
By: **Senator Astle**

Introduced and read first time: February 3, 2006

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Credit Regulation - Debt Management Services**

3 FOR the purpose of authorizing a person that is not a nonprofit organization to
4 provide debt management services in the State; requiring a person that is
5 licensed to provide debt management services to make certain determinations
6 before providing debt management services for a consumer; altering a certain
7 requirement for a debt management services license; altering certain
8 definitions; repealing a certain defined term; making a conforming change; and
9 generally relating to debt management services.

10 BY repealing and reenacting, with amendments,
11 Article - Financial Institutions
12 Section 12-901, 12-905(a), 12-908(b)(11), and 12-916(a)(1)
13 Annotated Code of Maryland
14 (2003 Replacement Volume and 2005 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article - Financial Institutions
17 Section 12-908(a)
18 Annotated Code of Maryland
19 (2003 Replacement Volume and 2005 Supplement)

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

22 **Article - Financial Institutions**

23 12-901.

24 (a) In this subtitle the following words have the meanings indicated.

25 (b) "Annual gross revenue" means income or revenue from all sources, before
26 any expenses or taxes, computed according to generally accepted accounting
27 principles for the preceding fiscal year.

1 (c) "Consultation fee" means a fee paid by a consumer to a debt management
2 services provider in connection with the processing of any application that the
3 consumer makes for debt management services.

4 (d) "Consumer" means an individual who:

5 (1) Resides in the State; and

6 (2) Is seeking debt management services or has entered into a debt
7 management services agreement.

8 (e) "Consumer education program" means a program or plan that seeks to
9 improve the financial literacy of consumers.

10 (f) "Debt management counselor" means a permanent, temporary, or
11 contractual employee of a debt management services provider or its agent who
12 provides counseling to consumers on behalf of the debt management services provider.

13 (g) "Debt management services" means receiving funds periodically from a
14 consumer under an agreement with the consumer for the purpose of distributing the
15 funds among the consumer's creditors in full or partial payment of the consumer's
16 debts.

17 (h) "Debt management services agreement" means a written contract, plan, or
18 agreement between a debt management services provider and a consumer for the
19 performance of debt management services.

20 (i) "Debt management services provider" means [an organization] A PERSON
21 that provides or offers to provide debt management services to a consumer.

22 (j) "Fund" means the Debt Management Services Fund established under §
23 12-905 of this subtitle.

24 (k) "Licensee" means [an organization] A PERSON licensed under this subtitle
25 to provide debt management services.

26 (l) "Maintenance fee" means a fee paid by a consumer to a debt management
27 services provider for the maintenance or servicing of the consumer's accounts with
28 the consumer's creditors in accordance with a debt management services agreement.

29 [(m) "Organization" means a nonprofit organization that is exempt from
30 taxation under § 501(c) of the Internal Revenue Code.]

31 [(n) (M) "Relative" means any of the following who are related to an
32 individual by blood, marriage, or adoption:

33 (1) A spouse;

34 (2) A child;

35 (3) A sibling;

- 1 (4) A parent;
- 2 (5) A grandparent;
- 3 (6) A grandchild;
- 4 (7) A stepparent;
- 5 (8) A stepchild;
- 6 (9) A stepsibling;
- 7 (10) An aunt; or
- 8 (11) An uncle.

9 [(o)] (N) "Resident agent" means an individual residing in the State or a
10 Maryland corporation whose name, address, and designation as a resident agent are
11 filed or recorded with the State Department of Assessments and Taxation in
12 accordance with the provisions of the Corporations and Associations Article.

13 [(p)] (O) "Trust account" means an account that is:

- 14 (1) Established in a financial institution that is federally insured;
- 15 (2) Separate from the debt management services provider's operating
16 account;
- 17 (3) Designated as a "trust account" or by another appropriate
18 designation indicating that the funds in the account are not the funds of the licensee
19 or its officers, employees, or agents;
- 20 (4) Unavailable to creditors of the debt management services provider;
21 and
- 22 (5) Used to hold funds paid by consumers to a debt management services
23 provider for disbursement to creditors of the consumers.

24 12-905.

25 (a) There is a Debt Management Services Fund that consists of:

- 26 (1) All revenue received for the licensing of [organizations] PERSONS
27 that provide debt management services under this subtitle;
- 28 (2) Income from investments that the Treasurer makes for the Fund;
29 and
- 30 (3) Except as provided in subsection (b) of this section, any other fee or
31 revenue received by the Commissioner under this subtitle.

1 12-908.

2 (a) To apply for a license, an applicant shall submit to the Commissioner an
3 application on the form that the Commissioner provides.

4 (b) The application shall include:

5 (11) [Evidence] IF APPLICABLE, EVIDENCE of nonprofit status under §
6 501(c) of the Internal Revenue Code;

7 12-916.

8 (a) (1) A licensee may not perform debt management services for a consumer
9 unless:

10 (i) The licensee provides the consumer with a consumer education
11 program;

12 (ii) The licensee, through a debt management counselor certified by
13 an independent organization, has:

14 1. Prepared a financial analysis of and an initial budget plan
15 for the consumer's debt obligations;

16 2. Provided a copy of the financial analysis and the initial
17 budget plan to the consumer; and

18 3. Provided to the consumer, for all creditors identified by
19 the consumer, a list of:

20 A. The creditors that the licensee reasonably expects to
21 participate in the management of the consumer's debt under the debt management
22 services agreement; and

23 B. The creditors that the licensee reasonably expects not to
24 participate in the management of the consumer's debt under the debt management
25 services agreement;

26 (iii) The licensee and the consumer have executed a debt
27 management services agreement that describes the debt management services to be
28 provided by the licensee to the consumer;

29 (iv) The licensee has a reasonable expectation based on the
30 licensee's past experience that each creditor of the consumer that is listed as a
31 participating creditor in the consumer's debt management services agreement will
32 accept payment of the consumer's debts owed to the creditor as provided in the
33 consumer's debt management services agreement; [and]

34 (V) THE LICENSEE HAS MADE A DETERMINATION, BASED ON THE
35 LICENSEE'S ANALYSIS OF THE INFORMATION PROVIDED BY THE CONSUMER AND
36 OTHERWISE AVAILABLE TO IT, THAT:

