

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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Legislative Document

No. 135

S.P. 43

In Senate, January 9, 2007

An Act To Amend the Debt Management Services Laws

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BROMLEY of Cumberland.
Cosponsored by Representative PERRY of Calais and
Representatives: RECTOR of Thomaston, SMITH of Monmouth.

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

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

3 **§6171. Short title**

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

6 **Sec. 2. 32 MRSA §6172, sub-§3**, as enacted by PL 1999, c. 560, §3, is amended
7 to read:

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

14 A. A supervised financial organization;

15 B. A supervised lender; or

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

19 **Sec. 3. 32 MRSA §6173, sub-§1**, as enacted by PL 1999, c. 560, §3, is repealed.

20 **Sec. 4. 32 MRSA §6173, sub-§2**, as enacted by PL 1999, c. 560, §3, is amended
21 to read:

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

37 **Sec. 5. 32 MRSA §6174-A** is enacted to read:

1 **§6174-A. Limits on fees and charges**

2 A debt management service provider may not charge fees to a consumer in excess of:

3 **1. One-time set-up fees and debt management service.** For a one-time initial or
4 account set-up fee, \$75. For a debt management service provider that distributes monthly
5 payments to a consumer's creditor or creditors, a monthly fee of \$40; or

6 **2. Debt management service intermediary.** For a debt management service
7 provider that acts or offers to act as an intermediary between a consumer and one or more
8 creditors of the consumer for the purpose of adjusting, settling, discharging, reaching a
9 compromise on or otherwise altering the terms of payment of the consumer's obligation,
10 15% of the amount by which the consumer's debt is reduced as part of each settlement.

11 **Sec. 6. Maine Revised Statutes headnote amended; revision clause.** In the
12 Maine Revised Statutes, Title 32, chapter 80-A, in the chapter headnote, the words
13 "nonprofit debt management services" are amended to read "debt management services"
14 and the Revisor of Statutes shall implement this revision when updating, publishing or
15 republishing the statutes.

16 **SUMMARY**

17 This bill amends the State's debt management services laws by permitting for-profit
18 companies to obtain licenses as debt management service providers. The bill clarifies
19 that a debt management service provider must be registered if it serves consumers in this
20 State or if it is located in this State. This bill establishes caps on fees and charges that
21 may be assessed to consumers.