

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 32 MRSA §6171, as enacted by PL 1999, c. 560, §3, is amended to read:

§ 6171. Short title

This chapter may be known and cited as the "Nonprofit Debt Management Services Act."

Sec. 2. 32 MRSA §6172, sub-§1-A is enacted to read:

1-A. Certified counselor. "Certified counselor" means an individual certified by a training program or organization approved by the administrator that authenticates the competence of the individual providing education and assistance to consumers in connection with debt management services.

Sec. 3. 32 MRSA §6172, sub-§1-B is enacted to read:

1-B. Consumer education program. "Consumer education program" means a program or plan that seeks to improve the financial literacy of consumers.

Sec. 4. 32 MRSA §6172, sub-§1-C is enacted to read:

1-C. Consumer's obligation. "Consumer's obligation" means a debt or debts incurred for personal, family or household purposes and does not include a debt or debts incurred for business or commercial purposes.

Sec. 5. 32 MRSA §6172, sub-§3, as enacted by PL 1999, c. 560, §3, is amended to read:

3. Debt management service provider. "Debt management service provider" means a person, wherever located, that provides or offers to provide to a consumer in this State any debt management services, in return for a fee or other consideration, and a person located in this State that provides or offers to provide to a consumer who is not a resident of this State any debt management services, in return for a fee or other consideration. "Debt management service provider" does not include:

A. A supervised financial organization;

B. A supervised lender; or

C. A person admitted to the practice of law in this State as of the effective date of this chapter, except to the extent that debt management services constitute the exclusive activity of that attorney.

Sec. 6. 32 MRSA §6173, sub-§1, as enacted by PL 1999, c. 560, §3, is repealed.

Sec. 7. 32 MRSA §6173, sub-§2, as enacted by PL 1999, c. 560, §3, is amended to read:

2. Registration and reregistration. ~~A nonprofit~~An organization that is exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3) desiring to act, or continue to act, with respect to consumers in this State as a debt management service provider shall apply to the administrator for registration or reregistration in accordance with this chapter. The application must be in a form prescribed by the administrator. The administrator may refuse the application if it contains erroneous or incomplete information. A registration may not be issued unless the administrator, upon investigation, finds that the financial soundness and responsibility, insurance coverage, consumer education programs and services component, character and fitness of the applicant and, when applicable, its partners, officers or directors, warrant belief that the business will be operated honestly and fairly within the purposes of this chapter. The initial application for registration may be filed at any time and must include a fee of \$500. A registration or reregistration under this chapter expires on December 31st of the year approved. An annual reregistration application must be filed by December 1st of each year for the following year and must include a fee of \$250.

Sec. 8. 32 MRSA §6174-A is enacted to read:

§ 6174-A. Limits on fees and charges

1. Initial fee. A debt management service provider may charge to a consumer a reasonable one-time initial or set-up fee in an amount not to exceed \$75.

2. Service fees. In addition to the fee set forth in subsection 1, a debt management service provider may assess either of the following fees:

A. For a debt management service provider that distributes monthly payments to a consumer's creditor or creditors, a reasonable monthly fee not to exceed \$40; or

B. For a debt management service provider that acts or offers to act as an intermediary between a consumer and one or more creditors of the consumer for the purpose of adjusting, settling, discharging, reaching a compromise on or otherwise altering the terms of payment of the consumer's obligation, a reasonable fee not to exceed 15% of the amount by which the consumer's debt is reduced as part of each settlement.

3. Limitation on excess fees. A debt management service provider may not charge more than one fee authorized under subsections 1 and 2 on the basis that the consumer has entered into a debt management services agreement for joint obligations of a consumer and a consumer's spouse or other member of the consumer's household.

4. Application. This section does not apply to a debt management service provider located in this State that does not provide debt management services to a consumer who is a resident of this State.

Sec. 9. 32 MRSA §6174-B is enacted to read:

§ 6174-B. Counselor certification; consumer education program

1. Certified counselor. A debt management service provider shall provide evidence to the administrator within 12 months after initial employment of a counselor that the counselor is a certified counselor.

2. Consumer education. A debt management service provider shall offer a consumer education program approved by the administrator. A debt management service provider may charge a reasonable fee for the program not to exceed \$50.

3. Application. This section does not apply to a debt management service provider located in this State that does not provide debt management services to a consumer who is a resident of this State.

Sec. 10. 32 MRSA §6176, sub-§2, ¶B, as enacted by PL 1999, c. 560, §3, is amended to read:

B. A full description of the services to be performed for the consumer, any fees to be charged to the consumer for such services and any contributions, fees or charges the consumer has agreed to make or pay to the debt management service provider in accordance with the limitation on fees provided in section 6174-A;

Sec. 11. 32 MRSA §6176, sub-§2, ¶F, as enacted by PL 1999, c. 560, §3, is amended to read:

F. A complete list of the consumer's obligations that are subject to the agreement and the names and addresses of the creditors holding those obligations and a disclosure of whether or not the consumer's obligations are individual obligations of the consumer alone or joint obligations of the consumer and a spouse or other member of the consumer's household;

Sec. 12. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 32, chapter 80-A, in the chapter headnote, the words "nonprofit debt management services" are amended to read "debt management services" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. 13. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Office of Consumer Credit Regulation 0091

Initiative: Allocates funds for additional administrative costs resulting from permitting for-profit companies to obtain licenses as debt management service providers. These additional costs will be offset by additional application fees.

| OTHER SPECIAL REVENUE FUNDS | 2007-08 | 2008-09 |
|--|----------------|----------------|
| All Other | \$9,500 | \$9,500 |
| | <hr/> | <hr/> |
| OTHER SPECIAL REVENUE FUNDS TOTAL | \$9,500 | \$9,500 |

SUMMARY

This amendment replaces the bill. As in the bill, this amendment amends the State's debt management services laws by permitting for-profit companies to obtain licenses as debt management service providers. The amendment clarifies that debt management service providers include only those companies that process consumer debt, not commercial debts. It requires that debt management service providers who offer services to Maine consumers use certified counselors and provide consumer education programs. The amendment establishes caps on fees and charges that may be assessed to consumers. The amendment clarifies that a debt management service provider must be registered if it serves consumers in this State or if it is located in this State, but it exempts those companies that are located in Maine but that do not serve consumers in this State from the provisions establishing fee caps and requiring consumer education.

The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached)