

SENATE BILL 303

12

2lr0021

By: **Chair, Finance Committee (By Request – Departmental – Labor,
Licensing and Regulation)**

Introduced and read first time: January 27, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Credit Regulation – Debt Management Services – Agreement and Prohibited**
3 **Acts**

4 FOR the purpose of altering a notice that must be included in a debt management
5 services agreement to clarify the right of a party to the agreement to rescind the
6 agreement at any time; prohibiting a licensed debt management services
7 provider from violating any provision of certain federal or State laws; and
8 generally relating to debt management services.

9 BY repealing and reenacting, with amendments,
10 Article – Financial Institutions
11 Section 12–916(b) and 12–920(a)
12 Annotated Code of Maryland
13 (2011 Replacement Volume and 2011 Supplement)

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

16 **Article – Financial Institutions**

17 12–916.

18 (b) Each debt management services agreement shall:

19 (1) Be signed and dated by the licensee and the consumer; and

20 (2) Include, in at least 12 point type:

21 (i) The name, address, and phone number of the consumer;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(ii) The name, address, phone number, and license number of the licensee;

(iii) A description of the debt management services to be provided to the consumer and any fees to be charged to the consumer for the debt management services;

(iv) A disclosure of the existence of the surety bond required under § 12-914 of this subtitle;

(v) The name and address of the financial institution in which funds, paid by the consumer to the licensee for disbursement to the consumer's creditors, will be held;

(vi) A notice of the right of a party to the debt management services agreement to rescind the debt management services agreement **AT ANY TIME** by giving written notice of rescission to the other party;

(vii) A schedule of payments that the consumer must make to the debt management services provider, including:

1. The amount of each payment and the date on which each payment is due; and

2. An itemization of the maintenance fees that will be retained by the debt management services provider, and the amount of money that will be paid to the consumer's creditors, from each payment the consumer makes to the debt management services provider;

(viii) A list of:

1. A. Each participating creditor of the consumer to which payments will be made under the debt management services agreement;

B. The amount owed to each creditor; and

C. A schedule of payments that the debt management services provider will make to each participating creditor from the consumer's payments, including the amount of each payment and the date on which each payment will be made; and

2. Each creditor that the licensee reasonably expects not to participate in the management of the consumer's debt under the debt management services agreement;

(ix) A disclosure that the licensee also may receive compensation from the consumer's creditors for providing debt management services to the consumer;

(x) A disclosure that the licensee may not, as a condition of entering into a debt management services agreement, require a consumer to purchase for a fee a counseling session, an educational program, or materials and supplies;

(xi) A disclosure that the licensee may not require a voluntary contribution from a consumer for any service provided by the licensee to the consumer;

(xii) A disclosure that, by executing the debt management services agreement, the consumer authorizes any financial institution in which the licensee has established a trust account for deposit of the consumer's funds to disclose to the Commissioner any financial records relating to the trust account during the course of any investigation or examination of the licensee by the Commissioner;

(xiii) A disclosure that execution of a debt management services agreement may impact the consumer's credit rating and credit scores; and

(xiv) The following notice:

"The Commissioner of Financial Regulation for the State of Maryland will accept questions and complaints from Maryland residents regarding (name and license number of the debt management services provider) at (address of the Commissioner) phone (toll-free number of the Commissioner). Do not sign this agreement before you read it. You must be given a copy of this agreement."

12-920.

(a) A licensee may not:

(1) Purchase any debt or obligation of a consumer;

(2) Lend money or provide credit to a consumer;

(3) Obtain a mortgage or other security interest in property owned by a consumer;

(4) Operate as a collection agency, as defined in § 7-101 of the Business Regulation Article;

(5) Structure a debt management services agreement in a manner that would result in a negative amortization of any of the consumer's debts;

1 (6) Make any false, misleading, or deceptive representations or
2 omissions of information in connection with the offer, sale, or performance of any
3 service;

4 (7) Offer, pay, or give a substantial gift, bonus, premium, reward, or
5 other compensation to a person for referring a prospective customer to the licensee;

6 (8) Offer an incentive, including a gift, bonus, premium, reward, or
7 other compensation, to a consumer for executing a debt management services
8 agreement with the licensee;

9 (9) Charge for or provide credit insurance;

10 (10) Compromise any debts of a consumer unless the licensee has
11 obtained the prior written approval of the consumer, and the compromise benefits the
12 consumer;

13 (11) Enter into a contract or fee-for-service arrangement with a person
14 owned, controlled by, or affiliated with an officer, a director, or an employee of the debt
15 management services provider, or with a relative of an officer, a director, or an
16 employee, that benefits an officer, a director, or an employee of the debt management
17 services provider;

18 (12) Advertise, display, distribute, broadcast, televise, or otherwise
19 publish debt management service rates, terms, or services in a false, misleading, or
20 deceptive manner; [or]

21 (13) Pay an incentive to an employee for enrolling a consumer in a debt
22 management services plan or agreement; **OR**

23 **(14) VIOLATE ANY PROVISION OF THE FEDERAL CREDIT REPAIR**
24 **ORGANIZATIONS ACT, THE FEDERAL TELEMARKETING SALES RULE, OR ANY**
25 **OTHER PROVISION OF FEDERAL OR STATE LAW GOVERNING DEBT**
26 **MANAGEMENT SERVICES.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 2012.