

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

ROS

1

2

Date: 3-26-07

(Filing No. S-20)

3

**INSURANCE AND FINANCIAL SERVICES**

4

Reproduced and distributed under the direction of the Secretary of the Senate.

5

**STATE OF MAINE**

6

**SENATE**

7

**123RD LEGISLATURE**

8

**FIRST REGULAR SESSION**

9

10

COMMITTEE AMENDMENT "A" to S.P. 43, L.D. 135, Bill, "An Act To Amend the Debt Management Services Laws"

11

12

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

13

14

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

**§6171. Short title**

15

16

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

17

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

18

19

20

21

**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.

22

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

23

24

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

25

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

26

27

28

**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.

29

30

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

31

32

33

**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

**COMMITTEE AMENDMENT**

R.018

COMMITTEE AMENDMENT "A" to S.P. 43, L.D. 135

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

- 4 A. A supervised financial organization;
- 5 B. A supervised lender; or
- 6 C. A person admitted to the practice of law in this State as of the effective date of
- 7 this chapter, except to the extent that debt management services constitute the
- 8 exclusive activity of that attorney.

9 **Sec. 6. 32 MRSA §6173, sub-§1**, as enacted by PL 1999, c. 560, §3, is repealed.

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

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

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

28 **§6174-A. Limits on fees and charges**

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

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

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

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

41 **3. Limitation on excess fees.** A debt management service provider may not charge  
42 more than one fee authorized under subsections 1 and 2 on the basis that the consumer

R.S.

1 has entered into a debt management services agreement for joint obligations of a  
2 consumer and a consumer's spouse or other member of the consumer's household.

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

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

7 **§6174-B. Counselor certification; consumer education program**

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

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

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

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

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

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

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

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

35 **Sec. 13. Appropriations and allocations.** The following appropriations and  
36 allocations are made.

37 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

38 **Office of Consumer Credit Regulation 0091**

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

**RdS**

COMMITTEE AMENDMENT "A" to S.P. 43, L.D. 135

1	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2007-08</b>	<b>2008-09</b>
2	All Other	\$9,500	\$9,500
3			
4	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$9,500</b>	<b>\$9,500</b>
5	'		

6 **SUMMARY**

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

18 The amendment also adds an appropriations and allocations section.

19 **FISCAL NOTE REQUIRED**  
20 **(See attached)**

**COMMITTEE AMENDMENT**



# 123rd MAINE LEGISLATURE

LD 135

LR 599(02)

## An Act To Amend the Debt Management Services Laws

Fiscal Note for Bill as Amended by Committee Amendment "A" S-20  
 Committee: Insurance and Financial Services  
 Fiscal Note Required: Yes

### Fiscal Note

**Appropriations/Allocations**

Other Special Revenue Funds	\$9,500	\$9,500	\$9,500	\$9,500
-----------------------------	---------	---------	---------	---------

**Revenue**

Other Special Revenue Funds	\$9,500	\$9,500	\$9,500	\$9,500
-----------------------------	---------	---------	---------	---------

**Fiscal Detail and Notes**

The Office of Consumer Credit Regulation in the Department of Professional and Financial Regulation estimates approximately 30 new debt management service providers may be registered as a result of the bill over the next 3 years. The office estimates it will incur additional administrative costs including additional legal services and website and licensing system maintenance, that will require an additional allocation of \$9,500 in each of fiscal years 2007-08 and 2008-09. The office estimates that additional application fees from these new providers will offset the additional costs.