

Amendment No. 1 to HB1182

Hill T
Signature of Sponsor

AMEND Senate Bill No. 1013*

House Bill No. 1182

by adding the following as new subdivisions in § 47-18-5602 in SECTION 1:

() "Affiliate" means a person who controls, is controlled by, or is under common control with a licensee. As used in this subdivision (), "control" means the direct or indirect possession of the power to direct or cause the direction of the management of a licensee, whether through ownership of more than fifteen percent (15%) of the voting securities, by contract, or otherwise;

() "Financial institution" means a bank, including a commercial bank, savings bank, savings and loan association, credit union, mortgage bank, or a trust company, in each case engaged in the business of banking, that is chartered under federal or state law and regulated by a federal or state banking regulatory agency;

() "Material" means, with respect to any disclosure required by this part, information as to which a reasonable person would attach a financial impact of greater than ten thousand dollars (\$10,000);

AND FURTHER AMEND by deleting subdivision (2) in § 47-18-5602 in SECTION 1.

AND FURTHER AMEND by deleting subdivision (10) in § 47-18-5602 in SECTION 1 and substituting the following:

() "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other commercial entity. "Person" does not include a government or government subdivision, agency or instrumentality;

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AND FURTHER AMEND by deleting subsection (b) in § 47-18-5603 in SECTION 1 and substituting the following:

(b) Receipt of a license by a licensee is deemed consent to the jurisdiction of this state.

AND FURTHER AMEND by deleting subsection (f) in § 47-18-5603 in SECTION 1.

AND FURTHER AMEND by deleting subdivision (2) in § 47-18-5604 in SECTION 1 and renumbering existing subdivisions accordingly.

AND FURTHER AMEND by deleting subdivision (a)(4) in § 47-18-5606 in SECTION 1 and substituting the following:

(4) An executive officer, director, managing member, or principal of the applicant has been convicted of or pled nolo contendere to a felony or crime involving fraud, deceit, or dishonesty;

AND FURTHER AMEND by adding the following to the end of subsection (b) in § 47-18-5607 in SECTION 1:

However, the commissioner may suspend the license pursuant to § 47-18-5608(c).

AND FURTHER AMEND by deleting § 47-18-5607(c) in SECTION 1 and substituting the following:

(c) Except as provided in § 4-5-320, a licensee must receive notice and a hearing before the commissioner revokes or suspends a license. This subsection (c) must be liberally construed to permit the summary suspension of a license when the

agency finds that the public health, safety, or welfare imperatively requires emergency action.

AND FURTHER AMEND by deleting § 47-18-5608 in SECTION 1 and substituting the following:

(a) The commissioner may promulgate rules as necessary for the administration and enforcement of this part and may require a reasonable licensure and investigations fee in connection with the issuance of any license required by this part.

(b) The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, governs all matters and procedures respecting the hearing and judicial review of any violation or contested case arising under this part.

(c) If the commissioner finds that a delay in issuing any order under this part will threaten the health, safety, or welfare such that emergency action is required, then the commissioner may summarily suspend the license pursuant to § 4-5-320.

(d) Any order issued pursuant to this section is subject to review by appeal to the Davidson County chancery court, pursuant to § 4-5-322.

AND FURTHER AMEND by deleting subdivision (c)(14) in § 47-18-5611 in SECTION 1 and substituting the following:

(14) Whether the consumer's rights are subject to mandatory arbitration of any and all disputes. However, nothing in this subdivision (c)(14) supersedes the requirement of § 47-18-5616(b).

AND FURTHER AMEND by adding the following as new sections in SECTION 1:

47-18-5624. Severability.

If any provision of this part or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of this part that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

47-18-5625.

Notwithstanding this part or any other law, the Uniform Debt-Management Services Act, compiled in part 55 of this chapter, does not apply to the licensure and operation of a licensee providing only debt resolution services.