

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2671 Session of 2010

INTRODUCED BY REICHLEY, BELFANTI, CALTAGIRONE, FLECK, GEIST, GINGRICH, HENNESSEY, HESS, KILLION, METZGAR, MOUL, MURT, STERN, VULAKOVICH AND WATSON, AUGUST 24, 2010

REFERRED TO COMMITTEE ON COMMERCE, AUGUST 24, 2010

AN ACT

1 Amending the act of October 9, 2008 (P.L.1421, No.117), entitled  
2 "An act providing for the licensure of persons providing debt  
3 management services and for the powers and duties of the  
4 Department of Banking; requiring surety bonds; prohibiting  
5 certain fees and costs; providing for debt management plans;  
6 and prohibiting certain acts by persons providing debt  
7 management services," further providing for definitions, for  
8 license required and for application for licensure; providing  
9 for application for debt settlement services licensure;  
10 further providing for penal bond and for reports to  
11 department; providing for disclosure form, for debt  
12 settlement services agreements, for requirements for  
13 providing debt settlement services and for prohibitions  
14 regarding debt settlement services; further providing for  
15 fees; providing for debt settlement services fees; and  
16 further providing for powers and duties of department.

17 The General Assembly of the Commonwealth of Pennsylvania  
18 hereby enacts as follows:

19 Section 1. The definition of "consumer education program" in  
20 section 2 of the act of October 9, 2008 (P.L.1421, No.117),  
21 known as the Debt Management Services Act, is amended and the  
22 section is amended by adding definitions to read:

23 Section 2. Definitions.

24 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Advertising." A commercial message in any medium that  
4 promotes, directly or indirectly, debt settlement services.

5 "Affiliate." A person who controls, is controlled by or is  
6 under common control with a person subject to the provisions of  
7 this act.

8 \* \* \*

9 "Consumer education program." A detailed and customized  
10 education program that:

11 (1) Is provided to a consumer prior to offering a  
12 consumer a debt management services agreement or a debt  
13 settlement services agreement.

14 (2) Is designed to improve a consumer's ability to  
15 manage the consumer's personal and household finances and to  
16 otherwise improve the financial literacy of the consumer.

17 (3) Includes the following, tailored to the needs of the  
18 consumer: budgeting, saving, investing, managing debt  
19 obligations and maintaining creditworthiness.

20 (4) Is not limited to determining whether a consumer  
21 will benefit from debt management services or debt settlement  
22 services, but includes various options and strategies for  
23 addressing the consumer's debt obligation problems and may  
24 include the provision of services for the purpose of  
25 improving a consumer's credit record, credit history or  
26 credit rating, but only to the extent that such services are  
27 incidental to providing the other elements of the consumer  
28 education program.

29 \* \* \*

30 "Debt obligation." Any amount owed for funds borrowed.

1     "Debt ratio." A calculation in which a consumer's monthly  
2 debt obligations and other regularly occurring obligations are  
3 divided by the consumer's monthly income, expressed as a  
4 percentage.

5     \* \* \*

6     "Disposable monthly income." A consumer's monthly income  
7 after making required payments on monthly debt obligations and  
8 other regularly occurring obligations.

9     "Income." Gross income as defined in section 61 of the  
10 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
11 61).

12     \* \* \*

13     "Settlement amount." The amount which is tendered by a  
14 consumer to a creditor to settle a debt obligation.

15     "Settlement funds." A consumer's funds that are deposited  
16 into an account at a depository institution pursuant to a debt  
17 settlement services agreement and which remain in the account  
18 until the funds are used to settle one or more debt obligations  
19 of the consumer pursuant to a debt settlement services  
20 agreement.

21     Section 2. Sections 3(b) and 5 heading and introductory  
22 paragraph of the act are amended to read:

23     Section 3. License required.

24     \* \* \*

25     (b) Debt settlement services.--No person may advertise,  
26 solicit, state or represent that it can offer, obtain or procure  
27 debt settlement services to or for a consumer or provide debt  
28 settlement services to a consumer for a fee unless the person is  
29 licensed by the department under this act [and is operating in  
30 accordance with regulations promulgated by the department

1 regarding the conduct of debt settlement services].

2 Section 5. Application for debt management services licensure.

3 An application for a license under this act to provide debt  
4 management services shall be submitted to the department in the  
5 form required by the department and shall include the following:

6 \* \* \*

7 Section 3. The act is amended by adding a section to read:

8 Section 5.1. Application for debt settlement services  
9 licensure.

10 An application for a license under this act to provide debt  
11 settlement services shall be submitted to the department in the  
12 form required by the department and shall include the following:

13 (1) The applicant's name, address, telephone number,  
14 electronic mail address and Internet website.

15 (2) The address of each location in this Commonwealth  
16 where the applicant will provide debt settlement services.

17 (3) The name and address of each owner, officer,  
18 director or principal of the applicant.

19 (4) The name and address of the applicant's agent for  
20 service of process in this Commonwealth.

21 (5) A description of the ownership interest of any  
22 officer, director, agent or employee of the applicant in an  
23 affiliate or subsidiary of the applicant or in any other  
24 business entity that will provide any service to the  
25 applicant or to a consumer relating to the applicant's  
26 provision of debt settlement services.

27 (6) A list of other states in which the applicant  
28 engages in the business of providing debt settlement  
29 services, including any relevant license or registration  
30 number and information regarding whether a license or

1 registration in another state has ever been suspended or  
2 revoked.

3 (7) The audited financial statement from the applicant's  
4 most recent fiscal year, including an audit opinion from an  
5 independent certified public accountant.

6 (8) A copy of a liability or fidelity insurance policy  
7 that insures against dishonesty, fraud, theft or other  
8 malfeasance on the part of the applicant's employees,  
9 officers, directors or principals.

10 (9) A copy of the applicant's standard debt settlement  
11 services agreement.

12 (10) Information regarding the number of the applicant's  
13 credit counselors and supervisors or managers with direct  
14 supervisory duties of credit counselors who perform the  
15 consumer education program who are certified by an  
16 independent certifying organization acceptable to the  
17 department and a plan to ensure that any of the credit  
18 counselors and supervisors or managers with direct  
19 supervisory duties of credit counselors who perform the  
20 consumer education program who are not certified become  
21 certified within six months of the issuance date of the  
22 license. A licensee shall notify the department of any change  
23 in status regarding the licensee's certified credit  
24 counselors, supervisor or managers with direct supervisory  
25 duties of credit counselors within ten days of the change.

26 (11) Evidence that the applicant is accredited by an  
27 independent accrediting organization acceptable to the  
28 department.

29 (12) A nonrefundable fee of \$2,000.

30 (13) A description of the consumer education program

1 that the applicant provides or intends to provide to  
2 consumers along with copies of any written materials used or  
3 to be used in the program.

4 (14) Any other information that the department requires.

5 Section 4. Sections 7(a) and 13(a) of the act are amended to  
6 read:

7 Section 7. Penal bond.

8 (a) General rule.--The department shall issue a license  
9 under this act to provide debt management services if the  
10 applicant obtains and maintains a bond in an amount greater than  
11 the total amount of Pennsylvania consumer funds that the  
12 licensee will hold directly or in trust at any time, in a form  
13 acceptable to the department, prior to the issuance of the  
14 license, from a surety company authorized to do business in this  
15 Commonwealth. The bond shall be a penal bond conditioned on  
16 compliance with this act and subject to forfeiture by the  
17 department and shall run to the Commonwealth for its use. The  
18 bond shall also be for the use of any person against the  
19 licensee for the benefit of any consumer who is injured by a  
20 violation of this act or regulation promulgated under this act.

21 \* \* \*

22 Section 13. Reports to department.

23 (a) Annual report.--

24 (1) A licensee providing debt management services shall  
25 file an annual report with the department on a date  
26 determined by the department setting forth such information  
27 as the department shall require concerning the debt  
28 management services business conducted by the licensee during  
29 the preceding calendar year. The report shall be on a form  
30 provided by the department.

1       (2) A licensee providing debt settlement services shall  
2       file an annual report with the department on a date  
3       determined by the department setting forth such information  
4       as the department shall require concerning the debt  
5       settlement services business conducted by the licensee during  
6       the preceding calendar year. The report shall be on a form  
7       provided by the department.

8       \* \* \*

9       Section 5. The act is amended by adding sections to read:

10      Section 14.1. Disclosure form.

11      Prior to a licensee and consumer entering into a debt  
12      settlement services agreement, a licensee shall disclose the  
13      following to the consumer on a form provided by the department:

14           (1) The consumer may have other and more appropriate  
15           options for settling debt obligations than by entering into a  
16           debt settlement services agreement, including self-negotiated  
17           settlement or bankruptcy.

18           (2) Specific results from the licensee's provision of  
19           debt settlement services cannot be predicted or guaranteed  
20           and the licensee cannot force negotiations or settlements  
21           with creditors.

22           (3) Settlement of a debt obligation is generally not  
23           negotiated with a creditor until enough settlement funds are  
24           available. A creditor can increase finance or other charges,  
25           pursue regular debt collection activity or institute legal  
26           action against a consumer regarding debt obligations even if  
27           the consumer has entered into a debt settlement services  
28           agreement with the licensee.

29           (4) The debt settlement services agreement may require  
30           the consumer to save money and deposit it into an account at

1 a depository institution in order to accumulate settlement  
2 funds. The consumer's deposit of settlement funds as part of  
3 a debt settlement services agreement does not constitute  
4 making payments to the consumer's creditors.

5 (5) By not making payments to creditors, a consumer's  
6 credit history will be negatively affected, even if the  
7 consumer is depositing settlement funds as part of a debt  
8 settlement services agreement with the licensee.

9 (6) The licensee will not make payments to the  
10 consumer's creditors.

11 (7) If a debt obligation is settled for less than the  
12 full balance, the consumer may be taxed on the amount of the  
13 debt obligation which is forgiven by the creditor.

14 (8) The licensee is prohibited from receiving  
15 compensation from the consumer's creditors.

16 Section 14.2. Debt settlement services agreements.

17 (a) General rule.--A licensee may only provide debt  
18 settlement services in accordance with a written debt settlement  
19 services agreement entered into between the licensee and the  
20 consumer.

21 (b) Contents of debt settlement services agreement.--A debt  
22 settlement services agreement shall be in plain English, printed  
23 in at least 12-point type, signed by the licensee and the  
24 consumer, and shall contain at least the following information:

25 (1) The name, address and telephone number of the  
26 consumer and of the licensee.

27 (2) The license number of the licensee.

28 (3) A description of the debt settlement services to be  
29 provided to the consumer, including a statement that the  
30 licensee cannot guarantee specific results from the

1 licensee's provision of debt settlement services or  
2 settlements with the consumer's creditor.

3 (4) A description of the fees that will be charged to  
4 the consumer and when such fees will be payable to the  
5 licensee.

6 (5) A list of the debt obligations which the licensee  
7 intends to settle on behalf of the consumer. The list shall  
8 include:

9 (i) The current amount of the debt obligations.

10 (ii) A good faith estimate of the amount for which  
11 the licensee expects to settle the debt obligations.

12 (iii) A good faith estimate of the time frame in  
13 which the licensee expects to settle the debt  
14 obligations, assuming the consumer complies with the debt  
15 settlement services agreement.

16 (6) A list of the debt obligations which the licensee  
17 does not intend to settle on behalf of the consumer and the  
18 reason the licensee will not be settling each debt  
19 obligation.

20 (7) A notice, in boldface print, indicating the  
21 following:

22 (i) The consumer may have other and more appropriate  
23 options for settling debt obligations than by entering  
24 into a debt settlement services agreement, including  
25 self-negotiated settlement or bankruptcy.

26 (ii) Specific results from the licensee's provision  
27 of debt settlement services cannot be predicted or  
28 guaranteed and the licensee cannot force negotiations or  
29 settlements with creditors.

30 (iii) Settlement of a debt obligation is generally

1 not negotiated with a creditor until enough settlement  
2 funds are available. A creditor can increase finance or  
3 other charges, pursue regular debt collection activity or  
4 institute legal action against a consumer regarding debt  
5 obligations even if the consumer has entered into a debt  
6 settlement services agreement with the licensee.

7 (iv) The debt settlement services agreement may  
8 require the consumer to save money and deposit it into an  
9 account at a depository institution in order to  
10 accumulate settlement funds. The consumer's deposit of  
11 settlement funds as part of a debt settlement services  
12 agreement does not constitute making payments to the  
13 consumer's creditors.

14 (v) By not making payments to creditors, a  
15 consumer's credit history will be negatively affected,  
16 even if the consumer is depositing settlement funds as  
17 part of a debt settlement services agreement with the  
18 licensee.

19 (vi) The licensee will not make payments to the  
20 consumer's creditors.

21 (vii) If a debt obligation is settled for less than  
22 the full balance, the consumer may be taxed on the amount  
23 of the debt obligation which is forgiven by the creditor.

24 (viii) The licensee is prohibited from receiving  
25 compensation from the consumer's creditors.

26 (8) Notice that the consumer has five business days to  
27 rescind the debt settlement services agreement at no cost to  
28 the consumer other than the initial consultation fee.

29 (9) Notice that either party may terminate the debt  
30 settlement services agreement upon ten days' written notice

1 to the other party.

2 (10) An explanation of the way in which disputes that  
3 arise under the debt settlement services agreement will be  
4 resolved.

5 (11) An explanation of applicable privacy laws.  
6 Section 14.3. Requirements for providing debt settlement  
7 services.

8 (a) General requirements.--A licensee providing debt  
9 settlement services shall:

10 (1) Provide each consumer for whom it provides debt  
11 settlement services with a consumer education program at no  
12 cost to the consumer.

13 (2) Have written policies describing its safeguards  
14 against conflicts of interest in the conducting of its  
15 business.

16 (3) If the licensee primarily communicates with a  
17 consumer in a language other than English, provide the debt  
18 settlement services agreement and any other documents or  
19 disclosures required by this act to the consumer in that  
20 other language.

21 (4) Have a toll-free telephone number that shall be  
22 prominently displayed on the licensee's literature and  
23 advertising.

24 (5) Maintain a communications system, staffed at a level  
25 that reasonably permits inquiring consumers to individually  
26 speak and discuss with counselors or a customer service  
27 representative of the licensee during regular business hours.

28 (6) Protect and prevent disclosure of consumers'  
29 confidential information by measures, including restricting  
30 access to consumers' personal or financial information by

1 licensee employees and establishing information-protecting  
2 and nondisclosure provisions in any agreements with employees  
3 and third-party contractors.

4 (7) Maintain such records at its principal place of  
5 business as the department may require. The records shall be  
6 retained for at least five years and may be in an electronic  
7 format, provided that the electronic format is suitable for  
8 efficient examination by the department.

9 (8) Include in all advertising:

10 (i) The licensee's name as indicated on its license.

11 (ii) A statement that the licensee is licensed by  
12 the Department of Banking.

13 (iii) The following notice:

14 Using debt settlement services will likely have  
15 a negative effect on your credit history and may  
16 make it difficult for you to obtain credit in  
17 the future. You may incur income tax liabilities  
18 for any debt obligations which are settled on  
19 your behalf.

20 (b) Appropriateness of debt settlement services.--A licensee  
21 may not provide debt settlement services for a consumer unless  
22 the licensee has determined that debt settlement services are  
23 appropriate for the consumer. In determining whether debt  
24 settlement services are appropriate for a consumer, a licensee  
25 shall consider and determine whether:

26 (1) Other options are more appropriate for the consumer,  
27 including a self-negotiated repayment plan or bankruptcy.

28 (2) The consumer can afford to make the currently  
29 scheduled payments on the consumer's outstanding debt  
30 obligations without the aid of debt settlement services. A

1 consumer is presumed to be able to make currently scheduled  
2 payment on debt obligations without the aid of debt  
3 settlement services if the consumer's debt ratio is under 40%  
4 and if there is at least \$200 of disposable monthly income  
5 per person in the consumer's household.

6 (3) The consumer can afford the offered debt settlement  
7 services, including any modified payments on the consumer's  
8 outstanding debt obligations. A consumer is presumed to be  
9 unable to afford debt settlement services if the consumer's  
10 debt ratio, including anticipated payments as a result of any  
11 debt settlement services agreement, is more than 60% and if  
12 there is less than \$200 of disposable monthly income per  
13 person in the consumer's household.

14 (c) Licensee determination of appropriateness of debt  
15 settlement services.--In order to determine the appropriateness  
16 of debt settlement services for a consumer as required by  
17 subsection (b), a licensee shall prepare a written analysis  
18 which contains the following information:

19 (1) The amount and sources of monthly income of the  
20 consumer.

21 (2) The consumer's monthly or other scheduled payments  
22 on all debt obligations and other regularly occurring  
23 obligations.

24 (3) The disposable monthly income of the consumer.

25 (4) Any other information or income which would affect  
26 the consumer's ability to make currently scheduled or  
27 modified payments on outstanding debt obligations and to  
28 afford debt settlement services, including disposable monthly  
29 income from other people in the consumer's household.

30 (5) The consumer's written certification that the

information required by paragraphs (1), (2), (3) and (4) is correct.

(6) The consumer's credit record.

(7) The consumer's debt ratio prior to any proposed debt settlement services.

(8) A list of the consumer's monthly payments as a result of any debt settlement services and the anticipated effect on the consumer's debt ratio as a result of making such payments.

(d) Licensee inability to offer debt settlement services.--

If a licensee's analysis required by subsection (c) indicates that debt settlement services are inappropriate for a consumer and the licensee is therefore unable to provide debt settlement services to the consumer pursuant to subsection (b), the licensee shall provide counseling or information regarding other options for the consumer, including self-negotiated repayment plans and bankruptcy. As an alternative to providing such counseling itself, the licensee may refer the consumer to an unaffiliated entity that provides credit counseling, provided that such entity does not offer, pay or give a gift, bonus, premium, reward or any other compensation to a licensee for referring a consumer.

(e) Monitoring of settlement funds.--As part of a debt settlement services agreement, a licensee may monitor or contract with a third party to monitor settlement funds deposited by a consumer in a depository institution.

Section 14.4. Prohibitions regarding debt settlement services.

A licensee providing debt settlement services may not:

(1) Provide debt settlement services to a consumer if the licensee determines that debt settlement services are

1 inappropriate for the consumer pursuant to section 14.3.

2 (2) Fail to carry out the terms of a debt settlement  
3 services agreement for reasons other than:

4 (i) A consumer's failure to perform obligations of  
5 the consumer under the debt settlement services  
6 agreement.

7 (ii) An order of a court or administrative agency of  
8 competent jurisdiction.

9 (3) Fail to provide a consumer the right to rescind a  
10 debt settlement services agreement within five business days  
11 at no cost to the consumer other than the initial  
12 consultation fee permitted by section 15.1.

13 (4) Settle a debt obligation or lead a consumer to  
14 believe that a payment to a creditor is in settlement of a  
15 debt obligation to the creditor unless, at the time of  
16 settlement, the consumer receives a written certification or  
17 confirmation by the creditor that the payment is in full  
18 settlement of the debt obligation, or is part of a payment  
19 plan that will result in full settlement of the debt  
20 obligation.

21 (5) Hold, control, have access to or interfere with the  
22 access of a consumer to a consumer's settlement funds except  
23 as provided in section 14.3(e) and paragraph (17). This  
24 provision shall not restrict a licensee's ability to collect  
25 fees as authorized by section 15.1.

26 (6) Advise or permit a consumer to deposit funds into  
27 any depository institution account which is under the control  
28 of the licensee or any affiliate of the licensee or to which  
29 the licensee or any affiliate has access, except as provided  
30 in paragraph (17).

1       (7) Require a consumer to deposit settlement funds into  
2 any particular depository institution or receive, directly or  
3 indirectly, any incentive, including a gift, bonus, premium,  
4 reward or any other compensation regarding settlement funds  
5 deposited by a consumer in a depository institution.

6       (8) Interfere with any communications between a  
7 consumer's creditors and the consumer. If a licensee receives  
8 information from a creditor regarding a consumer or a  
9 consumer account, the licensee shall immediately forward the  
10 information to the consumer.

11       (9) Accept a power of attorney for a consumer or  
12 represent that the licensee has a power of attorney for a  
13 consumer, except for the purposes as provided in paragraph  
14 (17).

15       (10) Disseminate information, including by advertising,  
16 regarding its debt settlement services in any way that is  
17 false, misleading or deceptive.

18       (11) Attempt to minimize the importance of any  
19 information contained in any required disclosure or in the  
20 debt settlement services agreement.

21       (12) Conduct business under any name other than that  
22 displayed on the license.

23       (13) Include in the debt settlement services agreement  
24 or any other document any provision under which the consumer  
25 waives any right to sue for nonperformance or other breach of  
26 the debt settlement services agreement on the part of the  
27 licensee.

28       (14) Operate as a collection agency or debt collector.

29       (15) Settle any debt obligation of a consumer unless the  
30 settlement benefits the consumer and the consumer has

1 approved the proposed settlement in writing.

2 (16) By itself or through any business entity in which  
3 any director, owner, officer, employee or principal of the  
4 licensee, or any member of such person's immediate family as  
5 defined in 65 Pa.C.S. § 1102 (relating to definitions), has  
6 an equitable, beneficial or other ownership interest:

7 (i) Purchase any debt or obligation of a consumer.

8 (ii) Lend money or provide credit to a consumer.

9 (iii) Offer or provide credit insurance to a  
10 consumer.

11 (iv) Obtain a mortgage or other security interest in  
12 the property of a consumer.

13 (v) Offer, pay or give a gift, bonus, premium,  
14 reward or any other compensation to a person for  
15 referring a consumer to the licensee.

16 (vi) Offer or pay an incentive, including a gift,  
17 bonus, premium, reward or any other compensation to a  
18 consumer, for executing a debt settlement services  
19 agreement with the licensee.

20 (vii) Receive compensation from a creditor of a  
21 consumer.

22 (17) Initiate a transfer to or from a consumer's account  
23 at a financial institution or with another person unless the  
24 transfer is one of the following:

25 (i) A return of money to the consumer's account.

26 (ii) Before termination of debt settlement services,  
27 properly authorized by the debt settlement services  
28 agreement for either of the following:

29 (A) Payment to one or more creditors pursuant to  
30 a debt settlement services agreement.

1                   (B) Payment of a fee permitted by this act and  
2                   as part of a debt settlement services agreement.

3           (18) Disclose the identity or identifying information of  
4           a consumer or the identity of the consumer's creditors except  
5           as permitted by Federal law. Disclosures may be made:

6                   (i) To the department.

7                   (ii) To a creditor of the consumer, to the extent  
8                   necessary to secure the cooperation of the creditor in  
9                   the administration of the debt settlement services  
10                  agreement.

11                  (iii) As is necessary to administer the debt  
12                  settlement services agreement.

13           (19) Delegate any of its duties or obligations under  
14           this act or a debt settlement services agreement to any  
15           person who is not licensed pursuant to this act and to whom  
16           the act is applicable.

17           (20) Compensate its employees on the basis of a formula  
18           that incorporates the number of consumers the employee  
19           induces to enter into debt settlement services agreements or  
20           the amount of debt obligations included in a debt settlement  
21           services agreement.

22       Section 6. Section 15 (a), (c), (d) and (h) of the act are  
23 amended to read:

24 Section 15. [Fees] Debt management services fees.

25       (a) Limitation.--A licensee providing debt management  
26 services may charge a fee of not more than \$50 for an initial  
27 consultation with a consumer, provided that the consultation  
28 includes a consumer education program.

29       \* \* \*

30       (c) Insufficient funds fee.--A licensee providing debt

1 management services may collect a fee for a subsequent  
2 dishonored check or instrument taken in payment, not to exceed  
3 the service charge permitted to be imposed under 18 Pa.C.S. §  
4 4105 (relating to bad checks).

5 (d) Actual cost.--A licensee providing debt management  
6 services may charge a consumer for the actual cost in requesting  
7 the consumer's credit report.

8 \* \* \*

9 (h) No other fees permitted.--A licensee providing debt  
10 management services shall not charge a consumer any fees other  
11 than those described in this section or by regulation  
12 promulgated by the department for services regulated pursuant to  
13 this act.

14 \* \* \*

15 Section 7. The act is amended by adding a section to read:  
16 Section 15.1. Fees.

17 (a) Limitation.--A licensee providing debt settlement  
18 services may charge a nonrefundable fee of not more than \$50 for  
19 an initial consultation with a consumer, provided that the  
20 consultation includes a consumer education program.

21 (b) Prohibition against multiple consultation fees.--A  
22 consumer may not be charged a consultation fee if the licensee  
23 providing debt settlement services refers the consumer to  
24 another licensee.

25 (c) Monthly maintenance fee.--When a consumer and a licensee  
26 have entered into a debt settlement services agreement, the  
27 licensee may charge the consumer a monthly maintenance fee of  
28 \$10 for each month that the debt settlement services agreement  
29 is in effect, provided that the fee is not assessed for more  
30 than 36 months.

1     (d) Settlement fee.--Upon a paid settlement of a consumer's  
2 debt obligations pursuant to a debt settlement services  
3 agreement, a licensee may collect from the consumer up to 15% of  
4 the difference between the total settled debt obligations and  
5 the settlement amount, less any monthly maintenance fees that  
6 have been collected from the consumer by the licensee.

7     (e) Insufficient funds fee.--A licensee providing debt  
8 settlement services may collect a fee for a subsequent  
9 dishonored check or instrument taken in payment, not to exceed  
10 the service charge permitted to be imposed under 18 Pa.C.S. §  
11 4105 (relating to bad checks).

12     (f) Actual cost.--A licensee providing debt settlement  
13 services may charge a consumer for the actual cost in requesting  
14 the consumer's credit report.

15     (g) Contributions prohibited.--A licensee providing debt  
16 settlement services shall not require or accept any contribution  
17 from a consumer for services regulated pursuant to this act.

18     (h) Education or counseling fee.--A licensee may not charge  
19 a consumer who enters into a debt settlement services agreement  
20 any fee for providing education or counseling. In the event that  
21 a consumer receives education or counseling from a licensee  
22 subject to a fee or charge without entering into a debt  
23 settlement services agreement and subsequently enters into a  
24 debt settlement services agreement with the licensee within four  
25 months of beginning the education or counseling, the licensee  
26 shall refund the fee charged for the education or counseling.

27     (i) Fee subject to debt settlement services agreement.--A  
28 licensee may not impose charges or receive payment for debt  
29 settlement services until the licensee and the consumer have  
30 signed a debt settlement services agreement.

1     (j) No other fees permitted.--A licensee may not charge a  
2     consumer any fee or charge for the provision of debt settlement  
3     services other than those fees and charges described in this  
4     section.

5     Section 8. Section 17(3) of the act is amended to read:

6     Section 17. Powers and duties of department.

7     The department shall have the authority to:

8             \* \* \*

9             (3) Request and receive information or records of any  
10     kind, including reports of criminal history record  
11     information, from any Federal, State, local or foreign  
12     government entity regarding an applicant, a licensee or a  
13     person related to the business of debt management services or  
14     debt settlement services. The cost associated with the  
15     request shall be paid by the applicant or licensee.

16             \* \* \*

17     Section 9. This act shall take effect in 60 days.