

**HOUSE . . . . . No. 956**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Daniel Cahill*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the licensing and supervision of debt management services in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>1/18/2023</i>

**HOUSE . . . . . No. 956**

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By Representative Cahill of Lynn, a petition (accompanied by bill, House, No. 956) of Daniel Cahill relative to the licensing and supervision of debt management services. Financial Services.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
\_\_\_\_\_

An Act relative to the licensing and supervision of debt management services in the Commonwealth.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 180 of the General Laws is hereby amended by striking out section  
2 4A, as appearing in the 2012 Official Edition, and inserting in place thereof the following  
3 section:-

4           Section 4A. (a) As used in this chapter, credit counseling services shall mean: (1) the  
5 providing of financial and budgetary advice and judgment to individuals for compensation or  
6 gain in connection with the creation of a budgetary plan; (2) the creation of a plan whereby an  
7 individual turns over an agreed amount of his income to a nonprofit credit counseling  
8 corporation which distributes it to the creditors of that individual in accordance with a plan  
9 which they have approved and which may provide for smaller payments or a longer term than the  
10 original contract; (3) the providing of educational services relating to the use of credit; or (4) any  
11 combination of clauses (1), (2) or (3).

12 (b) No person, other than an attorney or a nonprofit charitable corporation organized  
13 under the provisions of this chapter may render credit counseling services, as specified in clause  
14 (2) of subsection (a).

15 (c) Any corporation formed for credit counseling purposes which provides debt  
16 management services for compensation or gain from or on behalf of the individuals to whom it  
17 provides the services or from their creditors shall obtain a license under chapter 255G. Each such  
18 corporation shall comply with the provisions of section 8F of chapter 12. No such corporation  
19 shall engage in the practice of law. If a person receiving credit counseling services requires legal  
20 advice or counsel, they shall be referred to an attorney of their choice, the local bar association  
21 referral service, or a local legal aid program.

22 SECTION 2. The General Laws are hereby amended by inserting after chapter 255F the  
23 following chapter:-

24 CHAPTER 255G

25 DEBT MANAGEMENT SERVICES

26 Section 1. As used in this chapter, the following words shall have the following  
27 meanings, unless the context requires otherwise:

28 Agreement, a contract between a provider and an individual for the performance of debt  
29 management services.

30 Business address, the physical location of a business, including the name and number of a  
31 street.

32 Business day, a calendar day, except for Sundays and legal holidays as listed in the first  
33 sentence of clause eighteenth of section 4 of chapter 4.

34 Commissioner, the commissioner of banks.

35 Consumer, an individual who has secured or unsecured debt, which arises out of  
36 personal, family or household obligations, and who has executed an agreement with a provider.

37 Creditor, a person that has extended credit to an individual.

38 Debt management services, directly or indirectly receiving an individuals money to  
39 distribute it to 1 or more of an individuals creditors in partial or full satisfaction of the  
40 individuals secured or unsecured debts; arranging the distribution or assisting an individual in the  
41 distribution of an individuals money to 1 or more of an individuals creditors in partial or full  
42 satisfaction of the individuals secured or unsecured debts; or acting or offering to act as an  
43 intermediary between an individual and 1 or more of the individuals creditors to reduce, defer,  
44 discharge or in any other way modify the terms and conditions of an individuals obligation to  
45 repay secured or unsecured debts.

46 Division, the division of banks.

47 Individual, a natural person.

48 Licensee, a provider that possesses a valid license issued pursuant to section 2.

49 Person, an individual, corporation, association, operation, firm, partnership, trust or other  
50 form of business association.

51            Provider, a person that performs debt management services for compensation or gain, or  
52 in the expectation of compensation or gain.

53            Statement of accounting, a written or electronic document that a provider prepares for a  
54 consumer in accordance with section 16.

55            Third party payment processor, an entity that holds, or has access to, or can effectuate  
56 procession of, by any means, the monies of a consumer, or distributes, or is in the chain of  
57 distribution of such monies, to the creditors of such consumer, pursuant to an agreement or  
58 contract with either the consumer or the licensee.

59            Trust Account, an account held by a provider that is: established by the provider in a  
60 financial institution described in Section 3(4) of this chapter; separate from other accounts of the  
61 provider or its designee; designated as a trust or other account such that it is clear that the money  
62 in the trust account is not the money of the provider or its designee; and used to hold money of  
63 one or more consumers for disbursement to the creditors of the consumers, in each case pursuant  
64 to a debt management plan whereby consumers' funds are distributed, pro rata, on a periodic  
65 basis to the consumers' creditors. An account established by a consumer that is both owned and  
66 controlled by the consumer shall not be deemed to be a "trust account" for purposes of this  
67 chapter.

68            Section 2. (a) No person shall engage in or advertise for debt management services in the  
69 commonwealth unless such person has first obtained a debt management services license from  
70 the commissioner.

71            (b) A provider shall obtain a license for its primary business address and for each of its  
72 business addresses in the commonwealth.

73 (c) A license shall not be transferable or assignable.

74 (d) A licensee shall file a surety bond in an amount and form that the commissioner  
75 determines before it may conduct business in the commonwealth.

76 (e) A licensee shall not conduct business in the commonwealth under a business name  
77 other than the business name that is listed on its license. Notwithstanding the foregoing, a  
78 provider may do business under a fictitious business name, provided that the provider has  
79 registered such fictitious business name(s) with the Secretary of State and provided evidence of  
80 such registration to the commissioner.

81 (f) The commissioner shall promulgate rules and regulations for the administration and  
82 enforcement of this chapter.

83 Section 3. The following persons shall be exempt from this chapter:

84 (1) a providers employees who perform debt management services on the providers  
85 behalf in the regular course of their employment;

86 (2) a person organized under section 501(c) of the Internal Revenue Code that receives no  
87 compensation or gain for the debt management services from or on behalf of the individuals to  
88 whom it provides the services or from their creditors;

89 (3) judicial officers, individuals acting under the direction of a court, or assignees for  
90 creditors benefit;

91 (4) a bank as defined in section 1 of chapter 167, a national banking association, a  
92 federally chartered credit union, a federal savings and loan association, a federal savings bank, or  
93 any subsidiary of the above, or any bank, trust company, savings bank, savings and loan

94 association, or credit union organized under the laws of any other state, or any subsidiary of the  
95 above;

96 (5) attorneys licensed to practice law in the commonwealth who provide debt  
97 management services to consumers with whom the attorney also provides legal services within  
98 an attorney-client relationship to, and who do not solicit debt management services business;

99 (6) persons that provide bill paying services if such persons do not perform debt  
100 management service;

101 (7) creditors or the creditors employees who negotiate debt settlement with individuals or  
102 providers, acting on an individuals or consumers behalf;

103 (8) officers or employees of the United States or a state of the United States who perform  
104 debt management services for individuals on behalf of the federal government, the  
105 commonwealth, a municipality or a state agency, and receive compensation solely from such  
106 governmental entities;

107 (9) certified public accountants licensed in the commonwealth who provide debt  
108 management services to consumers with whom the certified public accountant also provides  
109 accounting services within an accountant-client relationship to, and who do not solicit debt  
110 management services business; and

111 (10) a third party payment processor which does not otherwise provide debt management  
112 services.

113 Section 4. (a) The application for the license and the application for the license renewal  
114 shall be in a form prescribed by the commissioner, signed under oath and containing information

115 as the commissioner shall determine. Applicants shall pay an investigation fee that the secretary  
116 of administration and finance shall determine under section 3B of chapter 7. The commissioner  
117 shall evaluate the applicants financial responsibility, character, reputation, integrity and general  
118 fitness to determine whether the applicant will act lawfully, honestly, fairly, soundly and  
119 efficiently in the public interest. The license shall be for a period of 1 year. The secretary of  
120 administration and finance shall determine the license fee annually under section 3B of chapter  
121 7. The following items shall be required in any application for a license under this Chapter:

122 (1) proof of compliance with Section 15.01 et seq. of title XXII, chapter 156D, which  
123 specifies the requirements for an entity to do business in the commonwealth.

124 (2) the applicant's name, principal business address and telephone number, all business  
125 addresses in this state, all electronic mail addresses for the business and all internet web site  
126 addresses to be used for the business;

127 (3) the name and home address of each officer and director of the applicant and each  
128 person that owns, directly or indirectly, more than fifteen percent of the voting interests of the  
129 applicant;

130 (4) a statement describing, to the extent it is known or should be known by the applicant,  
131 any material civil or criminal judgment relating to financial fraud or misuse and any material  
132 administrative or enforcement action relating to financial fraud or misuse by a governmental  
133 agency in any jurisdiction against the applicant, any of its officers, directors, owners, or agents;  
134 and

135 (5) a copy of each form of agreement and the schedule of fees and charges that the  
136 applicant will use with individuals who reside in the commonwealth.



137 (b) The commissioner may participate in a multi-state licensing system for the sharing of  
138 regulatory information and for the licensing and application, by electronic or other means, of  
139 entities engaged in the business of debt management services. The commissioner may establish  
140 requirements for participation by an applicant in a multi-state licensing system which may vary  
141 from the provisions set out in this section and section 2. The commissioner may require a  
142 background investigation of each applicant for a license to engage in debt management services  
143 by means of fingerprint and state and national criminal history record checks by the department  
144 of criminal justice information services pursuant to section 172 of chapter 6 and the Federal  
145 Bureau of Investigation. If the applicant is a partnership, association, corporation or other form  
146 of business organization, the commissioner may require such background investigation by means  
147 of fingerprint checks on each member, director, principal officer of such applicant, and any  
148 individual acting as a manager of an office location. The applicant shall pay directly to such  
149 multi-state licensing system any additional fee relating to participation in such multi-state  
150 licensing system.

151 Section 5. (a) The commissioner may deny a license if:

152 (1) the applicant does not satisfy the criteria set forth in subsection (c) of section 4.

153 (2) the application contains information that is materially erroneous or incomplete;

154 (3) the applicant fails to provide information that the commissioner may request, in a  
155 timely manner;

156 (4) an officer, director, member or principal of the applicants business has been (i)  
157 convicted of or pled nolo contendere to a felony, or (ii) committed an act involving fraud, deceit  
158 or dishonesty;

159 (5) an officer, director, member or principal of the applicant has had a professional  
160 license revoked, suspended or subjected to administrative action in any jurisdiction;

161 (6) the applicant or any of its an officers, directors, members or principals has defaulted  
162 in the payment of money collected for others; or

163 (7) the applicants license was revoked or suspended in another jurisdiction and has not  
164 been reinstated.

165 (b) On or before the 20th day after a license application denial, the commissioner shall  
166 enter upon the records a written decision and findings containing the reasons supporting a license  
167 denial, and shall send a notice to the applicant via certified mail. On or before the 30th day after  
168 the date of the notice, the applicant may appeal the denial to the superior court for Suffolk  
169 County, sitting in equity.

170 Section 6. (a) The commissioner may suspend, revoke or deny renewal of a license if:

171 (1) a licensee has violated this chapter or any rule or regulation adopted hereunder or any  
172 other law applicable to the conduct of its business;

173 (2) a fact or condition exists that, if it had existed when the licensee applied for a license,  
174 would have warranted the commissioner refusing to issue the initial license;

175 (3) the licensee does not satisfy the criteria required under subsection (c) of section 4;

176 (4) the licensee has refused to permit the commissioner to examine the licensees books  
177 and records under this chapter, failed to comply with section 13 or made a material  
178 misrepresentation or omission in complying with section 13; or

179 (5) the licensee has not responded within a reasonable time and in an appropriate manner  
180 to the commissioners communications.

181 (b) If the commissioner suspends, revokes, or denies renewal of a license, the  
182 commissioner may seek a court order to seize the licensees books, records, accounts, property or  
183 money in a trust account maintained by the provider.

184 (c) Except as provided in section 7, a licensee shall receive notice and a hearing under  
185 chapter 30A before the commissioner revokes or suspends a license.

186 (d) A licensee may deliver a written notice to the commissioner to surrender its license,  
187 provided, however, that if a licensee surrenders its license, its civil or criminal liability for acts  
188 committed before the surrender is not affected.

189 Section 7. (a) If the commissioner determines, after giving notice of and opportunity for a  
190 hearing, that a licensee has acted in a manner that has violated or would violate this chapter, or a  
191 rule, regulation or order hereunder, the commissioner may order the licensee to cease and desist  
192 from unlawful acts or practices and take affirmative action to enforce this chapter.

193 (b) If the commissioner finds that a delay in issuing an order under subsection (a) will  
194 irreparably harm the public interest, the commissioner may issue a temporary cease and desist  
195 order. Upon the entry of a temporary cease and desist order, the commissioner shall promptly  
196 notify the affected licensee in writing that the order has been entered, the reasons for the order  
197 and that on or before the 20th day after the receipt of a written request from the licensee, the  
198 matter will be scheduled for hearing to determine whether or not such temporary order shall  
199 become permanent. If the commissioner does not order a hearing and a licensee does not request  
200 a hearing, the order shall remain in effect until the commissioner modifies or vacates it. If a

201 hearing is requested or ordered, the commissioner shall vacate, modify or make the order  
202 permanent, by written findings of fact and conclusions of law, after giving the licensee subject to  
203 the order notice of and opportunity for a hearing.

204 (c) The commissioner shall not issue an order under this section, except an order issued  
205 pursuant to subsection (b), without prior notice of and opportunity for a hearing. The  
206 commissioner may vacate or modify an order under this section upon finding that the conditions  
207 that required the order have changed and that it is in the public interest to vacate or modify the  
208 order.

209 (d) Any order issued pursuant to this section shall be subject to review as provided in  
210 chapter 30A

211 Section 8. (a) The commissioner may examine the books and records of a licensee and  
212 have full access to the records related to its business. A licensee shall keep and use its business  
213 records in a form, at a location and for a retention period as the commissioner shall promulgate  
214 in a regulation, which shall enable the commissioner to determine whether the licensee is  
215 complying with this chapter and the rules and regulations promulgated hereunder, and any other  
216 law, rule or regulation applicable to its business.

217 (b) In connection with the examination, the commissioner may:

218 (1) oblige a licensee to pay expenses on or before the thirtieth day after the licensee  
219 receives an invoice, which the division incurs in conducting an examination, including expenses  
220 for travel outside the commonwealth;

221 (2) require or permit a licensee to file a statement under oath as to the facts and  
222 circumstances of a matter to aid in an examination; and

223 (3) seek a court order to seize the following items from the federally insured bank that a  
224 licensee maintains its trust account at: money, books, records, accounts and other property that  
225 the licensee keeps under the control of the federally insured bank.

226 (c) The commissioner shall preserve a full record of a licensee's examination, including a  
227 statement of its condition. Examination records and reports, including work papers, information  
228 derived from reports or in response to reports and any copies thereof in a licensee's possession  
229 shall be confidential and privileged communications, shall not be subject to subpoena and shall  
230 not be a public record under clause 26 of section 7 of chapter 4. For the purpose of this  
231 paragraph, examination records and reports shall include examination records and reports that  
232 any bank regulatory agency of a state, federal or foreign government conducted, which that  
233 agency or government considers confidential, and which are in possession of the commissioner.  
234 In any proceeding before a court, the court may issue a protective order to seal the record  
235 protecting the confidentiality of a record, other than a record on file with the court or filed in  
236 connection with the court proceeding, and the court may exclude the public from any portion of a  
237 proceeding at which a record may be disclosed. The commissioner shall distribute copies of  
238 examination reports to a licensee for its use only and the licensee shall not publish these reports  
239 to any person or agency without the commissioner's prior written approval. The commissioner  
240 may distribute any information, report, examination or statement relating to a licensee to any  
241 regulatory or law enforcement agency.

242 Section 9. The commissioner may investigate the books, accounts, records and files of a  
243 person that the commissioner has reason to believe is conducting the business of a provider in the  
244 commonwealth, whether the person acts or claims to act as a principal or agent, or under or  
245 without the authority of this chapter.

246 Section 10. (a) A licensee shall complete and furnish a written budget analysis to an  
247 individual before an individual may execute an agreement, which budget analysis may be based  
248 on information provided by the individual. A licensee shall not execute an agreement unless the  
249 budget analysis indicates that an individual can reasonably afford the payments established under  
250 the stated agreement. The commissioner shall determine the information that a budget analysis  
251 shall require.

252 (b) A licensee shall not accept compensation or gain, directly or indirectly, for  
253 performing debt management services before an individual executes an agreement. The  
254 agreement shall contain information that the commissioner shall determine. A licensee shall, at  
255 the time the agreement is executed, distribute a copy to the consumer.

256 (c) In addition to other items as the commissioner may require, the agreement shall  
257 disclose:

258 (1) the debt management services that the licensee will perform;

259 (2) the fees that the licensee will charge the consumer;

260 (3) that agreements may not be suitable for all individuals;

261 (4) that participation in a debt management program may adversely affect the individual's  
262 credit rating or credit scores;

263 (5) that nonpayment of debt may lead creditors to increase finance and other charges or  
264 undertake collection activity, including litigation;

265 (6) that, unless the individual is insolvent, if a creditor settles for less than the full amount  
266 of the debt, the program may result in the creation of taxable income to the individual, even  
267 though the individual does not receive any money;

268 (7) that specific results cannot be predicted or guaranteed and the provider cannot force  
269 negotiations or settlements with creditors;

270 (8) that debt management programs require that individuals meet certain regular savings  
271 goals in order to enable settlements;

272 (9) that the provider does not provide accounting or legal advice to individuals, unless the  
273 provider is professionally licensed to provide such advice;

274 (10) that, if the provider is a debt settlement company and not a credit counselor, the  
275 provider is the individual's advocate and does not receive compensation from creditors, banks, or  
276 third party collection agencies;

277 (11) that, if the provider is a debt settlement company and not a credit counselor, the  
278 provider is does not make monthly payments to the individual's creditors,

279 (11) if applicable, disclose that the agreement does not cover secured debt; and

280 (12) disclose the list of debts that the agreement covers as provided to the licensee by the  
281 consumer at the time of the agreement.

282 Section 11. (a) A consumer may terminate an agreement at any time without a  
283 termination penalty by notifying the licensee in writing of his intention to terminate the  
284 agreement. Notice is deemed effective on the date the consumer mails such notice.

285 (b) All fees and payments that the consumer made, other than fees earned hereunder by  
286 the licensee, shall be refunded in full on or before the tenth business day after a licensee receives  
287 a termination notice.

288 Section 12. (a) If a consumer fails to honor the consumers contractual obligations on or  
289 before the 60th day after the consumer was required to perform under an agreement, then the  
290 licensee may terminate the agreement with the consumer. Notwithstanding the foregoing, if a  
291 consumer refuses to pay any fee to a licensee after such payment has been earned by the licensee,  
292 then the licensee may terminate its agreement with the consumer immediately.

293 (b) If a licensee terminates an agreement, the licensee shall immediately return to the  
294 consumer any money that the licensee held in trust for the consumer.

295 Section 13. A licensee shall file with the commissioner an annual report in a form that the  
296 commissioner shall prescribe. The report shall be in writing, under oath, and contain information  
297 related to the conduct of a licensees business. If a licensee neglects to file an annual report or  
298 fails to amend the same on or before the fifteenth day after the commissioner provides notice to  
299 the licensee, then the licensee shall pay a fine of \$50 per day during which the neglect or failure  
300 to amend the same continues.

301 Section 14. (a) A licensee shall maintain a separate trust account at a federally insured  
302 bank to hold funds that it receives from consumers. Trust accounts shall comply with regulations  
303 that the commissioner promulgates hereunder.



304 (b) A licensee shall not commingle money collected for a creditor with the licensee's own  
305 funds or use any part of a consumer's money in the conduct of the licensee's business.

306 Section 15. (a) A licensee shall not impose, directly or indirectly, a fee or other charge on  
307 a consumer or receive payment from or on behalf of a consumer for performing debt  
308 management services except as provided in this Section 15.

309 (b) A licensee shall not impose charges or receive payment for debt management services  
310 until the licensee and the individual have signed an agreement that complies with section 10 and  
311 the regulations promulgated hereunder.

312 (c) If an agreement contemplates that creditors will settle an individual's debts for less  
313 than the principal amount of the debt, a licensee may not charge or collect compensation for  
314 services in connection with settling a debt unless: the licensee has renegotiated, settled, reduced  
315 or otherwise altered the terms of at least one debt pursuant to a valid contractual agreement  
316 executed by the consumer; and the consumer has made at least one payment pursuant to the  
317 settlement agreement or other valid contractual agreement between the consumer and the creditor  
318 or debt collector.

319 (d) With respect to agreements in which no fees are charged or collected until such time  
320 as a settlement agreement has been reached with a creditor and at least one payment has been  
321 made towards such agreement by the individual, the provider may collect a fee that: bears the  
322 same proportional relationship to the total fee for renegotiating, settling, reducing, or altering the  
323 terms of the entire debt balance as the individual debt amount bears to the entire debt amount  
324 based on the time the debt was enrolled in the service; or is a percentage of the amount saved as  
325 a result of the renegotiation, settlement, reduction, or alteration, provided that the percentage

326 charged to an individual cannot change from one debt to another, and provided further that the  
327 amount saved shall be calculated as the difference between the amount owed at the time the debt  
328 was enrolled in the plan and the amount actually paid to satisfy the debt.

329 (e) The amount or calculation of settlement fees charged under this Section 15 must be  
330 disclosed at the time of the inception of the agreement between the provider and the individual.

331 Section 15A. A licensee may not:

332 (a) take or exercise a power of attorney that authorizes it to settle a debt;

333 (b) exercise or attempt to exercise a power of attorney or any other authority of the  
334 individual after an individual has terminated his or her debt management agreement;

335 (c) initiate a transfer from an individual's account at a bank or with another person unless  
336 the transfer is: a return of money to the individual; before termination of an agreement, properly  
337 authorized by the agreement and this chapter for payment of a fee; or to a creditor to fund a  
338 negotiated settlement with that creditor;

339 (d) settle a debt or lead an individual to believe that a payment to a creditor is in  
340 settlement of a debt to the creditor unless, at the time of settlement, the individual receives a  
341 confirmation from the creditor that the payment is in full settlement of the debt, or is part of a  
342 payment plan that is in full settlement of the debt;

343 (e) make any representation that: the provider will furnish money to pay bills or prevent  
344 attachments; payment of a certain amount will guarantee satisfaction of a certain amount or  
345 range of indebtedness; or participation in a program will prevent litigation, garnishment,  
346 attachment, repossession, foreclosure, eviction, or loss of employment;

347 (f) misrepresent that the provider is able to furnish legal advice or perform legal services;

348 (g) represent that it is a not-for-profit entity unless it is organized and properly operating  
349 as a not-for-profit under the law of the state in which it was formed or that it is a tax-exempt  
350 entity unless it has received certification of tax-exempt status from the Internal Revenue Service;

351 (h) take a confession of judgment or power of attorney to confess judgment against an  
352 individual;

353 (i) employ any unfair, unconscionable, or deceptive act or practice, including the  
354 knowing omission of any material information;

355 (j) purchase a debt or obligation of the individual;

356 (k) receive from or on behalf of the individual a promissory note or other negotiable  
357 instrument other than a check or a demand draft or a post-dated check or demand draft;

358 (l) other than through an affiliate that is either separately licensed to perform lending in  
359 the commonwealth or exempt from such licensure, lend money or provide credit to the  
360 individual, except as a deferral of a settlement fee at no additional expense to the individual, or  
361 obtain a mortgage or other security interest from any person in connection with the services  
362 provided to the individual;

363 (m) except as permitted by federal law, disclose the identity or identifying information of  
364 the individual or the identity of the individual's creditors, except to: the commissioner, upon  
365 proper demand; or to the extent necessary to administer the program, including but not limited to  
366 a creditor of the individual.

367 Section 16. (a) A statement of accounting shall contain the following information:

368 (1) the amount of money that the consumer has paid to the provider since the provider  
369 prepared the last statement;

370 (2) the amounts, dates and creditors that the provider paid on the consumers behalf, since  
371 the provider prepared the last statement;

372 (3) the amounts of money that the provider collected as compensation from the  
373 consumers payments;

374 (4) the amount of money that the provider holds in trust for the consumer; and

375 (5) if, since the last statement date, the consumers creditor accepted a payment from the  
376 provider in full or partial satisfaction of the consumers debt with that creditor: (i) the total  
377 amount of money that the provider paid the creditor to settle a consumers debt; (ii) the amount of  
378 the debt at the time the provider and a consumer entered their agreement; (iii) the amount of a  
379 debt at the time a consumers creditor agreed to settle a debt with a provider; and (iv) the amount  
380 of compensation that the provider receives to settle a debt.

381 (b) A licensee shall distribute a statement of accounting to a consumer:

382 (1) while an agreement is in effect: (i) at least once per month; and (ii) on or before the  
383 fifth business day after a consumer demands a statement of accounting from a licensee; provided,  
384 however, a licensee may refuse to comply with more than 1 request for a statement of accounting  
385 per month; and

386 (2) on the day on which a consumer or a licensee rescinds or terminates an agreement.

387 (c) Notwithstanding the requirement set forth in clauses (1) and (2) of subsection (b), a  
388 provider that enables, or arranges to enable, 24 hours a day, 7 days a week, electronic access by a

389 consumer to all of the consumers deposit account transaction information, including, but not  
390 limited to, all deposit and withdrawal activity, and electronic access by a consumer to debt  
391 management account activity, including, but not limited to, such settlement information as  
392 account status, settlement dates, settlement amounts and fees paid, shall be deemed to have  
393 satisfied the content requirements in subsection (a) and the distribution requirements in  
394 subsection (b).

395 Section 17. A person shall not advertise, announce, broadcast, display, distribute, print,  
396 publish, televise or permit any other person to advertise, announce, broadcast, display, distribute,  
397 print, publish or televise on its behalf a statement or representation that is deceptive, false or  
398 misleading.

399 17A. All communications required by this Act that take place between providers and  
400 individuals may take place by electronic means.

401 (a) In this section:

402 (1) "federal act" means the federal "electronic signatures in global and national commerce  
403 act", 15 U.S.C. sec. 7001 et seq., as amended.

404 (2) "consumer" means an individual who seeks or obtains goods or services that are used  
405 primarily for personal, family, or household purposes.

406 (b) a provider may satisfy the requirements of this chapter by means of the Internet or  
407 other electronic means if the provider obtains a consumer's consent in the manner provided by  
408 section 101 (c) (1) of the federal act.

409 (c) the disclosures and materials required by this chapter shall be presented in a form that  
410 is capable of being accurately reproduced for later reference.

411 (d) with respect to disclosure by means of an Internet web site, the disclosures required  
412 by this chapter must appear on one or more screens that:

413 (1) contains no other information; and

414 (2) the individual must see before proceeding to assent to formation of a program.

415 (e) at the time of providing the materials and agreement required by this chapter, a  
416 provider shall inform the individual that upon electronic, telephonic, or written request, it will  
417 send the individual a written copy of the materials and shall comply with a request as provided in  
418 subsection (f) of this section.

419 (f) if a provider is requested, before the expiration of ninety days after a program is  
420 completed or terminated, to send a written copy of the materials required by this chapter, the  
421 provider shall send them at no charge within three business days after the request, but the  
422 provider need not comply with a request more than once per calendar month or if it reasonably  
423 believes the request is made for purposes of harassment. If a request is made more than ninety  
424 days after a program is completed or terminated, the provider shall send within a reasonable time  
425 a written copy of the materials requested.

426 (g) a provider that maintains an Internet web site shall disclose on the home page or on a  
427 page that is clearly and conspicuously connected to the home page by a link that clearly reveals  
428 its contents:

429 (1) its name and all names under which it does business;

430 (2) its principal business address, telephone number, and electronic mail address, if any.

431 (h) subject to Section 22(i), if a consumer who has consented to electronic  
432 communication in the manner provided by section 101 of the federal act withdraws consent as  
433 provided in the federal act, a provider may terminate its agreement with the consumer.

434 (i) if a provider wishes to terminate an agreement with a consumer pursuant to Section  
435 22(h), it shall notify the consumer that it will terminate the agreement unless the consumer,  
436 within thirty days after receiving the notification, consents to electronic communication in the  
437 manner provided in section 101 (c) of the federal act.

438 Section 18. If a licensee delegates a duty or obligation that this chapter mandates to  
439 another person, including an independent contractor, the licensee is liable for the other persons  
440 conduct that violates an agreement, this chapter or any of regulation of the division.

441 Section 19. A person that violates section 2 or any rule or regulation promulgated  
442 thereunder shall pay a fine of not more than \$2,000 or be imprisoned in a house of correction for  
443 not more than 2 1/2 years or be imprisoned in state prison for not more than 5 years, or both a  
444 fine and imprisonment. Each day a violation occurs or continues shall be deemed a separate  
445 offense. This sections penalty provision shall be in addition to, and not in lieu of, the penalty  
446 provisions under any other law applicable to providers for violating section 2 or any rule or  
447 regulation made thereunder.

448 Section 20. (a) If the commissioner finds that a person has violated this chapter, a rule or  
449 regulation adopted thereunder or any other law applicable to the conduct of a provider, the  
450 commissioner may order or impose a penalty upon the person, which shall not exceed \$5,000 per  
451 violation of law, rule or regulation, up to a maximum of \$100,000 plus the costs of investigation.

452 (b) Nothing in this section limits an individuals right to bring an action against a provider  
453 that injured the individual to recover damages or restitution in a court of competent jurisdiction.

454 (c) A finding or order that the commissioner issues under this section shall be reviewable  
455 under chapter 30A

456 Section 21. A violation of this chapter shall be a violation of chapter 93A and an  
457 aggrieved individual may recover damages from a provider under this chapter and chapter 93A

458 SECTION 3. This act shall take effect 180 days after its passage, provided, however, that  
459 the authority for the commissioner to promulgate regulations in section 2 of chapter 255G of the  
460 General Laws, as appearing in section 2, shall take effect upon passage.