANCE; OR
- 25 (10) COMPROMISE ANY DEBTS OF A CONSUMER UNLESS THE LICENSEE
26 HAS OBTAINED THE PRIOR WRITTEN APPROVAL OF THE CONSUMER, AND THE
27 COMPROMISE INURES SOLELY TO THE BENEFIT OF THE CONSUMER.
- 28 12-921.
- 29 (A) (1) ON OR BEFORE APRIL 30 OF EACH YEAR, A LICENSEE SHALL REPORT
30 TO THE COMMISSIONER ON THE DEBT MANAGEMENT SERVICES BUSINESS OF THE
31 LICENSEE CONDUCTED DURING THE PRECEDING CALENDAR YEAR.
- 32 (2) THE ANNUAL REPORT SHALL BE ON THE FORM THAT THE
33 COMMISSIONER REQUIRES.
- 34 (3) THE REPORT SHALL INCLUDE:

1 (I) AN AUDITED FINANCIAL STATEMENT THAT IS PREPARED IN
2 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND
3 INCLUDES A BALANCE SHEET, INCOME STATEMENT, STATEMENT OF CHANGES IN
4 FUND BALANCES, AND STATEMENT OF CASH FLOW;

5 (II) AN ALPHABETICAL LIST OF ALL DEBT MANAGEMENT
6 COUNSELORS EMPLOYED BY THE LICENSEE DURING THE PREVIOUS CALENDAR
7 YEAR;

8 (III) THE NUMBER OF CONSUMERS IN THE STATE FOR WHOM THE
9 LICENSEE PROVIDED DEBT MANAGEMENT SERVICES UNDER A DEBT MANAGEMENT
10 SERVICES AGREEMENT DURING THE PRECEDING CALENDAR YEAR;

11 (IV) THE NUMBER OF CONSUMERS IN THE STATE WHO SIGNED NEW
12 DEBT MANAGEMENT SERVICES AGREEMENTS WITH THE LICENSEE DURING THE
13 PRECEDING CALENDAR YEAR;

14 (V) THE HIGHEST NUMBER OF CONSUMERS IN THE STATE FOR
15 WHOM THE LICENSEE PROVIDED DEBT MANAGEMENT SERVICES UNDER A DEBT
16 MANAGEMENT SERVICES AGREEMENT DURING ANY MONTH IN THE PRECEDING
17 CALENDAR YEAR; AND

18 (VI) THE AMOUNTS PAID BY CONSUMERS IN THE STATE TO THE
19 LICENSEE, BOTH IN TOTAL AND FOR EACH MONTH, DURING THE PRECEDING
20 CALENDAR YEAR, BROKEN DOWN BY:

- 21 1. PAYMENTS TO BE DISBURSED TO CREDITORS; AND
22 2. PAYMENTS FOR THE LICENSEE'S SERVICES.

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

27 (I) THE FILING FOR BANKRUPTCY OR REORGANIZATION BY THE
28 LICENSEE;

29 (II) THE INSTITUTION OF A REVOCATION OR SUSPENSION
30 PROCEEDING AGAINST THE LICENSEE BY A GOVERNMENTAL AUTHORITY THAT IS
31 RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS IN ANY
32 STATE;

33 (III) A FELONY INDICTMENT OR CONVICTION OF THE LICENSEE, OR
34 ANY OF ITS OFFICERS OR DIRECTORS, THAT IS RELATED TO THE LICENSEE'S DEBT
35 MANAGEMENT SERVICES BUSINESS;

36 (IV) THE COMMENCEMENT OF A CIVIL ACTION BY A CONSUMER
37 AGAINST THE LICENSEE, OR ITS OWNERS, OFFICERS, DIRECTORS, OR PRINCIPALS,

1 THAT IS RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS;
2 AND

3 (V) THE FILING OF ANY MATERIAL LITIGATION AGAINST THE
4 LICENSEE, OR ITS OWNERS, OFFICERS, DIRECTORS, OR PRINCIPALS, THAT IS
5 RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS.

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

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

11 (D) IF A LICENSEE FAILS TO MAKE ANY REPORT REQUIRED BY THIS SUBTITLE,
12 THE LICENSEE SHALL PAY TO THE COMMISSIONER \$25 FOR EACH DAY THAT THE
13 REPORT IS OVERDUE.

14 12-922.

15 (A) TO ENABLE THE COMMISSIONER TO DETERMINE COMPLIANCE WITH THIS
16 SUBTITLE, A LICENSEE SHALL MAKE AND PRESERVE THE FOLLOWING BOOKS,
17 ACCOUNTS, AND RECORDS FOR A PERIOD OF AT LEAST 5 YEARS:

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

20 (2) EACH DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN THE
21 LICENSEE AND A CONSUMER;

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

24 (4) BANK STATEMENTS AND BANK RECONCILIATION RECORDS.

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

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

29 (2) MAKES THE BOOKS, ACCOUNTS, AND RECORDS AVAILABLE AT A
30 LOCATION IN THE STATE, AS AGREED BY THE COMMISSIONER AND THE LICENSEE,
31 WITHIN 7 DAYS AFTER A WRITTEN REQUEST FOR EXAMINATION BY THE
32 COMMISSIONER.

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

35 (1) ORIGINAL FORM; OR

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

3 (D) IF THE COMMISSIONER FINDS THAT THE BOOKS, ACCOUNTS, AND
4 RECORDS OF THE LICENSEE ARE INSUFFICIENT TO DETERMINE COMPLIANCE WITH
5 THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE THE LICENSEE TO HAVE A
6 CERTIFIED PUBLIC ACCOUNTANT AUDIT THE LICENSEE, AT THE LICENSEE'S
7 EXPENSE, FOR ANY PERIOD OF TIME THAT THE COMMISSIONER CONSIDERS
8 NECESSARY.

9 (E) A LICENSEE SHALL KEEP ALL BOOKS, ACCOUNTS, AND RECORDS
10 RELATING TO A CONSUMER CONFIDENTIAL, AND MAY NOT DISCLOSE ANY
11 INFORMATION ABOUT A CONSUMER EXCEPT TO A DULY AUTHORIZED GOVERNMENT
12 OFFICIAL, THE CONSUMER, OR THE CONSUMER'S REPRESENTATIVE.

13 12-923.

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

17 (1) A LICENSEE;

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

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

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

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

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

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

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

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

3 12-924.

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

6 (B) THE LICENSEE SHALL PAY ALL REASONABLY INCURRED COSTS OF AN
7 EXAMINATION CONDUCTED UNDER THIS SECTION.

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

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

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

16 (E) THE COMMISSIONER MAY:

17 (1) EXAMINE ALL BOOKS, ACCOUNTS, AND RECORDS THAT THE
18 COMMISSIONER DETERMINES ARE NECESSARY TO CONDUCT A COMPLETE
19 EXAMINATION; AND

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

23 12-925.

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

26 12-926.

27 (A) SUBJECT TO THE HEARING PROVISIONS OF § 12-927 OF THIS SUBTITLE,
28 THE COMMISSIONER MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A
29 LICENSEE, OR SUSPEND OR REVOKE THE LICENSE OF A LICENSEE IF THE APPLICANT
30 OR LICENSEE OR AN OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE APPLICANT
31 OR LICENSEE:

32 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
33 OBTAIN A LICENSE;

34 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE OR DEBT
35 MANAGEMENT SERVICES LICENSE NUMBER;

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

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

6 (5) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY
7 STATE OF:

8 (I) A FELONY; OR

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

12 (6) IN CONNECTION WITH THE PROVISION OF DEBT MANAGEMENT
13 SERVICES:

14 (I) COMMITS A FRAUD;

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

16 (III) HAS ENGAGED OR PARTICIPATED IN AN UNSAFE OR UNSOUND
17 ACT; OR

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

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

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

25 (B) IN DETERMINING WHETHER TO DENY A LICENSE TO AN APPLICANT,
26 REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE THE LICENSE OF A LICENSEE FOR
27 A REASON LISTED IN SUBSECTION (A)(5) OF THIS SECTION, THE COMMISSIONER
28 SHALL CONSIDER:

29 (1) THE NATURE OF THE CRIME;

30 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED
31 BY THE LICENSE;

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

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

1 (5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE
2 SINCE THE CONVICTION.

3 12-927.

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

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

11 12-928.

12 (A) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE
13 BY ISSUING AN ORDER REQUIRING THE VIOLATOR TO:

14 (1) CEASE AND DESIST FROM THE VIOLATION AND ANY FURTHER
15 SIMILAR VIOLATIONS; AND

16 (2) TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION,
17 INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON AGGRIEVED
18 BY THE VIOLATION.

19 (B) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER
20 SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL
21 PENALTY NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING
22 \$5,000 FOR EACH SUBSEQUENT VIOLATION FROM WHICH THE VIOLATOR FAILED TO
23 CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE AFFIRMATIVE
24 ACTION.

25 (C) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT FOR
26 ANY COUNTY SEEKING ENFORCEMENT OF AN ORDER ISSUED UNDER THIS SECTION.

27 (D) IN DETERMINING THE AMOUNT OF FINANCIAL PENALTY TO BE IMPOSED
28 UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER
29 THE FOLLOWING:

30 (1) THE SERIOUSNESS OF THE VIOLATION;

31 (2) THE GOOD FAITH OF THE VIOLATOR;

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

33 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;

34 (5) THE ASSETS OF THE VIOLATOR; AND

1 (6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE
2 FINANCIAL PENALTY.

3 12-929.

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

9 12-930.

10 THIS SUBTITLE MAY BE CITED AS THE MARYLAND DEBT MANAGEMENT
11 SERVICES ACT.

12 SECTION 2. AND BE IT FURTHER ENACTED, That, in the absence of an
13 order by the Commissioner of Financial Regulation to the contrary, an organization
14 providing debt management services in the State on the effective date of this Act may
15 continue to provide debt management services in the State without being licensed, as
16 required under Section 1 of this Act, until the Commissioner approves or disapproves
17 the organization's application for a license if:

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

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

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2003.