

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 902  
Finance

(Senators Kelley and Exum)

Economic Matters

**Financial Regulation - Debt Management Services**

This bill makes changes to the application and licensing requirements for debt management services businesses under the Maryland Debt Management Services Act.

**Fiscal Summary**

**State Effect:** Special fund revenues would increase by approximately \$41,500 in FY 2006 from additional licensees and increased licensing fees under the bill. Out-year projections reflect annualization and industry growth. Expenditures would not be affected.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revenue	\$41,500	\$46,000	\$41,500	\$44,000	\$41,500
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$41,500	\$46,000	\$41,500	\$44,000	\$41,500

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Minimal.

**Analysis**

**Bill Summary:** The bill sets licensing fees for a debt management service license based on annual gross revenue.

<b>Gross Annual Revenue of Applicant</b>	<b>Initial License Fee</b>		<b>Renewal License Fee</b>
	<b>Odd-numbered Year</b>	<b>Even-numbered Year</b>	
Up to \$3,000,000	\$500	\$1,000	\$1,000
\$3,000,001 to \$6,000,000	\$1,000	\$2,000	\$2,000
\$6,000,001 to \$15,000,000	\$2,000	\$4,000	\$4,000
\$15,000,001 to \$30,000,000	\$3,000	\$6,000	\$6,000
\$30,000,001 or more	\$4,000	\$8,000	\$8,000

The bill sets the annual location fee at the current \$100 maximum level. The bill sets the investigation fee at the current \$1,000 maximum level and provides that it may be charged only at the time of an application for an initial license. The bill repeals the provision requiring fees from debt management services to approximate the costs of regulating them.

The bill also increases the maximum amount of the surety bond that an applicant must post, from \$350,000 to \$1,000,000.

The bill clarifies that a person that provides debt management services must be licensed regardless of whether the person maintains an office in the State.

The bill requires an application for licensure to include: (1) the most recent financial statement of each affiliate, subsidiary, or other person that provides services related to debt management services for the applicant or a consumer; and (2) a copy of each contract or fee-for-service arrangement between the applicant and a person that provides services related to debt management services.

The bill includes among the activities that a licensee is prohibited from doing, entering into a contract or fee-for-service arrangement with a person owned, controlled by, or affiliated with an officer, director, or employee – or a relative of one of these individuals – if the contract or arrangement benefits an officer, director, or employee. The bill similarly prohibits a licensee from advertising or otherwise publishing debt management service rates, terms, or services in a false, misleading, or deceptive manner. A licensee may not pay an incentive to an employee for enrolling a consumer in a debt management services plan or agreement.

The bill restores cross references to a “crime” formerly codified under Article 27 for debt adjusting.

The bill requires the Commissioner of Financial Regulation and the Attorney General to study: (1) the effect of the bill on consumers and debt management services providers;

(2) the mechanisms employed and proposed elsewhere in the country to regulate this and similar industries; and (3) the effect of authorizing persons that are not nonprofits to provide debt management services. The two must report on recommendations for appropriate changes to the Debt Management Services Act and related regulations by December 31, 2006 to specified committees of the General Assembly.

**Current Law:** The commissioner is required to establish initial licensing, renewal, and investigation fees of up to: (1) \$2,000 for a new license in even-numbered years and \$1,000 in odd-numbered years; (2) \$2,000 for a renewal license; and (3) \$1,000 for an investigation. The commissioner must also establish a fee of up to \$100 for each location at which the licensee provides debt management services, payable upon initial licensure and each renewal. In addition to licensing fees, applicants must pay a fee of up to \$1,000 for an investigation. These fees, in turn, are paid into the special fund that pays for the cost of regulating the debt management services industry.

To qualify for a license, an applicant must be a nonprofit organization and must satisfy the commissioner that each of the applicant's owners, officers, directors, principals, and agents has sufficient experience, character, financial responsibility, and general fitness to: (1) engage in the business of providing debt management services; (2) warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and (3) command the confidence of the public.

Licensees are prohibited from various activities relating to the operation of their businesses, including purchasing a consumer's debt or obligation, lending money or providing credit to a consumer, and offering or paying compensation for referring a potential customer.

Knowing and willful violation of the Act is a felony. Violators are subject to a fine of up to \$1,000 for the first violation and \$5,000 for each subsequent violation and/or five years' imprisonment.

**Background:** Chapter 374 of 2003, the Maryland Debt Management Services Act, requires the commissioner to report, by January 1, 2004, to the Senate Finance Committee and the House Economic Matters Committee on the number of licenses issued and any recommendations for changes to the Act's provisions. The commissioner sought and received a one-year extension so that the division would have additional time and experience on which to base its recommendations. The bill incorporates some of the recommendations made in that report.

**State Revenues:** There are currently 42 debt management services businesses licensed to operate in the State and an additional 4 applications for licensure pending. However,

the bill is not expected to materially affect the total number of licensees. Of the 42 current licensees, 5 would be subject to the \$1,000 renewal fee, 12 would be subject to the \$2,000 renewal fee, 10 would be subject to the \$4,000 renewal fee, 7 would be subject to the \$6,000 renewal fee, and 8 would be subject to the \$8,000 renewal fee. The Act authorizes the commissioner to renew licenses on a staggered basis. The division advises that it currently does so. It is further assumed that: (1) all current and pending licensees would retain licenses under the bill, with one-half renewing each year; (2) that the nonprofit industry would grow by approximately 2% annually and new entrants would be at the lowest licensing fee level; (3) new licensees would pay the one-year licensing fee in odd-numbered years, the revenues from which are received in even-numbered fiscal years; and (4) the renewals for all new licenses would occur in even-numbered years. Based on these facts and assumptions, special fund revenues would increase by \$41,500 in fiscal 2006.

The bill restores cross references to a “crime” formerly codified under Article 27 for debt adjusting. This includes a violation of the Maryland Debt Management Services Act as a crime for which a convicted defendant must pay an additional fee. In addition to any other costs required by law, a circuit court must impose on a defendant convicted of a crime an additional cost of \$45 in the case, and the District Court must impose on a defendant convicted of a crime an additional cost of \$35 in the case.

All money collected under these provisions must be paid to the Comptroller. The Comptroller must deposit \$22.50 from each fee collected from criminal convictions in a circuit court and \$12.50 from each similar fee collected in the District Court into the State Victims of Crime Fund. The Comptroller must deposit \$2.50 from each criminal conviction fee into the Victim and Witness Protection and Relocation Fund. The Comptroller must deposit all other criminal conviction monies collected under these provisions into the Criminal Injuries Compensation Fund. Special fund revenues for these funds would increase to the extent persons are convicted for violations of the Maryland Debt Management Services Act. Although the number of these convictions cannot be accurately estimated, it is assumed to be negligible.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Office of the Attorney General (Consumer Protection Division); Department of Legislative Services

**Fiscal Note History:** First Reader - March 21, 2005  
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