

Chapter 280

(Senate Bill 741)

AN ACT concerning

Commercial Law – Debt Settlement Services

FOR the purpose of prohibiting a person from offering, providing, or attempting to provide debt settlement services unless the person is registered as a debt settlement services provider with the Commissioner of Financial Regulation or is exempt from registration; authorizing the Commissioner to adopt regulations, enter into certain cooperative and information sharing agreements, and exchange certain information with certain agencies for a certain purpose; requiring a person registering as a debt settlement services provider or renewing a registration to pay certain fees; requiring certain fees to be deposited in a certain fund and used to cover certain costs and expenses incurred by the Commissioner; requiring an applicant for registration to file a certain application; specifying the information to be included in the application; providing that a registration may be renewed under certain circumstances; prohibiting a registrant from offering, providing, or attempting to provide debt settlement services in the State except as allowed under this Act; authorizing a registrant to charge a certain debt settlement services fee; prohibiting a registrant from charging a certain fee or requiring a certain contribution; prohibiting a registrant from charging a certain debt settlement services fee until after certain actions have been taken; providing that a certain provision of this Act does not prohibit a registrant from requesting or requiring a consumer to deposit certain funds in a certain account under certain circumstances; requiring a registrant to allow a consumer to withdraw from a debt settlement services agreement at any time; prohibiting a registrant from making a certain representation; requiring a debt settlement services agreement to be signed and dated by the registrant and the consumer and to include certain information and disclosures; requiring an advertisement for debt settlement services to include a certain disclosure; requiring a registrant that establishes a certain account to file a certain surety bond with the Commissioner; requiring a registrant to report certain information to the Commissioner, on the form the Commissioner requires, on or before a certain date each year; providing that a violation of this Act is an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; altering the content and purposes of a certain fund; providing for the application of this Act; providing that, under certain circumstances, certain provisions of this Act are in addition to and not in substitution for any other provision of law; establishing a certain short title; defining certain terms; making certain conforming changes; requiring a registrant to report certain information to the Commissioner on or before a

certain date each year for a certain number of years; requiring the Office of the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, in consultation with the Consumer Protection Division of the Office of the Attorney General, to report certain recommendations to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to debt settlement services and debt settlement services providers.

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

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

BY adding to
 Article – Commercial Law
 Section 13–301(14)(xxviii)
 Annotated Code of Maryland
 (2005 Replacement Volume and 2010 Supplement)

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

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

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

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

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

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

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

Article – Financial Institutions

12-905.

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

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

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

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

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

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

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

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

- (2) Any other expense authorized in the State budget.
- (d) (1) The Treasurer is the custodian of the Fund.
- (2) The Treasurer shall deposit payments received from the Commissioner into the Fund.
- (e) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.
- (2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:
- (i) The General Fund of the State; or
- (ii) A special fund of the State.
- (f) (1) All the costs and expenses of the Commissioner relating to the regulation of the debt management services business under this subtitle **AND TO THE REGISTRATION OF DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE 10 OF THIS TITLE** shall be included in the State budget.
- (2) Any expenditures from the Fund to cover costs and expenses of the Commissioner may be made only:
- (i) By an appropriation from the Fund approved by the General Assembly in the annual State budget; or
- (ii) By the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.
- (3) If, in any fiscal year, the amount of the revenue collected by the Commissioner and deposited into the Fund exceeds the actual appropriation for the Commissioner to regulate the debt management services business under this subtitle **AND TO REGISTER DEBT SETTLEMENT SERVICES PROVIDERS UNDER SUBTITLE 10 OF THIS TITLE**, the excess amount shall be carried forward within the Fund.
- (g) The Office of Legislative Audits shall audit the accounts and transactions of the Fund under § 2-1220 of the State Government Article.

SUBTITLE 10. MARYLAND DEBT SETTLEMENT SERVICES ACT.

12-1001.

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

(B) “CONSUMER” MEANS AN INDIVIDUAL WHO:

(1) RESIDES IN THE STATE; AND

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

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

(D) (1) “DEBT SETTLEMENT SERVICES” MEANS ANY SERVICE OR PROGRAM REPRESENTED, DIRECTLY OR BY IMPLICATION, TO RENEGOTIATE, SETTLE, REDUCE, OR IN ANY WAY ALTER THE TERMS OF PAYMENT OR OTHER TERMS OF A DEBT BETWEEN A CONSUMER AND ONE OR MORE UNSECURED CREDITORS OR DEBT COLLECTORS, INCLUDING A REDUCTION IN THE BALANCE, INTEREST RATE, OR FEES OWED BY A CONSUMER TO AN UNSECURED CREDITOR OR DEBT COLLECTOR.

(2) “DEBT SETTLEMENT SERVICES” DOES NOT INCLUDE DEBT MANAGEMENT SERVICES.

(E) “DEBT SETTLEMENT SERVICES AGREEMENT” MEANS A WRITTEN CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT SETTLEMENT SERVICES PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT SETTLEMENT SERVICES.

(F) “DEBT SETTLEMENT SERVICES FEE” MEANS A FEE CHARGED TO A CONSUMER BY A DEBT SETTLEMENT SERVICES PROVIDER FOR PROVIDING DEBT SETTLEMENT SERVICES FOR A CONSUMER.

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

(H) “DEDICATED ACCOUNT” MEANS AN ACCOUNT DESCRIBED IN § 12-1010(D) OF THIS SUBTITLE.

(I) “OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES” MEANS PROVIDING DEBT SETTLEMENT SERVICES:

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

(2) ON AN INTRASTATE OR INTERSTATE BASIS.

(J) “PRINCIPAL AMOUNT OF THE DEBT” MEANS THE AMOUNT OF A DEBT AT THE TIME THE DEBT IS INCLUDED IN A DEBT SETTLEMENT SERVICES AGREEMENT.

(K) “REGISTRANT” MEANS A PERSON REGISTERED UNDER THIS SUBTITLE TO PROVIDE DEBT SETTLEMENT SERVICES.

12-1002.

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

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

(1) COMPLIES WITH THE REQUIREMENTS OF THIS SUBTITLE;

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

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

(3) ESTABLISHES A DEDICATED ACCOUNT THAT:

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

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

12-1003.

THIS SUBTITLE DOES NOT APPLY TO:

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

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

(II) AN ESCROW AGENT;

(III) A CERTIFIED PUBLIC ACCOUNTANT;

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

(V) A PERSON THAT:

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

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

3. DOES NOT PROVIDE ANY DEBT COUNSELING SERVICES;

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

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

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

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

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

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

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

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

(II) AN EMPLOYEE OF A MORTGAGE LENDER; OR

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

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

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

12-1004.

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

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

(2) IS EXEMPT FROM REGISTRATION UNDER THIS SUBTITLE.

12-1005.

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

(1) ADOPT REGULATIONS;

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

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

12-1006.

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

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

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

12-1007.

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

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

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

12-1008.

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

(B) THE APPLICATION SHALL INCLUDE:

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

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

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

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

12-1009.

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

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

(1) OTHERWISE IS ENTITLED TO BE REGISTERED;

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

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

12-1010.

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

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

(2) A REGISTRANT MAY NOT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12-1011.

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

12-1012.

(A) A DEBT SETTLEMENT SERVICES AGREEMENT SHALL:

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

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

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

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

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

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

2. A STATEMENT THAT THE REGISTRANT MAY NOT:

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

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

(V) THE IDENTITY OF EACH INDIVIDUAL CREDITOR OR DEBT COLLECTOR WHOSE DEBTS ARE ~~TO BE SETTLED UNDER~~ INCLUDED IN THE

DEBT SETTLEMENT SERVICES AGREEMENT AND THE PRINCIPAL AMOUNT OF THE DEBT OWED TO EACH INDIVIDUAL CREDITOR OR DEBT COLLECTOR;

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

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

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

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

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

(IX) A STATEMENT THAT:

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

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

A. MAY NOT CHARGE A PENALTY; AND

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

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

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

2. IF THE CONSUMER REQUESTS TO WITHDRAW FROM THE DEBT SETTLEMENT SERVICES AGREEMENT, WITHIN 7 DAYS AFTER THE REQUEST, ALL FUNDS IN THE ACCOUNT, INCLUDING ACCRUED INTEREST,

LESS ANY DEBT SETTLEMENT SERVICES FEES EARNED BY THE REGISTRANT IN COMPLIANCE WITH § 12-1010 OF THIS SUBTITLE, MUST BE PAID TO THE CONSUMER; AND

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

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

12-1013.

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

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

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

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

12-1014.

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

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

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

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

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

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

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

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

12-1015.

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

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

12-1016.

A VIOLATION OF THIS SUBTITLE IS:

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

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

12-1017.

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

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

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

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

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

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

(iii) whether each debt is active, terminated, or settled;

(iv) if a debt has been settled:

1. the settlement amount of the debt *and the savings amount*;

2. *the amount of the debt settlement services fee charged to the consumer and how it was calculated; and*

3. *the amount of the debt settlement services fee that would have been charged if calculated based on:*

A. *30% of the excess of the principal amount of the debt over the amount paid to settle the debt, up to 20% of the principal amount of the total debt; and*

B. *25% of the principal amount of the total debt;*

(v) the total amount of *debt settlement services fees* paid by the consumer to the registrant;

(vi) for each debt, whether the creditor has filed suit on the debt;

(vii) the date the consumer is expected to complete the debt settlement program; and

(viii) the date the consumer became inactive in, cancelled, or terminated the debt settlement program, if applicable;

(2) for Maryland consumers who completed a debt settlement program during the reporting period, the mean and median percentage of savings to the consumers and the mean and median percentage of fees paid to the registrant;

(3) for Maryland consumers who became inactive in, cancelled, or terminated a debt settlement program during the reporting period, the mean and median percentage of savings to the consumers and the mean and median percentage of fees paid to the registrant;

(4) the percentage of Maryland consumers who became inactive in, cancelled, or terminated a debt settlement program during the reporting period without settlement of all of the consumer's debts; ~~and~~

(5) the total amount of fees collected from Maryland consumers during the reporting period;

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

(7) any other information the Commissioner reasonably requires.

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

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

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

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

Approved by the Governor, May 10, 2011.