

# SENATE BILL 741

I1, I3

(11r0908)

## ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senators Pugh and Madaleno**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Commercial Law – Debt Settlement Services**

3 FOR the purpose of prohibiting a person from offering, providing, or attempting to  
4 provide debt settlement services unless the person is registered as a debt  
5 settlement services provider with the Commissioner of Financial Regulation or  
6 is exempt from registration; authorizing the Commissioner to adopt regulations,  
7 enter into certain cooperative and information sharing agreements, and  
8 exchange certain information with certain agencies for a certain purpose;  
9 requiring a person registering as a debt settlement services provider or  
10 renewing a registration to pay certain fees; requiring certain fees to be  
11 deposited in a certain fund and used to cover certain costs and expenses  
12 incurred by the Commissioner; requiring an applicant for registration to file a  
13 certain application; specifying the information to be included in the application;  
14 providing that a registration may be renewed under certain circumstances;  
15 prohibiting a registrant from offering, providing, or attempting to provide debt

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



1 settlement services in the State except as allowed under this Act; authorizing a  
 2 registrant to charge a certain debt settlement services fee; prohibiting a  
 3 registrant from charging a certain fee or requiring a certain contribution;  
 4 prohibiting a registrant from charging a certain debt settlement services fee  
 5 until after certain actions have been taken; providing that a certain provision of  
 6 this Act does not prohibit a registrant from requesting or requiring a consumer  
 7 to deposit certain funds in a certain account under certain circumstances;  
 8 requiring a registrant to allow a consumer to withdraw from a debt settlement  
 9 services agreement at any time; prohibiting a registrant from making a certain  
 10 representation; requiring a debt settlement services agreement to be signed and  
 11 dated by the registrant and the consumer and to include certain information  
 12 and disclosures; requiring an advertisement for debt settlement services to  
 13 include a certain disclosure; requiring a registrant that establishes a certain  
 14 account to file a certain surety bond with the Commissioner; requiring a  
 15 registrant to report certain information to the Commissioner, on the form the  
 16 Commissioner requires, on or before a certain date each year; providing that a  
 17 violation of this Act is an unfair or deceptive trade practice within the meaning  
 18 of the Maryland Consumer Protection Act and is subject to certain enforcement  
 19 and penalty provisions; altering the content and purposes of a certain fund;  
 20 providing for the application of this Act; providing that, under certain  
 21 circumstances, certain provisions of this Act are in addition to and not in  
 22 substitution for any other provision of law; establishing a certain short title;  
 23 defining certain terms; making certain conforming changes; requiring a  
 24 registrant to report certain information to the Commissioner on or before a  
 25 certain date each year for a certain number of years; requiring the Office of the  
 26 Commissioner of Financial Regulation in the Department of Labor, Licensing,  
 27 and Regulation, in consultation with the Consumer Protection Division of the  
 28 Office of the Attorney General, to report certain recommendations to certain  
 29 committees of the General Assembly on or before a certain date; providing for  
 30 the termination of this Act; and generally relating to debt settlement services  
 31 and debt settlement services providers.

32 BY repealing and reenacting, with amendments,  
 33 Article – Commercial Law  
 34 Section 13–301(14)(xxvi)  
 35 Annotated Code of Maryland  
 36 (2005 Replacement Volume and 2010 Supplement)

37 BY repealing and reenacting, without amendments,  
 38 Article – Commercial Law  
 39 Section 13–301(14)(xxvii)  
 40 Annotated Code of Maryland  
 41 (2005 Replacement Volume and 2010 Supplement)

42 BY adding to  
 43 Article – Commercial Law  
 44 Section 13–301(14)(xxviii)

1 Annotated Code of Maryland  
2 (2005 Replacement Volume and 2010 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Financial Institutions  
5 Section 12–905  
6 Annotated Code of Maryland  
7 (2003 Replacement Volume and 2010 Supplement)

8 BY adding to  
9 Article – Financial Institutions  
10 Section 12–1001 through 12–1017 to be under the new subtitle “Subtitle 10.  
11 Maryland Debt Settlement Services Act”  
12 Annotated Code of Maryland  
13 (2003 Replacement Volume and 2010 Supplement)

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

16 **Article – Commercial Law**

17 13–301.

18 Unfair or deceptive trade practices include any:

19 (14) Violation of a provision of:

20 (xxvi) Title 6, Subtitle 13 of the Environment Article; [or]

21 (xxvii) Section 7–405(e)(2)(ii) of the Health Occupations  
22 Article; or

23 **(XXVIII) TITLE 12, SUBTITLE 10 OF THE FINANCIAL**  
24 **INSTITUTIONS ARTICLE; OR**

25 **Article – Financial Institutions**

26 12–905.

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

28 (1) All revenue received for the licensing of persons that provide debt  
29 management services under this subtitle;

1           (2) **ALL REVENUE RECEIVED FOR THE REGISTRATION OF**  
2 **PERSONS THAT PROVIDE DEBT SETTLEMENT SERVICES UNDER SUBTITLE 10 OF**  
3 **THIS TITLE;**

4           (3) Income from investments that the Treasurer makes for the Fund;  
5 and

6           **[(3)] (4)** Except as provided in subsection (b) of this section, any  
7 other fee or revenue received by the Commissioner under this subtitle **OR UNDER**  
8 **SUBTITLE 10 OF THIS TITLE.**

9           (b) The Commissioner shall pay all fines and penalties collected by the  
10 Commissioner under this subtitle **AND UNDER SUBTITLE 10 OF THIS TITLE** into the  
11 General Fund of the State.

12           (c) The purpose of the Fund is to pay all the costs and expenses incurred by  
13 the Commissioner that are related to the regulation of the debt management services  
14 business under this subtitle **AND THAT ARE RELATED TO THE REGISTRATION OF**  
15 **DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE 10 OF THIS TITLE,**  
16 including:

17           (1) Expenditures authorized under this subtitle **AND SUBTITLE 10**  
18 **OF THIS TITLE;** and

19           (2) Any other expense authorized in the State budget.

20           (d) (1) The Treasurer is the custodian of the Fund.

21           (2) The Treasurer shall deposit payments received from the  
22 Commissioner into the Fund.

23           (e) (1) The Fund is a continuing, nonlapsing fund that is not subject to §  
24 7-302 of the State Finance and Procurement Article, and may not be deemed a part of  
25 the General Fund of the State.

26           (2) Unless otherwise provided by law, no part of the Fund may revert  
27 or be credited to:

28           (i) The General Fund of the State; or

29           (ii) A special fund of the State.

30           (f) (1) All the costs and expenses of the Commissioner relating to the  
31 regulation of the debt management services business under this subtitle **AND TO THE**

1 **REGISTRATION OF DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE**  
2 **10 OF THIS TITLE** shall be included in the State budget.

3 (2) Any expenditures from the Fund to cover costs and expenses of the  
4 Commissioner may be made only:

5 (i) By an appropriation from the Fund approved by the General  
6 Assembly in the annual State budget; or

7 (ii) By the budget amendment procedure provided for in § 7–209  
8 of the State Finance and Procurement Article.

9 (3) If, in any fiscal year, the amount of the revenue collected by the  
10 Commissioner and deposited into the Fund exceeds the actual appropriation for the  
11 Commissioner to regulate the debt management services business under this subtitle  
12 **AND TO REGISTER DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE**  
13 **10 OF THIS TITLE**, the excess amount shall be carried forward within the Fund.

14 (g) The Office of Legislative Audits shall audit the accounts and transactions  
15 of the Fund under § 2–1220 of the State Government Article.

16 **SUBTITLE 10. MARYLAND DEBT SETTLEMENT SERVICES ACT.**

17 **12–1001.**

18 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
19 **INDICATED.**

20 (B) **“CONSUMER” MEANS AN INDIVIDUAL WHO:**

21 (1) **RESIDES IN THE STATE; AND**

22 (2) **IS SEEKING DEBT SETTLEMENT SERVICES OR HAS ENTERED**  
23 **INTO A DEBT SETTLEMENT SERVICES AGREEMENT IN CONNECTION WITH DEBTS**  
24 **THAT ARE CONSUMER DEBTS, AS DEFINED IN § 13–101 OF THE COMMERCIAL**  
25 **LAW ARTICLE.**

26 (C) **“DEBT MANAGEMENT SERVICES” HAS THE MEANING STATED IN §**  
27 **12–901 OF THIS TITLE.**

28 (D) (1) **“DEBT SETTLEMENT SERVICES” MEANS ANY SERVICE OR**  
29 **PROGRAM REPRESENTED, DIRECTLY OR BY IMPLICATION, TO RENEGOTIATE,**  
30 **SETTLE, REDUCE, OR IN ANY WAY ALTER THE TERMS OF PAYMENT OR OTHER**  
31 **TERMS OF A DEBT BETWEEN A CONSUMER AND ONE OR MORE UNSECURED**  
32 **CREDITORS OR DEBT COLLECTORS, INCLUDING A REDUCTION IN THE BALANCE,**

1 INTEREST RATE, OR FEES OWED BY A CONSUMER TO AN UNSECURED CREDITOR  
2 OR DEBT COLLECTOR.

3 (2) "DEBT SETTLEMENT SERVICES" DOES NOT INCLUDE DEBT  
4 MANAGEMENT SERVICES.

5 (E) "DEBT SETTLEMENT SERVICES AGREEMENT" MEANS A WRITTEN  
6 CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT SETTLEMENT SERVICES  
7 PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT SETTLEMENT  
8 SERVICES.

9 (F) "DEBT SETTLEMENT SERVICES FEE" MEANS A FEE CHARGED TO A  
10 CONSUMER BY A DEBT SETTLEMENT SERVICES PROVIDER FOR PROVIDING DEBT  
11 SETTLEMENT SERVICES FOR A CONSUMER.

12 (G) "DEBT SETTLEMENT SERVICES PROVIDER" MEANS A PERSON THAT  
13 PROVIDES OR OFFERS TO PROVIDE DEBT SETTLEMENT SERVICES FOR A  
14 CONSUMER REGARDLESS OF WHETHER THE PERSON PROVIDES THE DEBT  
15 SETTLEMENT SERVICES ON A FOR-PROFIT OR NOT-FOR-PROFIT BASIS.

16 (H) "DEDICATED ACCOUNT" MEANS AN ACCOUNT DESCRIBED IN §  
17 12-1010(D) OF THIS SUBTITLE.

18 (I) "OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT  
19 SERVICES" MEANS PROVIDING DEBT SETTLEMENT SERVICES:

20 (1) TO CONSUMERS THROUGH ANY MEANS, INCLUDING  
21 TELEPHONE TELEMARKETING, INTERNET SOLICITATION, AND FACE-TO-FACE  
22 MEETINGS; AND

23 (2) ON AN INTRASTATE OR INTERSTATE BASIS.

24 (J) "PRINCIPAL AMOUNT OF THE DEBT" MEANS THE AMOUNT OF A  
25 DEBT AT THE TIME THE DEBT IS INCLUDED IN A DEBT SETTLEMENT SERVICES  
26 AGREEMENT.

27 (K) "REGISTRANT" MEANS A PERSON REGISTERED UNDER THIS  
28 SUBTITLE TO PROVIDE DEBT SETTLEMENT SERVICES.

29 12-1002.

30 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE PROVISIONS  
31 OF THIS SUBTITLE ARE IN ADDITION TO AND NOT IN SUBSTITUTION FOR ANY  
32 OTHER PROVISION OF LAW.

1           **(B) A PERSON WHO PERIODICALLY RECEIVES FUNDS FROM CONSUMERS**  
2 **TO BE USED IN CONNECTION WITH PROVIDING DEBT SETTLEMENT SERVICES IS**  
3 **NOT ENGAGED IN PROVIDING DEBT MANAGEMENT SERVICES, AND IS NOT**  
4 **SUBJECT TO SUBTITLE 9 OF THIS TITLE, IF THE PERSON:**

5                   **(1) COMPLIES WITH THE REQUIREMENTS OF THIS SUBTITLE;**

6                   **(2) (I) NEGOTIATES TO SETTLE A CONSUMER'S DEBTS BY**  
7 **REDUCING THE PRINCIPAL AMOUNT OF THE DEBTS OWED; AND**

8                           **(II) MAKES NO MORE THAN SIX SETTLEMENT PAYMENTS**  
9 **FOR EACH DEBT; AND**

10                   **(3) ESTABLISHES A DEDICATED ACCOUNT THAT:**

11                           **(I) IS SEPARATE FROM ANY TRUST ACCOUNT ESTABLISHED**  
12 **BY THE PERSON UNDER § 12-917 OF THIS TITLE; AND**

13                           **(II) IS NOT ESTABLISHED SOLELY FOR THE PURPOSE OF**  
14 **HOLDING CONSUMER FUNDS TO BE DISBURSED TO THE DEBT SETTLEMENT**  
15 **SERVICES PROVIDER FOR FEES.**

16 **12-1003.**

17           **THIS SUBTITLE DOES NOT APPLY TO:**

18                   **(1) THE FOLLOWING PERSONS WHEN ENGAGED IN THE REGULAR**  
19 **COURSE OF THEIR RESPECTIVE BUSINESSES AND PROFESSIONS:**

20                           **(I) AN ATTORNEY AT LAW WHO IS ADMITTED TO ~~PRACTICE~~**  
21 **~~IN THE STATE AND IS NOT PRINCIPALLY ENGAGED IN PROVIDING DEBT~~**  
22 **~~SETTLEMENT SERVICES~~ THE MARYLAND BAR WHILE THE ATTORNEY AT LAW IS**  
23 **PROVIDING PROFESSIONAL LEGAL SERVICES IN AN ATTORNEY-CLIENT**  
24 **RELATIONSHIP;**

25                           **(II) AN ESCROW AGENT;**

26                           **(III) A CERTIFIED PUBLIC ACCOUNTANT;**

27                           **(IV) A BANKING INSTITUTION, OTHER-STATE BANK,**  
28 **NATIONAL BANKING ASSOCIATION, CREDIT UNION, OR SAVINGS AND LOAN**  
29 **ASSOCIATION;**

1 (V) A PERSON THAT:

2 1. PROVIDES A BILL PAYER SERVICE, AS DEFINED IN  
3 § 12-401 OF THIS TITLE;

4 2. DOES NOT INITIATE ANY CONTRACT WITH  
5 INDIVIDUAL CREDITORS OF A DEBTOR TO COMPROMISE A DEBT OR ARRANGE A  
6 NEW PAYMENT SCHEDULE; AND

7 3. DOES NOT PROVIDE ANY DEBT COUNSELING  
8 SERVICES;

9 (VI) A PERSON THAT PROVIDES AN ACCELERATED  
10 MORTGAGE PAYMENT SERVICE, AS DEFINED IN § 12-401 OF THIS TITLE;

11 (VII) A TITLE INSURER, TITLE INSURANCE AGENCY, OR  
12 ABSTRACT COMPANY; OR

13 (VIII) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A  
14 COURT ORDER;

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

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

21 (4) (I) A MORTGAGE LENDER, AS DEFINED IN § 11-501 OF THIS  
22 ARTICLE:

23 ~~(H)~~ 1. THAT IS LICENSED BY THE COMMISSIONER; AND

24 ~~(H)~~ 2. WHILE ENGAGED IN THE MORTGAGE LENDING  
25 BUSINESS, AS DEFINED IN § 11-501 OF THIS ARTICLE; OR

26 (II) AN EMPLOYEE OF A MORTGAGE LENDER; OR

27 (5) A COLLECTION AGENCY, AS DEFINED IN § 7-101 OF THE  
28 BUSINESS REGULATION ARTICLE:

29 (I) THAT IS LICENSED BY THE STATE COLLECTION  
30 AGENCY LICENSING BOARD; AND



1                   **(II) WHILE ENGAGED IN THE COLLECTION AGENCY**  
2 **BUSINESS, AS DEFINED IN § 7-101 OF THE BUSINESS REGULATION ARTICLE.**

3 **12-1004.**

4                   **A PERSON MAY NOT OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT**  
5 **SETTLEMENT SERVICES UNLESS THE PERSON:**

6                   **(1) IS REGISTERED WITH THE COMMISSIONER UNDER THIS**  
7 **SUBTITLE; OR**

8                   **(2) IS EXEMPT FROM REGISTRATION UNDER THIS SUBTITLE.**

9 **12-1005.**

10                   **TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, THE COMMISSIONER**  
11 **MAY:**

12                   **(1) ADOPT REGULATIONS;**

13                   **(2) ENTER INTO COOPERATIVE AND INFORMATION SHARING**  
14 **AGREEMENTS WITH ANY FEDERAL OR STATE REGULATORY AGENCY HAVING**  
15 **AUTHORITY OVER DEBT SETTLEMENT SERVICES PROVIDERS; AND**

16                   **(3) EXCHANGE INFORMATION ABOUT A DEBT SETTLEMENT**  
17 **SERVICES PROVIDER, INCLUDING INFORMATION OBTAINED DURING AN**  
18 **EXAMINATION, WITH ANY FEDERAL OR STATE REGULATORY AGENCY HAVING**  
19 **AUTHORITY OVER THE DEBT SETTLEMENT SERVICES PROVIDER.**

20 **12-1006.**

21                   **A PERSON REGISTERING AS A DEBT SETTLEMENT SERVICES PROVIDER**  
22 **WITH THE COMMISSIONER UNDER THIS SUBTITLE SHALL PAY TO THE**  
23 **COMMISSIONER A NONREFUNDABLE FEE IN THE AMOUNT OF:**

24                   **(1) \$1,000 FOR THE ISSUANCE OF A REGISTRATION UNDER THIS**  
25 **SUBTITLE; AND**

26                   **(2) \$1,000 FOR THE RENEWAL OF A REGISTRATION UNDER THIS**  
27 **SUBTITLE.**

28 **12-1007.**

1           **ALL FEES COLLECTED BY THE COMMISSIONER UNDER THIS SUBTITLE**  
2 **SHALL BE:**

3           **(1) DEPOSITED IN THE DEBT MANAGEMENT SERVICES FUND**  
4 **ESTABLISHED UNDER § 12-905 OF THIS TITLE; AND**

5           **(2) USED TO COVER THE COSTS AND EXPENSES INCURRED BY**  
6 **THE COMMISSIONER THAT ARE RELATED TO THE REGISTRATION OF DEBT**  
7 **SETTLEMENT SERVICES PROVIDERS.**

8 **12-1008.**

9           **(A) TO APPLY FOR A REGISTRATION, AN APPLICANT SHALL SUBMIT TO**  
10 **THE COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER**  
11 **PROVIDES.**

12           **(B) THE APPLICATION SHALL INCLUDE:**

13           **(1) THE APPLICANT'S LEGAL NAME, TRADE NAME, IF ANY,**  
14 **MAIN OFFICE ADDRESS, TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, IF**  
15 **ANY, AND WEB SITE ADDRESS, IF ANY;**

16           **(2) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE**  
17 **APPLICANT'S DESIGNATED CONTACT FOR RECEIPT OF COMPLAINTS;**

18           **(3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE**  
19 **APPLICANT'S RESIDENT AGENT IN THE STATE; AND**

20           **(4) ANY OTHER INFORMATION THAT THE COMMISSIONER**  
21 **REASONABLY REQUIRES.**

22 **12-1009.**

23           **(A) A REGISTRATION ISSUED UNDER THIS SUBTITLE EXPIRES ON**  
24 **DECEMBER 31 OF EACH ODD-NUMBERED YEAR UNLESS THE REGISTRATION IS**  
25 **RENEWED FOR A 2-YEAR TERM AS PROVIDED IN SUBSECTION (B) OF THIS**  
26 **SECTION.**

27           **(B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A**  
28 **REGISTRATION MAY BE RENEWED FOR A 2-YEAR TERM IF THE REGISTRANT:**

29           **(1) OTHERWISE IS ENTITLED TO BE REGISTERED;**

1           **(2) PAYS TO THE COMMISSIONER THE RENEWAL FEE**  
2 **ESTABLISHED UNDER § 12-1006 OF THIS SUBTITLE; AND**

3           **(3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION**  
4 **ON THE FORM THAT THE COMMISSIONER REQUIRES.**

5 **12-1010.**

6           **(A) EXCEPT AS ALLOWED UNDER THIS SUBTITLE, A REGISTRANT MAY**  
7 **NOT OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES**  
8 **IN THE STATE.**

9           **(B) (1) A REGISTRANT MAY CHARGE A CONSUMER A DEBT**  
10 **SETTLEMENT SERVICES FEE AS PROVIDED UNDER THIS SECTION.**

11           **(2) A REGISTRANT MAY NOT:**

12                   **(I) CHARGE A CONSUMER A FEE FOR CONSULTATION OR**  
13 **FOR OBTAINING A CONSUMER'S CREDIT REPORT; OR**

14                   **(II) REQUIRE A VOLUNTARY CONTRIBUTION FROM A**  
15 **CONSUMER FOR ANY SERVICE PROVIDED BY THE REGISTRANT.**

16           **(C) EXCEPT AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION, A**  
17 **REGISTRANT MAY NOT CHARGE A CONSUMER A DEBT SETTLEMENT SERVICES**  
18 **FEE UNTIL AFTER:**

19                   **(1) A DEBT SETTLEMENT SERVICES AGREEMENT HAS BEEN**  
20 **EXECUTED BETWEEN THE REGISTRANT AND THE CONSUMER;**

21                   **(2) THE REGISTRANT HAS RENEGOTIATED, SETTLED, REDUCED,**  
22 **OR OTHERWISE ALTERED THE TERMS OF AT LEAST ONE INDIVIDUAL DEBT**  
23 **SPECIFIED IN THE DEBT SETTLEMENT SERVICES AGREEMENT; AND**

24                   **(3) THE CONSUMER HAS MADE AT LEAST ONE PAYMENT IN**  
25 **ACCORDANCE WITH THE DEBT SETTLEMENT SERVICES AGREEMENT.**

26           **(D) SUBSECTION (C) OF THIS SECTION DOES NOT PROHIBIT A**  
27 **REGISTRANT FROM REQUESTING OR REQUIRING A CONSUMER TO DEPOSIT**  
28 **FUNDS IN AN ACCOUNT TO BE USED FOR DEBT SETTLEMENT SERVICES FEES**  
29 **AND FOR PAYMENTS TO CREDITORS OR DEBT COLLECTORS IN CONNECTION**  
30 **WITH A DEBT SETTLEMENT SERVICES AGREEMENT, PROVIDED THAT:**

1           (1) THE FUNDS ARE HELD IN AN ACCOUNT AT AN INSURED  
2 FINANCIAL INSTITUTION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

3           (2) THE CONSUMER OWNS THE FUNDS HELD IN THE ACCOUNT,  
4 INCLUDING ANY ACCRUED INTEREST;

5           (3) THE FINANCIAL INSTITUTION OR ENTITY ADMINISTERING THE  
6 ACCOUNT IS NOT OWNED OR CONTROLLED BY, OR IN ANY WAY AFFILIATED  
7 WITH, THE REGISTRANT;

8           (4) THE FINANCIAL INSTITUTION OR ENTITY ADMINISTERING THE  
9 ACCOUNT DOES NOT PAY OR ACCEPT ANY MONEY OR OTHER COMPENSATION IN  
10 EXCHANGE FOR REFERRALS OF BUSINESS INVOLVING THE REGISTRANT, BUT  
11 MAY CHARGE ACCOUNT RELATED FEES; AND

12           (5) IF THE CONSUMER REQUESTS TO WITHDRAW FROM THE DEBT  
13 SETTLEMENT SERVICES AGREEMENT, WITHIN 7 DAYS AFTER THE CONSUMER'S  
14 REQUEST, ALL FUNDS IN THE ACCOUNT, INCLUDING ACCRUED INTEREST, LESS  
15 ANY DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN  
16 COMPLIANCE WITH THIS SECTION, ARE PAID TO THE CONSUMER.

17           ~~(E) (1) A REGISTRANT MAY NOT CHARGE A DEBT SETTLEMENT~~  
18 ~~SERVICES FEE THAT EXCEEDS:~~

19           ~~(I) WITH RESPECT TO EACH INDIVIDUAL DEBT, 30% OF THE~~  
20 ~~EXCESS OF THE PRINCIPAL AMOUNT OF THE DEBT OVER THE AMOUNT PAID TO~~  
21 ~~THE CREDITOR OR DEBT COLLECTOR TO SETTLE THE INDIVIDUAL DEBT; OR~~

22           ~~(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,~~  
23 ~~WITH RESPECT TO THE TOTAL DEBT, 20% OF THE PRINCIPAL AMOUNT OF THE~~  
24 ~~TOTAL DEBT.~~

25           ~~(2) THE AMOUNT OF A DEBT SETTLEMENT SERVICES FEE UNDER~~  
26 ~~PARAGRAPH (1)(II) OF THIS SUBSECTION FOR EACH INDIVIDUAL DEBT:~~

27           ~~(I) MUST BEAR THE SAME PROPORTIONAL RELATIONSHIP~~  
28 ~~TO THE DEBT SETTLEMENT SERVICES FEE FOR THE TOTAL DEBT AS THE~~  
29 ~~INDIVIDUAL DEBT BEARS TO THE TOTAL DEBT; AND~~

30           ~~(II) MAY NOT EXCEED THE AMOUNT BY WHICH THE~~  
31 ~~CONSUMER'S DEBT IS REDUCED.~~

1           **(E) (1) SUBJECT TO ~~PARAGRAPHS (2) AND (3)~~ PARAGRAPH (2) OF**  
2 **THIS SUBSECTION, FOR EACH INDIVIDUAL DEBT, A DEBT SETTLEMENT**  
3 **SERVICES FEE SHALL:**

4                   **(I) BEAR THE SAME PROPORTIONAL RELATIONSHIP TO THE**  
5 **DEBT SETTLEMENT SERVICES FEE FOR SETTLING THE TOTAL DEBT AS THE**  
6 **INDIVIDUAL DEBT AMOUNT BEARS TO THE TOTAL DEBT; OR**

7                   **(II) BE CALCULATED AS A PERCENTAGE OF THE**  
8 **~~DIFFERENCE BETWEEN~~ AMOUNT BY WHICH THE PRINCIPAL AMOUNT OF THE**  
9 **DEBT ~~AND EXCEEDS~~ THE AMOUNT PAID TO THE CREDITOR OR DEBT COLLECTOR**  
10 **TO SETTLE THE DEBT.**

11                   **(2) THE PERCENTAGE CHARGED UNDER PARAGRAPH (1)(II) OF**  
12 **THIS SUBSECTION SHALL BE THE SAME FOR EACH INDIVIDUAL DEBT.**

13                   **~~(3) THE TOTAL DEBT SETTLEMENT SERVICES FEES CHARGED~~**  
14 **~~UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED 25% OF THE~~**  
15 **~~TOTAL PRINCIPAL AMOUNT OF THE DEBT.~~**

16           **(F) (1) A REGISTRANT SHALL ALLOW A CONSUMER TO WITHDRAW**  
17 **FROM A DEBT SETTLEMENT SERVICES AGREEMENT AT ANY TIME.**

18                   **(2) IF A CONSUMER WITHDRAWS FROM THE DEBT SETTLEMENT**  
19 **SERVICES AGREEMENT, THE REGISTRANT:**

20                           **(I) MAY NOT CHARGE THE CONSUMER A PENALTY; AND**

21                           **(II) MAY COLLECT DEBT SETTLEMENT SERVICES FEES**  
22 **EARNED BY THE REGISTRANT IN COMPLIANCE WITH THIS SECTION.**

23 **12-1011.**

24           **A REGISTRANT MAY NOT MISREPRESENT ANY MATERIAL ASPECT OF ANY**  
25 **DEBT SETTLEMENT SERVICE.**

26 **12-1012.**

27           **(A) A DEBT SETTLEMENT SERVICES AGREEMENT SHALL:**

28                   **(1) BE SIGNED AND DATED BY THE REGISTRANT AND THE**  
29 **CONSUMER; AND**

30                   **(2) INCLUDE, IN AT LEAST 12 POINT TYPE:**

1 (I) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF  
2 THE CONSUMER;

3 (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF  
4 THE REGISTRANT;

5 (III) A DESCRIPTION OF THE DEBT SETTLEMENT SERVICES  
6 TO BE PROVIDED TO THE CONSUMER;

7 (IV) 1. ANY DEBT SETTLEMENT SERVICES FEES TO BE  
8 CHARGED TO THE CONSUMER; AND

9 2. A STATEMENT THAT THE REGISTRANT MAY NOT:

10 A. CHARGE THE CONSUMER A FEE FOR  
11 CONSULTATION OR FOR OBTAINING A CONSUMER'S CREDIT REPORT; OR

12 B. REQUIRE A VOLUNTARY CONTRIBUTION FROM  
13 THE CONSUMER FOR ANY SERVICE PROVIDED BY THE REGISTRANT;

14 (V) THE IDENTITY OF EACH INDIVIDUAL CREDITOR OR  
15 DEBT COLLECTOR WHOSE DEBTS ARE ~~TO BE SETTLED UNDER~~ INCLUDED IN THE  
16 DEBT SETTLEMENT SERVICES AGREEMENT AND THE PRINCIPAL AMOUNT OF  
17 THE DEBT OWED TO EACH INDIVIDUAL CREDITOR OR DEBT COLLECTOR;

18 (VI) THE PRINCIPAL AMOUNT OF THE TOTAL DEBT ~~TO BE~~  
19 ~~SETTLED UNDER~~ INCLUDED IN THE DEBT SETTLEMENT SERVICES AGREEMENT;

20 (VII) A GOOD FAITH ESTIMATE OF THE AMOUNT OF TIME  
21 NECESSARY TO ACHIEVE THE REPRESENTED RESULTS;

22 (VIII) TO THE EXTENT THAT THE DEBT SETTLEMENT  
23 SERVICES MAY INCLUDE A DEBT SETTLEMENT OFFER TO ANY OF THE  
24 CONSUMER'S CREDITORS OR DEBT COLLECTORS, A GOOD FAITH ESTIMATE OF:

25 1. THE TIME BY WHICH THE REGISTRANT WILL MAKE  
26 A BONA FIDE DEBT SETTLEMENT OFFER TO EACH OF THEM; AND

27 2. THE AMOUNT OF MONEY OR PERCENTAGE OF  
28 EACH DEBT THAT THE CONSUMER MUST ACCUMULATE BEFORE THE  
29 REGISTRANT WILL MAKE A BONA FIDE DEBT SETTLEMENT OFFER TO EACH OF  
30 THEM;

1                   **(IX) A STATEMENT THAT:**

2                   1.     **THE CONSUMER MAY WITHDRAW FROM THE DEBT**  
3 **SETTLEMENT SERVICES AGREEMENT AT ANY TIME; AND**

4                   2.     **IF A CONSUMER WITHDRAWS FROM THE DEBT**  
5 **SETTLEMENT SERVICES AGREEMENT, THE REGISTRANT:**

6                   A.     **MAY NOT CHARGE A PENALTY; AND**

7                   B.     **MAY COLLECT DEBT SETTLEMENT SERVICES FEES**  
8 **EARNED BY THE REGISTRANT;**

9                   **(X) IF THE REGISTRANT REQUESTS OR REQUIRES THE**  
10 **CONSUMER TO DEPOSIT FUNDS IN A DEDICATED ACCOUNT, A STATEMENT THAT:**

11                   1.     **THE CONSUMER OWNS THE FUNDS HELD IN THE**  
12 **ACCOUNT, INCLUDING ANY ACCRUED INTEREST; AND**

13                   2.     **IF THE CONSUMER REQUESTS TO WITHDRAW**  
14 **FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, WITHIN 7 DAYS AFTER**  
15 **THE REQUEST, ALL FUNDS IN THE ACCOUNT, INCLUDING ACCRUED INTEREST,**  
16 **LESS ANY DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN**  
17 **COMPLIANCE WITH § 12-1010 OF THIS SUBTITLE, MUST BE PAID TO THE**  
18 **CONSUMER; AND**

19                   **(XI) A STATEMENT THAT THE CONSUMER MAY BE REQUIRED**  
20 **TO PAY TAXES ON THE AMOUNT BY WHICH THE CONSUMER'S DEBT IS REDUCED.**

21                   **(B) THE DISCLOSURES REQUIRED UNDER SUBSECTION (A)(2)(VII)**  
22 **THROUGH (XI) OF THIS SECTION SHALL BE PROVIDED TO THE CONSUMER IN A**  
23 **CLEAR AND CONSPICUOUS MANNER IN THE DEBT SETTLEMENT SERVICES**  
24 **AGREEMENT.**

25 **12-1013.**

26                   **AN ADVERTISEMENT FOR DEBT SETTLEMENT SERVICES SHALL INCLUDE**  
27 **CLEARLY AND CONSPICUOUSLY A DISCLOSURE THAT, TO THE EXTENT THAT ANY**  
28 **ASPECT OF THE DEBT SETTLEMENT SERVICES RELIES ON OR RESULTS IN THE**  
29 **CONSUMER'S FAILURE TO MAKE TIMELY PAYMENTS TO THE CONSUMER'S**  
30 **CREDITORS OR DEBT COLLECTORS, THE USE OF THE DEBT SETTLEMENT**  
31 **SERVICES:**

1 (1) WILL LIKELY ADVERSELY AFFECT THE CONSUMER'S  
2 CREDITWORTHINESS;

3 (2) MAY RESULT IN THE CONSUMER BEING SUBJECT TO  
4 COLLECTIONS OR BEING SUED BY CREDITORS OR DEBT COLLECTORS; AND

5 (3) MAY INCREASE THE AMOUNT OF MONEY THE CONSUMER  
6 OWES DUE TO THE ACCRUAL OF FEES AND INTEREST BY CREDITORS OR DEBT  
7 COLLECTORS.

8 12-1014.

9 (A) A REGISTRANT THAT ESTABLISHES A DEDICATED ACCOUNT IN  
10 ACCORDANCE WITH § 12-1010(D) OF THIS SUBTITLE SHALL FILE A SURETY  
11 BOND WITH THE COMMISSIONER AT THE TIME THE DEDICATED ACCOUNT IS  
12 ESTABLISHED.

13 (B) A SURETY BOND FILED UNDER THIS SECTION SHALL:

14 (1) RUN TO THE COMMISSIONER FOR THE BENEFIT OF ANY  
15 CONSUMER WHO IS INJURED BY A VIOLATION OF THIS SUBTITLE COMMITTED BY  
16 A REGISTRANT;

17 (2) ~~(I) BE IN AN THE AMOUNT NOT LESS THAN OF \$10,000~~  
18 ~~\$50,000 AT THE TIME IT IS FILED; AND~~

19 ~~(II) BEGINNING 3 MONTHS AFTER IT IS FILED, BE IN AN~~  
20 ~~AMOUNT NOT LESS THAN THE AVERAGE OF THE BALANCE OF FUNDS HELD IN A~~  
21 ~~DEDICATED ACCOUNT DURING THE PRECEDING 3 MONTHS, BUT NOT LESS THAN~~  
22 ~~\$10,000 AND NOT MORE THAN \$1,000,000;~~

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

25 (4) ~~CONDITIONED~~ BE CONDITIONED SO THAT THE REGISTRANT  
26 SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS  
27 GOVERNING THE BUSINESS OF PROVIDING DEBT SETTLEMENT SERVICES.

28 (C) IF THE AMOUNT OF THE SURETY BOND INITIALLY FILED WITH THE  
29 COMMISSIONER MUST BE INCREASED TO MEET THE MINIMUM REQUIREMENTS  
30 UNDER SUBSECTION (B)(2) OF THIS SECTION, THE REGISTRANT SHALL FILE  
31 WITH THE COMMISSIONER EVIDENCE OF THE INCREASED BOND AMOUNT IN A  
32 FORM SATISFACTORY TO THE COMMISSIONER.



1 12-1015.

2 (A) ON OR BEFORE ~~APRIL 30~~ MARCH 15 OF EACH YEAR, A REGISTRANT  
3 SHALL REPORT TO THE COMMISSIONER ON THE DEBT SETTLEMENT SERVICES  
4 BUSINESS OF THE REGISTRANT CONDUCTED DURING THE PRECEDING  
5 CALENDAR YEAR.

6 (B) THE ANNUAL REPORT SHALL BE ON THE FORM THAT THE  
7 COMMISSIONER REQUIRES.

8 12-1016.

9 A VIOLATION OF THIS SUBTITLE IS:

10 (1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE  
11 MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

12 (2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS  
13 OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

14 12-1017.

15 THIS SUBTITLE MAY BE CITED AS THE MARYLAND DEBT SETTLEMENT  
16 SERVICES ACT.

17 SECTION 2. AND BE IT FURTHER ENACTED, That:

18 (a) On or before ~~April 30~~ *March 15* of each year beginning with ~~April 30~~  
19 *March 15, 2012*, and ending with ~~April 30~~ *March 15, 2015* *2014*, each debt settlement  
20 services provider that is registered with the Commissioner of Financial Regulation, as  
21 required under Section 1 of this Act, shall report to the Commissioner on the debt  
22 settlement services business the registrant conducted during the preceding calendar  
23 year.

24 (b) The report required under subsection (a) of this section shall include:

25 (1) for each consumer in Maryland for whom the registrant provided  
26 debt settlement services during the reporting period:

27 (i) the number of debts included in the debt settlement services  
28 agreement with the consumer;

29 (ii) the principal amount of each debt at the time the debt  
30 settlement services agreement was signed;

- 1                    (iii) whether each debt is active, terminated, or settled;
- 2                    (iv) if a debt has been settled:
- 3                    1. the settlement amount of the debt and the savings  
4 amount;
- 5                    2. the amount of the debt settlement services fee charged  
6 to the consumer and how it was calculated; and
- 7                    3. the amount of the debt settlement services fee that  
8 would have been charged if calculated based on:
- 9                    A. 30% of the excess of the principal amount of the debt  
10 over the amount paid to settle the debt, up to 20% of the principal amount of the total  
11 debt; and
- 12                    B. 25% of the principal amount of the total debt;
- 13                    (v) the total amount of debt settlement services fees paid by the  
14 consumer to the registrant;
- 15                    (vi) for each debt, whether the creditor has filed suit on the debt;
- 16                    (vii) the date the consumer is expected to complete the debt  
17 settlement program; and
- 18                    (viii) the date the consumer became inactive in, cancelled, or  
19 terminated the debt settlement program, if applicable;
- 20                    (2) for Maryland consumers who completed a debt settlement program  
21 during the reporting period, the mean and median percentage of savings to the  
22 consumers and the mean and median percentage of fees paid to the registrant;
- 23                    (3) for Maryland consumers who became inactive in, cancelled, or  
24 terminated a debt settlement program during the reporting period, the mean and  
25 median percentage of savings to the consumers and the mean and median percentage  
26 of fees paid to the registrant;
- 27                    (4) the percentage of Maryland consumers who became inactive in,  
28 cancelled, or terminated a debt settlement program during the reporting period  
29 without settlement of all of the consumer's debts; ~~and~~
- 30                    (5) the total amount of fees collected from Maryland consumers during  
31 the reporting period;

1           (6) a profit and loss statement of debt settlement services provided to  
 2 Maryland consumers for the previous calendar year prepared by an independent  
 3 certified public accountant in accordance with generally accepted accounting  
 4 principles; and

5           (7) any other information the Commissioner reasonably requires.

6           SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That, on or before December  
 7 1, ~~2012~~ 2014, the Office of the Commissioner of Financial Regulation in the  
 8 Department of Labor, Licensing, and Regulation, in consultation with the Consumer  
 9 Protection Division of the Office of the Attorney General, shall report, in accordance  
 10 with § 2-1246 of the State Government Article, to the Senate Finance Committee and  
 11 the House Economic Matters Committee on its recommendations regarding changes to  
 12 the Maryland Debt Settlement Services Act, including:

13           (1) whether to transition from a registration requirement to a  
 14 licensure requirement for debt settlement services providers; and

15           (2) whether the calculation of and a cap on debt settlement services  
 16 fees, as provided under § 12-1010(c) of the Financial Institutions Article, as enacted  
 17 by Section 1 of this Act, should be altered in a way that would be more beneficial to  
 18 consumers and fair to the debt settlement services industry. would be beneficial to  
 19 consumers and fair to the debt settlement services industry.

20           SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
 21 effect October 1, 2011. It shall remain effective for a period of 3 years and 9 months  
 22 and, at the end of June 30, 2015, with no further action required by the General  
 23 Assembly, this Act shall be abrogated and of no further force and effect.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.