

HOUSE BILL 1182

By Keisling

AN ACT to amend Tennessee Code Annotated, Title 47,
relative to debt resolution services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following as a new part:

47-18-5601. Short title.

This part shall be known and may be cited as the "Debt Resolution Services Act."

47-18-5602. Definitions.

As used in this part:

(1) "Agreement" means a contract between a licensee and a consumer for the performance of debt resolution services that is:

- (A) Dated and signed by the consumer;
- (B) Includes the name and address of the consumer; and
- (C) Includes the name, business address, and telephone number of the licensee;

(2) "Bank" means a financial institution, 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;

(3) "Business address" means the physical location of a business, including the name and number of a street;

(4) "Business day" means a calendar day, except for Saturdays, Sundays, and legal holidays;

(5) "Commissioner" means the commissioner of the department of commerce and insurance, or the commissioner's designee;

(6) "Consumer" means an individual who has unsecured debt that arises out of personal, family, or household obligations and who may also have executed an agreement with a licensee;

(7) "Creditor" means a person that has extended credit to an individual, including any agent or assignee of the person;

(8) "Debt resolution services" means the act of:

(A) Distributing, arranging for, or assisting a consumer in the distribution of the consumer's funds to one (1) or more creditors in full or partial satisfaction of the consumer's unsecured debts; or

(B) Acting or offering to act as an intermediary between a consumer and one (1) or more creditors for the purpose of securing a reduction, deferral, or discharge, or in any other way to obtain a modification of a consumer's obligation to repay unsecured debts. However, a licensee may not, directly or indirectly, receive or hold a consumer's funds for any purpose other than the payment of the licensee's fees;

(9) "Licensee" means a provider of debt resolution services that possesses a valid license issued pursuant to this part;

(10) "Person" means an individual, corporation, association, firm, partnership, trust, or other form of business association;

(11) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or possession subject to the jurisdiction of the United States; and

(12) "Third party payment processor" means an entity that holds, or has access to, or can effectuate the distribution of, by any means, the funds of a consumer, or is in the chain of distribution of the funds, to the creditors of the consumer.

47-18-5603. License required.

(a) No person shall engage in or advertise for debt resolution services in this state unless the person first obtains a debt resolution services license from the commissioner.

(b) A licensee shall obtain a license for the licensee's primary business address.

(c) A license is not transferable or assignable.

(d) A licensee shall file a surety bond in favor of this state in an amount and form that the commissioner determines before the licensee may conduct business in this state, but in no event must the amount be greater than fifty thousand dollars (\$50,000).

(e) A licensee shall not conduct business in this state under a business name other than the business name that is listed on the licensee's license. However, a licensee may do business under a fictitious business name, if the licensee registers the fictitious business name with the secretary of state and provides evidence of the registration to the commissioner.

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

47-18-5604. Exempt persons.

The following persons are exempt from this part:

(1) A licensee's employees who perform debt resolution services on the licensee's behalf in the regular course of their employment;

- (2) A person organized under § 501(c) of the Internal Revenue Code;
- (3) Judicial officers, individuals acting under the direction of a court, or assignees for the benefit of creditors;
- (4) Banks, including bank employees who perform debt resolution services on the licensee's behalf in the regular course of their employment;
- (5) Attorneys licensed to practice law in this state who provide debt resolution services to persons for whom the attorneys also provide legal services within an attorney-client relationship;
- (6) Creditors or their employees who negotiate debt resolutions with consumers or licensees acting on behalf of consumers;
- (7) Officers or employees of the United States or any state, who perform debt resolution services on behalf of the federal government, a state, a municipality, or a state agency, and receive compensation solely from the governmental entity;
- (8) Certified public accountants licensed in this state who provide debt resolution services to consumers for whom the certified public accountants also provide accounting services within an accountant-client relationship;
- (9) Third party payment processors that do not otherwise provide debt resolution services; and
- (10) A person, to the extent that the person:
 - (A) Provides or agrees to provide debt resolution services to an individual who the person has no reason to know resides in this state at the time the person agrees to provide the services; or

(B) Receives no compensation for providing debt resolution services from or on behalf of the individual to whom the person provides the services or from their creditors.

47-18-5605. Application for licensure.

(a) The application for a license and the application for a license renewal must be in a form prescribed by the commissioner, signed under oath, and shall contain information as the commissioner reasonably requires. The commissioner shall evaluate an applicant's financial responsibility and general fitness. A license to provide debt resolution services is for a period of two (2) years from the date of issuance.

(b) The following items are required in any application for a license under this part:

(1) Proof of compliance with title 67, chapter 4, part 7, and any other requirement imposed by the secretary of state for an entity to engage in business in this state;

(2) The applicant's name, principal business address, and telephone number; all business addresses in this state; the principal email address for the business; and the principal website address to be used for the business;

(3) The name and home address of each executive officer and director of the applicant and each person that owns, directly or indirectly, more than twenty percent (20%) of the voting interests of the applicant;

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

(5) A copy of each form of agreement and the schedule of fees and charges that the applicant will use with consumers who reside in this state.

(c) The commissioner may participate in a multi-state licensing system for the sharing of regulatory information and for the licensing and application, by electronic or other means, of entities engaged in the business of debt resolution services. The commissioner may establish requirements for participation by an applicant in a multi-state licensing system, which may vary from the provisions in this part.

(d)

(1) The commissioner may require each applicant applying for initial registration, licensure, or certification under this chapter to submit a full set of the applicant's fingerprints in order for the commissioner to obtain and receive national criminal history records from the federal bureau of investigation criminal justice information services division. Unless the commissioner contracts, or makes use of any existing contract, the commissioner may submit the applicant's fingerprints and the fee required to perform the criminal history record checks to the Tennessee bureau of investigation and the federal bureau of investigation for state and national criminal history record checks. The commissioner may require any fingerprints submitted pursuant to this subsection (d) be provided in an electronic format.

(2) The commissioner may contract, or make use of any existing contract with this state, for the collection and transmission of fingerprints authorized under this section. If the commissioner contracts, or makes use of an existing contract, the commissioner may order the applicant to pay the fee for collecting and transmitting fingerprints to the contractor. The commissioner may agree to a reasonable fingerprinting fee to be charged by the contractor to the applicant.

(3) The commissioner shall treat and maintain an applicant's fingerprints and any criminal history record information obtained under this section as confidential and limit the use of records solely to the purposes authorized in this section. The fingerprints and any criminal history record information are not subject to subpoena, other than a subpoena issued in a criminal action or investigation, and are confidential by law and privileged, and are not subject to discovery or admissible in evidence in any private civil action.

(4) The commissioner shall refuse to issue an initial registration, license, or certification to an applicant who does not provide fingerprints in compliance with this subsection (d).

(5) If the applicant is a partnership, association, corporation, or other form of business organization, the commissioner may require a background investigation by means of fingerprint checks on each managing member, director, and principal officer of the applicant.

(6) The applicant shall pay directly to a multi-state licensing system any additional fee relating to participation in a multi-state licensing system.

(e) An applicant or licensee shall notify the commissioner within thirty (30) days after a material change in any of the information submitted in connection with any application or renewal application for a license under this part, including, but not limited to:

(1) A change in the licensee's home or business address;

(2) A merger or dissolution relative to the license; and

(3) When a licensee pleads guilty or is convicted of any felony in a court of competent jurisdiction.

47-18-5606. Licensure issuance or denial.

(a) The commissioner may deny a license if:

(1) The applicant does not satisfy the criteria set forth in § 47-18-5605(b);

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

(3) The applicant fails to provide in a timely manner information as the commissioner reasonably requests;

(4) An executive officer, director, managing member, or principal of the applicant has been:

(A) Convicted of or pled nolo contendere to a felony; or

(B) Committed an act involving fraud, deceit, or dishonesty;

(5) An executive officer, director, managing member, or principal of the applicant has had a professional license revoked, suspended, or subjected to administrative action in any state, and the license has not been reinstated; or

(6) The applicant's license was revoked or suspended in another state and has not been reinstated.

(b) No later than the twentieth day after a license application denial, the commissioner shall provide to the applicant a written decision and findings containing the reasons supporting a license denial. Not later than the thirtieth day after the date of the notice, the applicant may appeal the denial to the Davidson County chancery court.

47-18-5607. Licensure suspension, revocation, or denial of renewal.

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

(1) A licensee has materially violated this part or any rule adopted pursuant to this part or any other law applicable to the conduct of the licensee's business;

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

(3) The licensee does not satisfy the criteria required under § 47-18-5605(b);

(4) The licensee has refused to permit the commissioner to examine the licensee's books and records, failed to comply with § 47-18-5614, or made a material misrepresentation or omission in complying with § 47-18-5614; or

(5) The licensee has not responded within a reasonable time and in an appropriate manner to the commissioner's communications.

(b) If the commissioner suspends, revokes, or denies renewal of a license, the commissioner may seek a court order to seize the licensee's books and records with respect to any consumers in this state that are being serviced by the licensee.

(c) Except as provided in § 47-18-5608, a licensee shall receive notice and a hearing before the commissioner revokes or suspends a license.

(d) A licensee may deliver a written notice to the commissioner to surrender the licensee's license. However, if a licensee surrenders the licensee's license, the licensee's civil or criminal liability for acts committed before the surrender is not affected.

(e) Upon submission of a renewal application for a license and until such time as a renewal application is approved or denied, the licensee may continue to provide debt resolution services, but a denial of a license terminates any right to provide debt resolution services in this state unless approved by the commissioner.

47-18-5608. Powers of the commissioner – enforcement.

(a) 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.

(b) If the commissioner finds that a delay in issuing an order under subsection (a) will irreparably harm the public interest, the commissioner may summarily suspend the license pursuant to § 4-5-320(d).

(c) Any order issued pursuant to this section is subject to review by appeal to the Davidson County chancery court.

47-18-5609. Powers of the commissioner – administrative.

(a) The commissioner may examine and have full access to the books and records of a licensee related to the licensee's business in this state. A licensee shall keep the licensee's business records in a form and for a period as the commissioner determines.

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

(1) Require a licensee to pay the expenses incurred by the department of commerce and insurance in conducting an examination, including expenses for travel outside this state, on or before the thirtieth day after the licensee receives an invoice; and

(2) Require a licensee to file a statement under oath as to the facts and circumstances of a matter to aid in an examination.

(c) The commissioner shall preserve a full record of a licensee's examination, including a statement of the licensee's condition. Examination records and reports, including work papers, information derived from reports or in response to reports, and any copies thereof in a licensee's possession are confidential and privileged communications, are not subject to subpoena, and are not a public record under title 10,

chapter 7, part 5. For the purpose of this subsection (c), "examination records and reports" includes examination records and reports that any regulatory agency of a state, federal, or foreign government may have produced, which that agency or government considers confidential and which are in possession of the commissioner. In any proceeding before a court, the court may issue a protective order to seal the record protecting the confidentiality of any record, other than a record on file with the court or filed in connection with the court proceeding, and the court may exclude the public from any portion of a proceeding at which a record may be disclosed. The commissioner shall distribute copies of examination reports to a licensee for its use only and the licensee shall not publish these reports to any person or agency without the commissioner's prior written approval. The commissioner may distribute any information, report, examination, or statement relating to a licensee to any regulatory or law enforcement agency.

47-18-5610. Powers of the commissioner – investigative.

The commissioner may investigate the books, accounts, records, and files of a person that the commissioner has reason to believe is providing debt resolution services in this state, whether the person acts or claims to act as a principal or agent.

47-18-5611. Prerequisites for providing debt resolution services.

(a) [RESERVED]

(b) A licensee may not accept compensation, directly or indirectly, from a consumer for performing debt resolution services before a consumer executes an agreement. A licensee shall, at the time the agreement is executed or as shortly thereafter as practical, distribute or otherwise make available a copy to the consumer. For purposes of this section, distribution of an agreement, if made electronically, occurs when the agreement is made available to the consumer in a format that the consumer

may access or retrieve, save, and print, or the consumer is notified that the agreement is available for retrieval, access, saving, and printing.

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

- (1) The services that the licensee will perform;
- (2) The calculation methodology and fees that the licensee will charge for debt resolution services;
- (3) That debt resolution services may not be suitable for all individuals;
- (4) That failing to pay one's debts when due may adversely affect the consumer's credit rating or credit scores;
- (5) That nonpayment of debt may lead creditors to increase finance and other charges or undertake collection activity, including litigation;
- (6) That, unless the consumer is insolvent, if a creditor settles for less than the full amount of a debt, the settlement may result in the creation of taxable income to the consumer, even though the consumer does not receive any money;
- (7) That specific results cannot be predicted or guaranteed and the licensee cannot require a creditor to negotiate or settle a debt;
- (8) That debt settlement programs require that individuals meet regular savings goals in order to enable settlements;
- (9) That the licensee does not provide accounting or legal advice to individuals, unless the licensee is licensed in this state to provide such advice;
- (10) That the licensee is the consumer's advocate and does not receive compensation of any sort from creditors for providing debt resolution services to the consumer;

(11) That the licensee does not make monthly payments to the consumer's creditors;

(12) That the agreement does not cover secured debt;

(13) The list of debts that the agreement does cover; and

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

(d) A licensee shall maintain a toll-free telecommunications system, staffed at a level that reasonably permits a consumer to speak with a customer service representative during ordinary business hours.

47-18-5612. Consumer's right to terminate agreements.

(a) A consumer may terminate an agreement at any time without a penalty of any sort by notifying the licensee electronically or in writing. Notice is deemed effective on the date the licensee receives the notice.

(b) Notwithstanding the consumer's right to terminate as set forth in subsection (a), the licensee is entitled to recover all fees earned prior to the receipt of any termination notice.

47-18-5613. Licensee's right to terminate agreements.

If a consumer fails to honor the consumer's contractual obligations on or before the sixtieth day after the consumer was required to perform them, then the licensee may terminate its agreement with the consumer electronically or in writing. Notwithstanding this section, if a consumer refuses to pay any fee to a licensee after the payment has been earned by the licensee, then the licensee may terminate the licensee's agreement with the consumer immediately.

47-18-5614. Annual reports.

A licensee shall file with the commissioner an annual report in writing, under oath and in a form that the commissioner prescribes. If a licensee neglects to file an annual report or fails to amend the same on or before the thirtieth day after the commissioner provides notice to the licensee, then the commissioner may assess civil penalties and suspend, revoke, or refuse to renew any license under this part.

47-18-5615. Fees for debt resolution services.

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

(b) A licensee shall not impose charges or receive payment for debt resolution services until the licensee and the consumer have signed an agreement that complies with § 47-18-5611 and any rules promulgated by the commissioner pursuant to this part.

(c) If an agreement contemplates that creditors will settle a consumer's debts for less than the full amount of the debt, a licensee shall not charge or collect compensation unless:

(1) The licensee has renegotiated, settled, reduced, or otherwise altered, or caused to be altered, directly or indirectly, the terms of at least one (1) debt pursuant to a settlement agreement executed by the consumer; and

(2) The consumer has made at least one (1) payment pursuant to a settlement agreement or other valid contractual agreement between the consumer and the creditor or the creditor's agent.

(d) With respect to agreements where no fees are charged or collected until such time as a settlement of a debt has been reached with a creditor and at least one (1) payment has been made towards the settlement by the consumer, the licensee may collect a fee that:

(1) Bears the same proportional relationship to the total fee for renegotiating, settling, reducing, or altering the terms of the entire debt balance as the individual debt amount bears to the entire debt amount based on the time the debt was enrolled in the service; or

(2) Is a percentage of the amount saved as a result of the renegotiation, settlement, reduction, or alteration, as long as the percentage charged to an individual cannot change from one (1) debt to another and the amount saved is calculated as the difference between the amount owed at the time the debt was enrolled in the plan and the amount actually paid to satisfy the debt.

(e) If a licensee imposes a fee or other charge or receives money or other payments not authorized by this section, a consumer may void the agreement and recover all monies paid thereunder.

47-18-5616. Prohibitions.

(a) A licensee shall not:

(1) Take or exercise a power of attorney that authorizes the licensee to settle a debt;

(2) Exercise or attempt to exercise any authority of the consumer after a consumer has terminated the consumer's agreement;

(3) Initiate a transfer from a consumer's bank account unless the transfer is:

(A) A return of money to the consumer;

(B) Before termination of an agreement, properly authorized by the agreement and this part for payment of a fee; or

(C) At the express direction of the consumer, to a consumer's creditor to fund a negotiated settlement with that creditor;

(4) Settle a debt or lead an individual to believe that a payment to a creditor is in settlement of a debt to the creditor unless, at the time of settlement, the creditor confirms that the payment is in full settlement of the debt or is part of a payment plan that, upon completion, will be in full settlement of the debt;

(5) Make any representation that:

(A) The licensee will furnish money to pay bills or prevent attachments;

(B) Payment of a certain amount will guarantee satisfaction of a certain amount or range of indebtedness; or

(C) Participation in a program will prevent litigation, garnishment, attachment, repossession, foreclosure, eviction, or loss of employment;

(6) Misrepresent that the licensee is able to furnish legal advice or perform legal services;

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

(8) Take a confession of judgment or power of attorney to confess judgment against a consumer;

(9) Employ any unfair, unconscionable, or deceptive act or practice, including the knowing omission of any material information;

(10) Purchase a debt or obligation of the consumer, or obtain a mortgage or other security interest from any person in connection with the services provided to the consumer;

(11) Receive from or on behalf of a consumer a promissory note or other negotiable instrument other than a check or a demand draft or a post-dated check or demand draft;

(12) Other than through an affiliate that is either separately licensed to perform lending in this state or exempt from such licensure, lend money or provide credit to the consumer, except as a deferral of a settlement fee at no additional expense to the consumer; or

(13) Except as permitted by federal law or by order of a court of competent jurisdiction, disclose the identity or identifying information of a consumer or the identity of the consumer's creditors, except to the commissioner, upon proper demand, or to the extent necessary or appropriate to administer the program, including, but not limited to, a third party payment processor or to a creditor of the consumer.

(b) An agreement must not:

(1) Provide for the application of the law of any jurisdiction other than the United States and this state;

(2) Contain a provision that restricts an individual's remedies under this part or any law of this state other than this part; or

(3) Contain a provision that:

(A) Limits or releases the liability of any person for not performing the agreement or for violating this part; and

(B) Indemnifies any person for liability arising under the agreement or this part.

47-18-5617. Information requirements.

(a) A statement of accounting shall contain the following information to the extent applicable:

(1) The amount of money that the consumer has paid to the licensee from inception of the consumer's debt resolution program;

(2) The amounts, dates, and creditors associated with each settlement obtained by the licensee on behalf of the consumer;

(3) The fees that the licensee has billed and collected in connection with each of the consumer's settlements;

(4) The amount of money that the consumer holds in the consumer's settlement account; and

(5) With respect to each settlement obtained by the licensee for the consumer:

(A) The total amount of money that the consumer paid to the creditor in full discharge of the consumer's debt;

(B) The amount of that debt at the time the licensee and the consumer entered into their agreement;

(C) The amount of that debt at the time the creditor agreed to settle that debt; and

(D) The amount of compensation that the licensee received to settle that debt.

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

(1) While an agreement is in effect:

(A) At least once per month; and

(B) On or before the fifth business day after a consumer demands a statement of accounting from a licensee. However, a licensee may

refuse to comply with more than one (1) request for a statement of accounting per month; and

(2) Within two (2) business days from the date on which a consumer or a licensee rescinds or terminates an agreement.

(c) Notwithstanding the requirements set forth in subdivisions (b)(1) and (2), a licensee that enables, or arranges to enable, twenty-four (24) hours per day, seven (7) days per week, electronic access by a consumer to all of the consumer's deposit account transaction information, including all deposit and withdrawal activity, and electronic access by a consumer to account activity, including, but not limited to, settlement information as account status, settlement dates, settlement amounts, and fees paid, is deemed to have satisfied the content requirements in subsection (a) and the distribution requirements in subsection (b).

47-18-5618. Prohibition on false and misleading advertising.

(a) A person shall not advertise, announce, broadcast, display, distribute, print, publish, televise, or permit any other person to advertise, announce, broadcast, display, distribute, print, publish, or televise on the person's behalf a statement or representation that is deceptive, false, or misleading.

(b) A licensee shall not directly or indirectly participate in any marketing program involving an online review or ranking website where the licensee or its agent provides anything of value in exchange for favorable treatment in reviews or favorable placement on rankings, as the case may be. Further, a licensee shall comply with 16 C.F.R. Part 255.

47-18-5619.

(a) As used in this section:

(1) "Consumer" means an individual who seeks or obtains goods or services that are used primarily for personal, family, or household purposes; and

(2) "Federal act" means the Federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.), as amended.

(b) A licensee may satisfy the requirements of this part by means of the internet or other electronic means if the licensee obtains a consumer's consent in the manner provided by § 101(c)(1) of the federal act.

(c) The disclosures and materials required by this part must be presented in a form that is capable of being accurately reproduced for later reference.

(d) At the time of providing the materials and agreement required by this part, a licensee shall inform the individual that upon electronic, telephonic, or written request, the licensee shall send the consumer a written copy of the materials and shall comply with a request as provided in subsection (e).

(e) If a licensee is requested, before the expiration of ninety (90) days after a program is completed or terminated, to send a written copy of the materials required by this part, the licensee shall send them at no charge within three (3) business days after the request, but the licensee need not comply with a request more than once per calendar month or if it reasonably believes the request is made for purposes of harassment. If a request is made more than ninety (90) days after a program is completed or terminated, the licensee must send within a reasonable time a written copy of the materials requested.

(f) A licensee that maintains a website shall disclose on the home page or on a page that is clearly and conspicuously connected to the home page by a link that clearly reveals its contents:

(1) The licensee's name and all names under which the licensee does business in this state; and

(2) The licensee's principal business address, telephone number, and email address, if any.

(g) If a consumer who has consented to electronic communication in the manner provided by § 101 of the federal act withdraws consent as provided in the federal act, a licensee may terminate the licensee's agreement with the consumer.

(h) If a licensee wishes to terminate an agreement with a consumer, the licensee must notify the consumer that the license will terminate the agreement unless the consumer, within thirty (30) days after receiving the notification, consents to electronic communication in the manner provided in § 101(c) of the federal act.

47-18-5620. Delegation of duties by a licensee.

If a licensee delegates a duty or obligation that this part mandates to another person, including an independent contractor, the licensee is liable for the other person's conduct that violates an agreement, this part, or any rule of the department of commerce and insurance.

47-18-5621. Penalty for violation.

(a) If the commissioner finds that a person has violated this part, a rule adopted pursuant to this part, or any other law applicable to the conduct of a licensee, the commissioner may order or impose a penalty upon the person, which must not exceed five thousand dollars (\$5,000) per violation of law or rule, up to a maximum of one hundred thousand dollars (\$100,000), plus the costs of investigation.

(b) Subject to federal law, including, but not limited to, the Federal Arbitration Act (9 U.S.C. § 1 et seq.), nothing in this section limits a consumer's right to bring an action

against a licensee that injured the consumer to recover damages or restitution in a court of competent jurisdiction.

(c) A finding or order that the commissioner issues under this section is reviewable by appeal to the Davidson County chancery court.

47-18-5622. Statute of limitations.

(a) An action or proceeding brought by the commissioner under this part must be commenced within the longer of the following:

(1) Three (3) years after the conduct that underlies the complaint is discovered by the commissioner or the harmed consumer; or

(2) The applicable statute of limitations set out in § 40-2-101, if the violation also constitutes a criminal offense.

(b) An action or proceeding brought by a consumer under this part must be commenced within two (2) years after the later of:

(1) The date on which the consumer discovered or reasonably should have discovered the facts giving rise to the consumer's claim; or

(2) The termination of any action or proceeding by the commissioner with respect to a violation of this part.

47-18-5623. Transitional provisions.

Transactions entered into before this part takes effect, and the rights, duties, and interests resulting from them, may be completed, terminated, or enforced as required or permitted by a law amended, repealed, modified, or preempted by this part as though the amendment, repeal, modification, or preemption had not occurred.

SECTION 2. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. For purposes of rulemaking, this act shall take effect July 1, 2019, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2020, the public welfare requiring it.