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

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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 the Commissioner by regulation
7 to establish certain fees; establishing a certain Debt Management Services
8 Fund; establishing certain qualifications for an applicant for a license; requiring
9 an 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,

1 accounts, and records for a certain period of time and in a certain location and
 2 form; requiring a licensee to include in any advertisement the licensee's debt
 3 management services license number; authorizing the Commissioner to
 4 investigate certain persons for certain purposes and to conduct certain on-site
 5 examinations of a licensee; authorizing the Commissioner to deny a license to an
 6 applicant, reprimand a licensee, or suspend or revoke the license of a licensee
 7 under certain circumstances; requiring the Commissioner to give an applicant
 8 or licensee an opportunity for a hearing under certain circumstances;
 9 authorizing the Commissioner to issue certain orders, impose certain civil
 10 penalties, and file certain petitions to enforce this Act; providing certain
 11 criminal penalties for certain violations of this Act; providing that a consumer
 12 may bring a civil action to recover for damages caused by a certain violation;
 13 establishing a certain short title; establishing the scope of this Act; defining
 14 certain terms; repealing certain provisions of law governing the business of debt
 15 adjusting; allowing certain organizations providing debt management services
 16 in the State on the effective date of this Act to continue to provide debt
 17 management services without being licensed until a certain time under certain
 18 circumstances; establishing the expiration date of a license issued within a
 19 certain time period; requiring the Commissioner to report on certain
 20 information and recommendations to certain committees of the General
 21 Assembly on or before a certain date; and generally relating to the Maryland
 22 Debt Management Services Act.

23 BY repealing
 24 Article - Commercial Law
 25 Section 14-1316
 26 Annotated Code of Maryland
 27 (2000 Replacement Volume and 2002 Supplement)

28 BY adding to
 29 Article - Financial Institutions
 30 Section 12-901 through ~~12-930~~ 12-931, inclusive, to be under the new subtitle
 31 "Subtitle 9. Maryland Debt Management Services Act"
 32 Annotated Code of Maryland
 33 (1998 Replacement Volume and 2002 Supplement)

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

36 **Article - Commercial Law**

37 [14-1316.

38 (a) In this section, "debt adjusting" means the making of a contract, expressed
 39 or implied, with a debtor and another person engaged in the debt adjusting business
 40 by which the debtor agrees to pay a certain amount of money periodically to the other,

1 who for consideration distributes the money among specified creditors in accordance
2 with an agreed plan.

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

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

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

9 (1) A lawyer;

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

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

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

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

18 (6) A certified public accountant; and

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

21 **Article - Financial Institutions**

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

23 12-901.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (B) "CONSUMER" MEANS AN INDIVIDUAL WHO:

27 (1) RESIDES IN THE STATE; AND

28 (2) IS SEEKING DEBT MANAGEMENT SERVICES OR HAS ENTERED INTO A
29 DEBT MANAGEMENT SERVICES AGREEMENT.

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

1 (D) "DEBT MANAGEMENT COUNSELOR" MEANS A PERMANENT, TEMPORARY,
2 OR CONTRACTUAL EMPLOYEE OF A DEBT MANAGEMENT SERVICES PROVIDER OR ITS
3 AGENT WHO PROVIDES DEBT MANAGEMENT ADVICE COUNSELING TO CONSUMERS
4 ON BEHALF OF THE DEBT MANAGEMENT SERVICES PROVIDER.

5 (E) "DEBT MANAGEMENT SERVICES" MEANS:

6 ~~(1)~~ RECEIVING FUNDS PERIODICALLY FROM A CONSUMER UNDER AN
7 AGREEMENT WITH THE CONSUMER FOR THE PURPOSE OF DISTRIBUTING THE FUNDS
8 AMONG THE CONSUMER'S CREDITORS IN PAYMENT OR PARTIAL PAYMENT OF THE
9 CONSUMER'S DEBTS; ~~OR,~~

10 ~~(2)~~ SETTLING, ADJUSTING, PRORATING, POOLING, COMPROMISING, OR
11 LIQUIDATING THE INDEBTEDNESS OF A CONSUMER.

12 (F) "DEBT MANAGEMENT SERVICES AGREEMENT" MEANS A WRITTEN
13 CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT MANAGEMENT SERVICES
14 PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT MANAGEMENT
15 SERVICES.

16 (G) "DEBT MANAGEMENT SERVICES PROVIDER" MEANS AN ORGANIZATION
17 THAT PROVIDES OR OFFERS TO PROVIDE DEBT MANAGEMENT SERVICES TO A
18 CONSUMER ~~IN THE STATE.~~

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

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

23 (J) "MAINTENANCE FEE" MEANS A FEE PAID BY A CONSUMER TO A DEBT
24 MANAGEMENT SERVICES PROVIDER FOR THE MAINTENANCE OR SERVICING OF THE
25 CONSUMER'S ACCOUNTS WITH THE CONSUMER'S CREDITORS IN ACCORDANCE WITH
26 A DEBT MANAGEMENT SERVICES AGREEMENT.

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

29 (L) "RESIDENT AGENT" MEANS AN INDIVIDUAL RESIDING IN THE STATE OR A
30 MARYLAND CORPORATION WHOSE NAME, ADDRESS, AND DESIGNATION AS A
31 RESIDENT AGENT ARE FILED OR RECORDED WITH THE STATE DEPARTMENT OF
32 ASSESSMENTS AND TAXATION IN ACCORDANCE WITH THE PROVISIONS OF THE
33 CORPORATIONS AND ASSOCIATIONS ARTICLE.

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

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

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

3 (2) SEPARATE FROM THE DEBT MANAGEMENT SERVICES PROVIDER'S
4 OPERATING ACCOUNT;

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

9 (4) UNAVAILABLE TO CREDITORS OF THE DEBT MANAGEMENT
10 SERVICES PROVIDER; AND

11 (5) USED TO HOLD FUNDS PAID BY CONSUMERS TO A DEBT
12 MANAGEMENT SERVICES PROVIDER FOR DISBURSEMENT TO CREDITORS OF THE
13 CONSUMERS.

14 12-902.

15 THIS SUBTITLE DOES NOT APPLY TO:

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

18 (I) AN ATTORNEY AT LAW;

19 (II) AN ESCROW AGENT;

20 (III) A CERTIFIED PUBLIC ACCOUNTANT;

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

24 (V) A PERSON THAT:

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

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

30 3. DOES NOT PROVIDE ANY DEBT COUNSELING SERVICES;

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

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

1 ~~(V)~~ (VIII) A TITLE INSURER, TITLE INSURANCE AGENCY, OR
 2 ABSTRACT COMPANY; OR

3 ~~(VI)~~ (IX) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A
 4 COURT ORDER;

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

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

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

12 (I) IS LICENSED BY THE COMMISSIONER; AND

13 (II) DOES NOT RECEIVE FUNDS FROM A CONSUMER FOR THE
 14 PURPOSE OF DISTRIBUTING THE FUNDS AMONG THE CONSUMER'S CREDITORS IN
 15 PAYMENT OR PARTIAL PAYMENT OF THE CONSUMER'S DEBTS.

16 12-903.

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

18 (1) ADOPT RULES AND REGULATIONS;

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

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

29 12-904.

30 (A) THE COMMISSIONER BY REGULATION SHALL ESTABLISH:

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

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

1 (2) A FEE, NOT EXCEEDING ~~\$1,000~~ \$2,000, FOR RENEWAL OF A LICENSE
2 ISSUED 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 TO CONSUMERS~~ UNLESS ~~THAT THE~~ 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~~ CONSUMERS, UP TO A
17 MAXIMUM OF \$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 OR ANY CONSUMER RELATING TO THE
18 APPLICANT'S DEBT 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 THAT INSURES AGAINST DISHONESTY,~~
16 FRAUD, THEFT, OR OTHER MALFEASANCE ON THE PART OF AN EMPLOYEE OF THE
17 APPLICANT;
- 18 (15) A DESCRIPTION OF THE APPLICANT'S CONSUMER EDUCATION
19 PROGRAM THAT IS PROVIDED TO CONSUMERS;
- 20 (16) A DESCRIPTION OF THE APPLICANT'S ~~FINANCIAL ANALYSIS~~ INITIAL
21 BUDGET PLAN THAT IS USED TO EVALUATE THE FINANCIAL CONDITION DEBT
22 OBLIGATIONS OF CONSUMERS;
- 23 (17) A COPY OF THE DEBT MANAGEMENT SERVICES AGREEMENT THAT
24 THE APPLICANT WILL USE IN ITS DEBT MANAGEMENT SERVICES BUSINESS;
- 25 (18) A COPY OF THE APPLICANT'S PLAN TO ENSURE THAT EACH DEBT
26 MANAGEMENT COUNSELOR ~~EMPLOYED BY THE APPLICANT~~ IS CERTIFIED BY AN
27 INDEPENDENT ORGANIZATION WITHIN 6 MONTHS AFTER THE DEBT MANAGEMENT
28 COUNSELOR IS HIRED, AND THAT ANY EMPLOYEE WHO IS A SUPERVISOR OR
29 MANAGER OF A DEBT MANAGEMENT COUNSELOR IS CERTIFIED BY AN
30 INDEPENDENT ORGANIZATION WITHIN 3 MONTHS AFTER THE EMPLOYEE IS HIRED;
31 AND
- 32 (19) ANY OTHER INFORMATION THAT THE COMMISSIONER REASONABLY
33 REQUIRES.
- 34 (C) THE COMMISSIONER MAY REFUSE AN APPLICATION IF IT CONTAINS
35 ERRONEOUS OR INCOMPLETE INFORMATION.
- 36 (D) WITH THE APPLICATION, THE APPLICANT SHALL PAY TO THE
37 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~~ SHALL REQUIRE ANY AGENT ACTING ON
21 BEHALF OF A LICENSEE TO MANAGE A TRUST ACCOUNT REQUIRED UNDER § 12-917
22 OF THIS SUBTITLE TO PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL BUREAU
23 OF 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 ADMINISTRATIVE, CIVIL, OR CRIMINAL LIABILITY OF
34 THE LICENSEE FOR 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~~
11 ~~CONSUMER WHO HAS BEEN~~ IS INJURED BY A VIOLATION OF THIS SUBTITLE OR A
12 REGULATION ADOPTED 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)~~ (2) THE SURETY BOND SHALL BE:

21 (I) IN AN AMOUNT NOT LESS THAN \$10,000 AND NOT MORE THAN
22 ~~\$1,000,000~~ \$250,000, 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)~~ (3) 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)~~ (4) THE COMMISSIONER MAY ALLOW THE AMOUNT OF THE
36 SURETY BOND TO BE REDUCED IF THE AMOUNT OF THE LICENSEE'S OUTSTANDING
37 DEBT MANAGEMENT SERVICES LIABILITIES IN THE STATE IS REDUCED.

1 ~~(6)~~ (5) 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 AND THE AGENT OF 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) (1) A LICENSEE SHALL GIVE THE COMMISSIONER WRITTEN NOTICE OF
28 ANY 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 ~~40~~ 30 DAYS
30 ~~AFTER~~ BEFORE THE CHANGE IS EFFECTIVE.

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

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

1 (C) (1) TO REQUEST APPROVAL OF A PROPOSED CHANGE DESCRIBED IN
2 SUBSECTION (B) OF THIS SECTION, THE LICENSEE SHALL NOTIFY THE
3 COMMISSIONER IN WRITING OF THE PROPOSED CHANGE AND SUBMIT ANY
4 INFORMATION THAT THE COMMISSIONER REQUIRES.

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

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

14 12-916.

15 (A) A LICENSEE MAY NOT PERFORM DEBT MANAGEMENT SERVICES FOR A
16 CONSUMER UNLESS:

17 (1) THE LICENSEE ~~HAS PROVIDED~~ PROVIDES THE CONSUMER WITH A
18 CONSUMER EDUCATION PROGRAM;

19 (2) THE LICENSEE, THROUGH A DEBT MANAGEMENT SERVICES
20 COUNSELOR CERTIFIED BY AN INDEPENDENT ORGANIZATION HAS:

21 (I) PREPARED A FINANCIAL ANALYSIS OF AN INITIAL BUDGET
22 PLAN FOR THE CONSUMER'S DEBT OBLIGATIONS; AND

23 (II) PROVIDED A COPY OF THE FINANCIAL ANALYSIS INITIAL
24 BUDGET PLAN TO THE CONSUMER;

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

28 (4) THE LICENSEE HAS ESTABLISHED AN AGREEMENT, WITH A GOOD
29 FAITH BELIEF THAT EACH CREDITOR OF THE CONSUMER THAT IS LISTED IN THE
30 CONSUMER'S DEBT MANAGEMENT SERVICES AGREEMENT, FOR THE WILL ACCEPT
31 PAYMENT OF THE CONSUMER'S DEBTS OWED TO THE CREDITOR AS PROVIDED IN
32 THE CONSUMER'S DEBT MANAGEMENT SERVICES AGREEMENT; AND

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

35 (B) EACH DEBT MANAGEMENT SERVICES AGREEMENT SHALL:

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

- 1 (2) INCLUDE, IN AT LEAST 12 POINT TYPE:
- 2 (I) THE NAME, ADDRESS, AND PHONE NUMBER OF THE
3 CONSUMER;
- 4 (II) THE NAME, ADDRESS, PHONE NUMBER, AND LICENSE NUMBER
5 OF THE LICENSEE;
- 6 (III) A DESCRIPTION OF THE DEBT MANAGEMENT SERVICES TO BE
7 PROVIDED TO THE CONSUMER AND ANY FEES TO BE CHARGED TO THE CONSUMER
8 FOR THE DEBT MANAGEMENT SERVICES;
- 9 (IV) A DISCLOSURE OF THE EXISTENCE OF THE SURETY BOND
10 REQUIRED UNDER § 12-914 OF THIS SUBTITLE;
- 11 (V) THE NAME AND ADDRESS OF THE FINANCIAL INSTITUTION IN
12 WHICH FUNDS, PAID BY THE CONSUMER TO THE LICENSEE FOR DISBURSEMENT TO
13 THE CONSUMER'S CREDITORS, WILL BE HELD;
- 14 (VI) A NOTICE OF THE RIGHT OF A PARTY TO THE DEBT
15 MANAGEMENT SERVICES AGREEMENT TO CANCEL THE DEBT MANAGEMENT
16 SERVICES AGREEMENT BY GIVING WRITTEN NOTICE OF CANCELLATION TO THE
17 OTHER PARTY;
- 18 (VII) A SCHEDULE OF PAYMENTS THAT THE CONSUMER MUST MAKE
19 TO THE DEBT MANAGEMENT SERVICES PROVIDER, ~~FOR DISBURSEMENT TO THE~~
20 ~~CONSUMER'S CREDITORS~~; INCLUDING:
- 21 1. THE AMOUNT ~~AND DATE~~ OF EACH PAYMENT AND THE
22 DATE ON WHICH EACH PAYMENT IS DUE; AND
- 23 2. AN ITEMIZATION OF THE MAINTENANCE FEES THAT WILL
24 BE RETAINED BY THE DEBT MANAGEMENT SERVICES PROVIDER, AND THE AMOUNT
25 OF MONEY THAT WILL BE PAID TO THE CONSUMER'S CREDITORS, FROM EACH
26 PAYMENT THE CONSUMER MAKES TO THE DEBT MANAGEMENT SERVICES PROVIDER;
- 27 (VIII) 1. A LIST OF EACH CREDITOR OF THE CONSUMER TO WHICH
28 PAYMENTS WILL BE MADE UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT;
- 29 2. THE AMOUNT OWED TO EACH CREDITOR; AND
- 30 3. A SCHEDULE OF PAYMENTS THAT THE DEBT
31 MANAGEMENT SERVICES PROVIDER ~~MUST~~ WILL MAKE TO EACH CREDITOR FROM
32 THE CONSUMER'S PAYMENTS, INCLUDING THE AMOUNT ~~AND DATE~~ OF EACH
33 PAYMENT AND THE DATE ON WHICH EACH PAYMENT WILL BE MADE;
- 34 (IX) A DISCLOSURE THAT THE LICENSEE ALSO MAY RECEIVE
35 COMPENSATION FROM THE CONSUMER'S CREDITORS FOR PROVIDING DEBT
36 MANAGEMENT SERVICES TO THE CONSUMER;

1 (X) A DISCLOSURE THAT THE LICENSEE MAY NOT, AS A CONDITION
 2 OF ENTERING INTO A DEBT MANAGEMENT SERVICES AGREEMENT, REQUIRE A
 3 CONSUMER TO PURCHASE FOR A FEE A COUNSELING SESSION, AN EDUCATIONAL
 4 PROGRAM, OR MATERIALS AND SUPPLIES;

5 ~~(X)~~ (XI) A DISCLOSURE THAT, BY EXECUTING THE DEBT
 6 MANAGEMENT SERVICES AGREEMENT, THE CONSUMER AUTHORIZES ANY
 7 FINANCIAL INSTITUTION IN WHICH THE LICENSEE HAS ESTABLISHED A TRUST
 8 ACCOUNT FOR DEPOSIT OF THE CONSUMER'S FUNDS TO DISCLOSE TO THE
 9 COMMISSIONER ANY FINANCIAL RECORDS RELATING TO THE TRUST ACCOUNT
 10 DURING THE COURSE OF ANY INVESTIGATION OR EXAMINATION OF THE LICENSEE
 11 BY THE COMMISSIONER;

12 ~~(XI)~~ (XII) A DISCLOSURE THAT EXECUTION OF A DEBT
 13 MANAGEMENT SERVICES AGREEMENT MAY IMPACT THE CONSUMER'S CREDIT
 14 RATING AND CREDIT SCORES; AND

15 ~~(XII)~~ (XIII) THE FOLLOWING NOTICE:

16 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF
 17 MARYLAND WILL ACCEPT QUESTIONS AND COMPLAINTS FROM MARYLAND
 18 RESIDENTS REGARDING (NAME AND LICENSE NUMBER OF THE DEBT MANAGEMENT
 19 SERVICE PROVIDER) AT (ADDRESS OF THE COMMISSIONER) PHONE (TOLL-FREE
 20 NUMBER OF THE COMMISSIONER). DO NOT SIGN THIS AGREEMENT BEFORE YOU
 21 READ IT. YOU MUST BE GIVEN A COPY OF THIS AGREEMENT."

22 (C) A DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN A CONSUMER
 23 AND A PERSON THAT IS NOT A LICENSEE UNDER THIS SUBTITLE SHALL BE NULL AND
 24 VOID, AND ALL FEES PAID TO THE PERSON UNDER THE DEBT MANAGEMENT
 25 SERVICES AGREEMENT SHALL BE RECOVERABLE BY THE CONSUMER, TOGETHER
 26 WITH REASONABLE ATTORNEY'S FEES.

27 12-917.

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

32 (B) A LICENSEE SHALL:

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

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

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

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

3 (C) A LICENSEE MAY NOT COMMINGLE ANY TRUST ACCOUNT ESTABLISHED
4 FOR THE BENEFIT OF CONSUMERS WITH ANY OPERATING ACCOUNTS OF THE
5 LICENSEE.

6 12-918.

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

10 (1) EXCEPT AS PROVIDED IN SUBSECTIONS (G)(2) AND (H) OF THIS
11 SECTION, UNTIL AFTER THE LICENSEE AND CONSUMER HAVE EXECUTED A DEBT
12 MANAGEMENT SERVICES AGREEMENT; AND

13 (2) ONLY AS ALLOWED UNDER THIS SECTION.

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

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

17 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LICENSEE MAY
18 CHARGE A MONTHLY MAINTENANCE FEE NOT EXCEEDING ~~\$5 FOR EACH CREDITOR~~
19 ~~OF A CONSUMER THAT IS~~ 10% OF THE TOTAL AMOUNT PAYABLE EACH MONTH TO
20 THE CONSUMER'S CREDITORS LISTED IN THE DEBT MANAGEMENT SERVICES
21 AGREEMENT BETWEEN THE LICENSEE AND THE CONSUMER.

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

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

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

28 (1) PREPARE AN INITIAL BUDGET PLAN FOR THE CONSUMER;

29 ~~(2)~~ (2) COUNSEL A CONSUMER ABOUT DEBT MANAGEMENT;

30 ~~(3)~~ (3) PROVIDE A CONSUMER WITH ~~A~~ THE CONSUMER EDUCATION
31 PROGRAM DESCRIBED IN THE LICENSEE'S LICENSE APPLICATION; OR

32 ~~(4)~~ (4) CANCEL A DEBT MANAGEMENT SERVICES AGREEMENT.

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

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

7 (G) (1) A LICENSEE MAY NOT, AS A CONDITION OF ENTERING INTO A DEBT
8 MANAGEMENT SERVICES AGREEMENT, REQUIRE A CONSUMER TO PURCHASE FOR A
9 FEE A COUNSELING SESSION, AN EDUCATIONAL PROGRAM, OR MATERIALS AND
10 SUPPLIES.

11 (2) A LICENSEE MAY CHARGE A CONSUMER A FEE FOR A COUNSELING
12 SESSION, AN EDUCATIONAL PROGRAM, OR MATERIALS AND SUPPLIES IF THE
13 CONSUMER DOES NOT ENTER INTO A DEBT MANAGEMENT SERVICES AGREEMENT
14 WITH THE LICENSEE.

15 (H) 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) (1) IF A LICENSEE IMPOSES ANY FEE OR OTHER CHARGE OR RECEIVES
21 ANY FUNDS OR OTHER PAYMENTS NOT AUTHORIZED UNDER THIS SECTION, EXCEPT
22 AS A RESULT OF AN ACCIDENTAL AND BONA FIDE ERROR:

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

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

27 12-919.

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

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

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

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

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

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

3 12-920.

4 (A) A LICENSEE MAY NOT:

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

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

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

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

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

14 (6) ~~ENGAGE IN FALSE, MISLEADING, OR DECEPTIVE ADVERTISING~~
15 ~~ABOUT THE TERMS AND CONDITIONS OF ANY SERVICE OR ASSISTANCE OFFERED TO~~
16 ~~CONSUMERS MAKE ANY FALSE, MISLEADING, OR DECEPTIVE REPRESENTATIONS OR~~
17 OMISSIONS OF MATERIAL INFORMATION IN CONNECTION WITH THE OFFER, SALE, OR
18 PERFORMANCE OF ANY SERVICE;

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

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

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

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

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

1 (I) THE LICENSEE HAS OBTAINED PRIOR APPROVAL OF THE
2 COMMISSIONER; AND

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

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

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

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

15 12-921.

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

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

21 (3) THE REPORT SHALL INCLUDE:

22 (I) AN AUDITED FINANCIAL STATEMENT THAT IS PREPARED IN
23 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND
24 INCLUDES A BALANCE SHEET, INCOME STATEMENT, STATEMENT OF CHANGES IN
25 FUND BALANCES, AND STATEMENT OF CASH FLOW;

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

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

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

35 (V) THE HIGHEST NUMBER OF CONSUMERS ~~IN THE STATE~~ FOR
36 WHOM THE LICENSEE PROVIDED DEBT MANAGEMENT SERVICES UNDER A DEBT

1 MANAGEMENT SERVICES AGREEMENT DURING ANY MONTH IN THE PRECEDING
2 CALENDAR YEAR; AND

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

6 1. PAYMENTS TO BE DISBURSED TO CREDITORS; AND

7 2. PAYMENTS FOR THE LICENSEE'S SERVICES.

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

12 (I) THE FILING FOR BANKRUPTCY OR REORGANIZATION BY THE
13 LICENSEE;

14 (II) THE INSTITUTION OF A REVOCATION OR SUSPENSION
15 PROCEEDING AGAINST THE LICENSEE BY A GOVERNMENTAL AUTHORITY THAT IS
16 RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS IN ANY
17 STATE;

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

21 (IV) THE COMMENCEMENT OF A CIVIL ACTION BY A CONSUMER
22 AGAINST THE LICENSEE, OR ITS OWNERS, OFFICERS, DIRECTORS, OR PRINCIPALS,
23 THAT IS RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS;
24 AND

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

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

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

33 (D) IF A LICENSEE FAILS TO MAKE ANY REPORT REQUIRED BY THIS SUBTITLE,
34 ~~THE LICENSEE SHALL PAY TO THE COMMISSIONER~~ MAY REQUIRE THE LICENSEE TO
35 PAY \$25 FOR EACH DAY THAT THE REPORT IS OVERDUE.

1 12-922.

2 (A) TO ENABLE THE COMMISSIONER TO DETERMINE COMPLIANCE WITH THIS
3 SUBTITLE, A LICENSEE SHALL MAKE AND PRESERVE THE FOLLOWING BOOKS,
4 ACCOUNTS, AND RECORDS FOR A PERIOD OF AT LEAST ~~5~~ 3 YEARS:

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

7 (2) EACH DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN THE
8 LICENSEE AND A CONSUMER;

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

11 (4) BANK STATEMENTS AND BANK RECONCILIATION RECORDS.

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

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

16 (2) MAKES THE BOOKS, ACCOUNTS, AND RECORDS AVAILABLE AT A
17 LOCATION IN THE STATE, AS AGREED BY THE COMMISSIONER AND THE LICENSEE,
18 WITHIN 7 DAYS AFTER A WRITTEN REQUEST FOR EXAMINATION BY THE
19 COMMISSIONER.

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

22 (1) ORIGINAL FORM; OR

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

25 (D) IF THE COMMISSIONER FINDS THAT THE BOOKS, ACCOUNTS, AND
26 RECORDS OF THE LICENSEE ARE INSUFFICIENT TO DETERMINE COMPLIANCE WITH
27 THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE THE LICENSEE TO HAVE A
28 CERTIFIED PUBLIC ACCOUNTANT AUDIT THE LICENSEE, AT THE LICENSEE'S
29 EXPENSE, FOR ANY PERIOD OF TIME THAT THE COMMISSIONER CONSIDERS
30 NECESSARY.

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

1 12-923.

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

5 (1) A LICENSEE;

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

8 (3) ANY OTHER PERSON THAT THE COMMISSIONER HAS CAUSE TO
9 BELIEVE IS VIOLATING THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS
10 SUBTITLE, WHETHER THAT PERSON CLAIMS TO BE WITHIN OR BEYOND THE SCOPE
11 OF THIS SUBTITLE.

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

13 (1) SHALL BE GIVEN ACCESS TO THE PLACE OF BUSINESS, BOOKS,
14 PAPERS, RECORDS, SAFES, AND VAULTS OF THE PERSON UNDER INVESTIGATION;
15 AND

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

18 (C) IF, AFTER AN INVESTIGATION CONDUCTED UNDER THIS SUBSECTION,
19 THE COMMISSIONER FINDS THAT THE PERSON THAT WAS INVESTIGATED VIOLATED
20 THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE PERSON
21 BEING INVESTIGATED SHALL PAY ALL REASONABLY INCURRED COSTS OF AN THE
22 INVESTIGATION CONDUCTED UNDER THIS SECTION.

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

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

30 12-924.

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

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

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

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

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

9 (E) THE COMMISSIONER MAY:

10 (1) EXAMINE ALL BOOKS, ACCOUNTS, AND RECORDS THAT THE
11 COMMISSIONER DETERMINES ARE NECESSARY TO CONDUCT A COMPLETE
12 EXAMINATION; AND

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

16 12-925.

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

19 12-926.

20 (A) SUBJECT TO THE HEARING PROVISIONS OF § 12-927 OF THIS SUBTITLE,
21 THE COMMISSIONER MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A
22 LICENSEE, OR SUSPEND OR REVOKE THE LICENSE OF A LICENSEE IF THE APPLICANT
23 OR LICENSEE OR AN OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE APPLICANT
24 OR LICENSEE:

25 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
26 OBTAIN A LICENSE;

27 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE OR DEBT
28 MANAGEMENT SERVICES LICENSE NUMBER;

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

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

34 (5) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY
35 STATE OF:

36 (I) A FELONY; OR

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

4 (6) IN CONNECTION WITH THE PROVISION OF DEBT MANAGEMENT
5 SERVICES:

6 (I) COMMITS A FRAUD;

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

8 (III) HAS ENGAGED OR PARTICIPATED IN AN UNSAFE OR UNSOUND
9 ACT; OR

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

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

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

17 (B) IN DETERMINING WHETHER TO DENY A LICENSE TO AN APPLICANT,
18 REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE THE LICENSE OF A LICENSEE FOR
19 A REASON LISTED IN SUBSECTION (A)(5) OF THIS SECTION, THE COMMISSIONER
20 SHALL CONSIDER:

21 (1) THE NATURE OF THE CRIME;

22 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED
23 BY THE LICENSE;

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

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

28 (5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE
29 SINCE THE CONVICTION.

30 12-927.

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

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

4 12-928.

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

7 ~~(1) CEASE AND DESIST FROM THE VIOLATION AND ANY FURTHER~~
8 ~~SIMILAR VIOLATIONS; AND~~

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

12 ~~(B) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER~~
13 ~~SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL~~
14 ~~PENALTY NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING~~
15 ~~\$5,000 FOR EACH SUBSEQUENT VIOLATION FROM WHICH THE VIOLATOR FAILED TO~~
16 ~~CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE AFFIRMATIVE~~
17 ~~ACTION.~~

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

20 (I) ISSUING AN ORDER REQUIRING THE VIOLATOR:

21 1. TO CEASE AND DESIST FROM THE VIOLATION AND ANY
22 FURTHER SIMILAR VIOLATIONS; AND

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

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

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

33 ~~(C)~~ (B) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT
34 FOR ANY COUNTY SEEKING ENFORCEMENT OF AN ORDER ISSUED UNDER THIS
35 SECTION.

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

- 4 (1) THE SERIOUSNESS OF THE VIOLATION;
 5 (2) THE GOOD FAITH OF THE VIOLATOR;
 6 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;
 7 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;
 8 (5) THE ASSETS OF THE VIOLATOR; AND
 9 (6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE
 10 FINANCIAL PENALTY.

11 12-929.

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

17 12-930.

18 IN ADDITION TO ANY OTHER REMEDIES PROVIDED IN THIS SUBTITLE, A
 19 CONSUMER MAY BRING A CIVIL ACTION TO RECOVER FOR ANY DAMAGES CAUSED BY
 20 A VIOLATION OF THIS SUBTITLE.

21 ~~12-930.~~ 12-931.

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

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

- 31 (a) the organization applies for a license no later than 60 days after the date
 32 the Commissioner makes license applications available; and
 33 (b) the organization complies with all other provisions of this Act.

34 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding §
 35 12-912(a) of the Financial Institutions Article, as enacted by Section 1 of this Act, a

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

4 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1,
5 2004, the Commissioner of Financial Regulation shall report, in accordance with §
6 2-1246 of the State Government Article, to the Senate Finance Committee and the
7 House Economic Matters Committee on the number of licenses that the
8 Commissioner has issued under this Act and any recommendations for changes to the
9 Maryland Debt Management Services Act, as enacted by Section 1 of this Act.

10 SECTION ~~3.~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take
11 effect October 1, 2003.