

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

CHAPTER 36
S.P. 43 - L.D. 135

**An Act To Amend the Debt
Management Services Laws**

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

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 ser-

vices 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
OTHER SPECIAL REVENUE FUNDS TOTAL	\$9,500	\$9,500

See title page for effective date.

CHAPTER 37

S.P. 216 - L.D. 679

**An Act To Clarify Portions of
the Laws Governing InforME**

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

Sec. 1. 1 MRSA §534, sub-§2, as enacted by PL 1997, c. 713, §1, is amended to read:

2. Board chair. The Governor shall ~~annually~~ appoint one member of the board as chair.

Sec. 2. 1 MRSA §534, sub-§3, as enacted by PL 1997, c. 713, §1, is amended to read:

3. Staff. The Department of Administrative and Financial Services, ~~Bureau of Information Services~~ Office of Information Technology shall provide staff to the board.

Sec. 3. 1 MRSA §534, sub-§5, ¶B, as enacted by PL 1997, c. 713, §1, is amended to read:

B. Approve the criteria and specifications for a network manager and its duties developed by the ~~Director of the Bureau of Information Services~~ Chief Information Officer within the Department of Administrative and Financial Services;

Sec. 4. 1 MRSA §535, sub-§1, as amended by PL 2005, c. 12, Pt. SS, §1, is further amended to read:

1. Criteria and specifications; contract terms. The ~~Director of the Bureau of Information Services~~ Chief Information Officer within the Department of Administrative and Financial Services or the Chief Information Officer's designee, in consultation with