

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1385
Economic Matters

(Delegate Miller, *et al.*)

Credit Regulation - Debt Management Services

This bill repeals the provision requiring a licensed debt management services provider to be a nonprofit entity (allowing a for-profit entity to become licensed). The bill also requires a licensee to make a determination, based on the licensee's analysis of information provided by the consumer, before performing debt management services that: (1) debt management services are suitable; and (2) the consumer will be able to meet the payment obligations under the debt management services agreement.

The bill takes effect June 1, 2006.

Fiscal Summary

State Effect: Special fund revenues would increase if new licensees become licensed. Special fund revenues of \$28,000 biennially would also be maintained if current licensees are able to retain their licenses because of the bill. Expenditures would not be affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: 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.

Licensees may not perform debt management services for a consumer unless the licensee has complied with specified requirements.

Background: Recent amendments to the federal Bankruptcy Act require most filers to receive credit counseling. An individual may not file a bankruptcy petition unless within 180 days preceding the filing the individual has received an individual or group briefing that outlines the opportunities for credit counseling and assists the individual in performing a budget analysis. The individual must file a certificate from an approved nonprofit budget and credit counseling agency describing the services provided along with a copy of the debt repayment plan, if any. An individual may be allowed to file bankruptcy without a briefing by a credit counselor under limited circumstances, if a waiver is granted. In addition to receiving pre-bankruptcy counseling, all Chapter 7 and 13 filers must complete a financial management course before receiving a discharge of debts.

The Internal Revenue Service recently revoked the tax exempt status of several debt management firms, including seven currently licensed debt management services companies in Maryland, because they were deemed for-profit entities.

Chapter 574 of 2005 amended the licensing fee structure for debt management services providers. Under Chapter 574, the biennial fee depends on the licensee's gross annual revenue.

State Revenues: The seven debt management licensees under challenge with the Internal Revenue Service (IRS) are currently appealing the IRS's determination. It is unclear whether those appeals would be successful. If they are not, the bill would allow them to remain licensees. They currently pay licensing fees at the \$4,000 level.

It is assumed that at least three additional debt management services providers would apply for licensure under the bill. If this were to occur, special fund revenues would increase in fiscal 2007 by \$1,000 for each investigation of an applicant performed. Special fund revenues from licensing fees would also increase, but those fees would depend on the size of the licensee. *For illustrative purposes*, if three firms with gross

annual revenues ranging from \$6,000,001 to \$15,000,000 became licensed in fiscal 2007, special fund revenues would increase by \$12,000. Special fund revenues could increase in fiscal 2008 if new licensees became licensed in that year because of the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 673 (Senator Astle) – Finance.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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mll/ljm

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