

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1039

H. P. 799

House of Representatives, February 26, 1969

Referred to Committee on Business Legislation. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Ross of Bath.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT to Permit Nonstock Corporations to Engage in Consumer Credit Counseling.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 13, § 901, amended. Section 901 of Title 13 of the Revised Statutes, as amended by section 2 of chapter 495 of the public laws of 1965 and by section 14 of chapter 525 of the public laws of 1967, is further amended to read as follows:

§ 901. Organization

When 7 or more persons desire to be incorporated as proprietors of a social, military, literary, scientific or county law library; as a Masonic lodge or chapter of any order or degree; as a Masonic association consisting of members of different orders or degrees; as a lodge of the Independent Order of Odd Fellows; as a lodge of the Knights of Pythias; as a tribe of the Improved Order of Redmen; as a division of the Sons of Temperance; as a tent of the Rechabites; as a grange of Patrons of Husbandry; as a Council of the Sovereigns of Industry; as a lodge of the Benevolent and Protective Order of Elks; as a Grand Army Post; as a American Legion Post; as a Veterans of Foreign Wars Post; as a Council of the Boy Scouts of America; as a relief or benefit association for mutual assistance; as a cemetery association; as a monument or memorial association; as a society to promote temperance; as a village improvement society; as an association for the promotion of good municipal government; as a chamber of commerce or board of trade; as a chapter of the Disabled American Veterans; as a post of the American Veterans of World War II; as a local citizens' group to foster, encourage and assist the physical location, settlement or resettlement of industrial, manu-

facturing, fishing, agricultural and other business enterprises and recreational projects in any locality within the State; as a yacht club; or any nonstock corporation organized to do consumer credit counseling as a public service, without charging of fees and under the supervision and regulation of the State Department of Banks and Banking; or for the purpose of preserving and maintaining a family homestead and the rights of descendants and of members of the family therein; or for any literary, scientific, musical, charitable, educational, social, military, agricultural, moral, religious or benevolent purpose; they may apply in writing to any justice of the peace in the county, who may issue his warrant, directed to one of said applicants, requiring him to call a meeting thereof at such time and place as the justice may appoint.

Sec. 2. R. S., T. 17, § 701, amended. Section 701 of Title 17 of the Revised Statutes is amended to read as follows:

§ 701. Business prohibited

No person, firm, association or corporation shall engage in the business of budget planning. This chapter shall not apply to those admitted to the practice of law or to any nonstock corporation organized to do consumer credit counseling as a public service, without charging of fees and under the supervision and regulation of the State Department of Banks and Banking.

Sec. 3. R. S., T. 32, c. 10-A, additional. Title 32 of the Revised Statutes is amended by adding a new chapter 10-A, to read as follows:

CHAPTER 10-A

CONSUMER CREDIT COUNSELING CORPORATIONS

§ 591. Definitions

The following words and terms as used in this chapter shall be construed as follows:

1. Commissioner. "Commissioner" means the Bank Commissioner.
2. Consumer credit counseling corporation. "Consumer credit counseling corporation" means and includes any nonstock corporation organized to do consumer credit counseling as a public service without charging of fees and being under the supervision and regulation of the State Department of Banks and Banking.
3. Person. "Person" means and includes only nonstock corporations organized in accordance with Title 13, Part 2.

§ 592. Licenses

1. Licenses required. Except as otherwise provided, no person shall conduct within this State consumer credit counseling without having first applied for and obtained a license.
2. Penalty. Any person who shall carry on business of consumer credit counseling without first having obtained a license pursuant to this section, or who shall carry on such business after the revocation, suspension or ex-

piration of any license, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or by both.

3. Licenses. Licenses granted by the commissioner under this section shall be for a period of one year from the first day of January following the effective date of this Act, and annually thereafter such license may be renewed so long as the commissioner regards the business as responsible and safe, but in all cases to terminate unless renewed on the first day of the succeeding January. Each license shall plainly state the name and business address of the licensee and shall be posted in a conspicuous place in the office where the business is transacted. The fee for each license shall be \$50. If the licensee desires to carry on business in more than one place within the State, he shall procure a license for each place where the business is to be conducted.

4. Commissioner. The commissioner may require such financial statements and references of all applicants for a license as he deems necessary; and may make or cause to be made an independent investigation concerning the applicant's reputation, integrity, competence and net worth. Such investigation may cover all managerial personnel employed by or associated with the applicant.

5. Application. Every application for a license shall be acted upon promptly by the commissioner. If the application shall comply in form and substance with this chapter and the rules and regulations promulgated and the commissioner shall find that the applicant is qualified under this chapter, the commissioner shall issue a license forthwith. If the application shall not be sufficient in form or substance, the commissioner shall reject it and notify the applicant of the manner in which it is deficient. Such rejection shall be without prejudice to the filing of a new application. If the commissioner shall find that the applicant is not qualified under this chapter, he shall reject the application and shall give the applicant written notice of such rejection and the reasons therefor.

§ 593. Bond

The commissioner shall require each licensee to file and maintain in force a surety bond, in a form to be prescribed by the commissioner and acceptable to him, and in such sum as he may deem reasonably necessary, to safeguard the interests of the public. The bond may be cancelled by the surety thereon by giving 30 days' notice to the Bank Commissioner but such cancellation shall not in any manner affect the liability of the surety as to anything occurring prior thereto.

§ 594. Investigation, suspension and revocation of licenses

The commissioner may investigate the collection records of a licensee and for that purpose the commissioner shall have free access to the books and records of a licensee relating thereto. If a licensee violates any provisions of this chapter, or any administrative rules issued pursuant to this chapter, or fails to maintain its financial condition sufficient to qualify for a license on an original application, the commissioner may, after notice and hearing in accord-

ance with the laws of this State governing proceedings before the Bank Commissioner, under Title 9, revoke a license or suspend such license for such period as he may deem proper. Any appeal from the decision of the Bank Commissioner may be taken in accordance with Title 5, chapters 305 and 307.

§ 595. Appeals

1. **Event of rejection.** In the event of the rejection of an application for a license or the renewal thereof filed under this chapter or of the suspension or revocation of a license granted under this chapter, the applicant or licensee may, within 30 days after receipt of notice of such rejection, suspension or revocation, file an appeal and thereafter prosecute the appeal in accordance with the statutes governing appeal from, or review of, decisions of the Bank Commissioner.

2. **Filing of appeal.** The filing of an appeal from an order of the commissioner rejecting an application for a license by a consumer credit counseling corporation, or rejecting an application for the renewal of a license, or suspending or revoking a license within 60 days after the date of such order, shall operate as a stay of such order which shall continue pending final determination of such appeal.

§ 596. Reports and records

1. **Financial statements.** The commissioner may at any time require a licensee to submit to the department a verified financial statement for examination by the commissioner so that he may determine whether the licensee is financially responsible to carry on the nonprofit business of consumer credit counseling within the limits and purposes of this chapter.

2. **Books and records.** Each licensee shall maintain a place of business in this State, and the commissioner shall require the licensee to keep such books and records in his place of business in this State as will enable the commissioner to determine whether this chapter is being complied with. Such licensee shall preserve the records of final entry used in such business for a period of 6 years after final payment is made on any pro rating of a consumer's debts placed with the licensee for distribution, or after any account has been returned to the consumer on which one or more payments have been made.

§ 597. Rule making power

The commissioner may make such reasonable rules and regulations, not inconsistent with this chapter, pertaining to the operation of the business of licensees as he may deem necessary to safeguard the interest of the public. Such rules and regulations shall be adopted in the manner prescribed in Title 9, section 6, subsection 4.