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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1655 Session of  
2009

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INTRODUCED BY DALEY AND ROSS, JUNE 10, 2009

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REFERRED TO COMMITTEE ON COMMERCE, JUNE 10, 2009

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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," establishing a moratorium on  
8 applicability to debt settlement services pending regulatory  
9 action.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Sections 17 and 48 of the act of October 9, 2008  
13 (P.L.1421, No.117), known as the Debt Management Services Act,  
14 are amended to read:

15 Section 17. Powers and duties of department.

16 The department shall have the authority to:

17 (1) Examine any instrument, document, account, book,  
18 record or file of a licensee or any person having a  
19 connection to the licensee or make other investigations as  
20 may be necessary to administer the provisions of this act.  
21 The examination may include documents, accounts, books or  
22 records that relate to the operation of the licensee that are

1 in the possession of an affiliate, subsidiary or other  
2 business entity. Pursuant to this authority, the department  
3 may remove any instrument, document, account, book, record or  
4 file of a licensee or person to a location outside of the  
5 licensee's or person's office location. The examination may  
6 be conducted without prior notice to the licensee or person  
7 and the costs of the examination shall be borne by the  
8 licensee or person subject to the examination.

9 (2) Conduct administrative hearings on any matter  
10 pertaining to this act, issue subpoenas to compel the  
11 attendance of witnesses or the production of documents,  
12 accounts, books or records at a hearing. A document, account,  
13 book or record subject to subpoena may be retained by the  
14 department until the proceeding in connection with which it  
15 was subpoenaed is completed. A department official may  
16 administer oaths or affirmations to a person whose testimony  
17 is required.

18 (3) Request and receive information or records of any  
19 kind, including reports of criminal history record  
20 information, from any Federal, State, local or foreign  
21 government entity regarding an applicant, a licensee or a  
22 person related to the business of debt management services.  
23 The cost associated with the request shall be paid by the  
24 applicant or licensee.

25 (4) Promulgate regulations or issue statements of policy  
26 or orders to [ensure] do all of the following:

27 (i) Ensure the proper administration or enforcement  
28 of this act and the proper conduct of licensees under  
29 this act.

30 (ii) Oversee the conduct of debt settlement services

1 and establish a licensing for persons that provide debt  
2 settlement services in this Commonwealth or to residents  
3 of this Commonwealth.

4 (5) Prohibit a person or licensee that violates this act  
5 from working in any capacity related to activities regulated  
6 by the department.

7 (6) Order a person or licensee to make restitution for  
8 actual damages to consumers caused by a violation of this act  
9 or to refund fees collected in violation of this act.

10 (7) Issue a cease and desist order that takes effect  
11 immediately, but that is subject to a hearing within 14 days  
12 of the issuance of the order.

13 (8) Impose other conditions or take other actions as the  
14 department deems appropriate to administer or enforce this  
15 act.

16 (9) Provide the following on its Internet website:

17 (i) Information for licensees on the provisions of  
18 this act.

19 (ii) Information for consumers regarding the  
20 protections of this act.

21 (iii) Information on filing consumer complaints,  
22 including a toll-free telephone number.

23 (iv) A list of current licensees.

24 (10) Except for the information specified in section  
25 5(7), make the information collected under section 5  
26 available to the public upon request to the department  
27 pursuant to the act of February 14, 2008 (P.L.6, No.3), known  
28 as the Right-to-Know Law.

29 Section 48. Applicability.

30 [The] (a) General rule.--Subject to subsection (b), the

1 provisions of this act shall apply to:

2 (1) Any debt management services agreement or debt  
3 settlement services agreement which is:

4 (i) negotiated, offered or otherwise transacted  
5 within this Commonwealth, in whole or in part, whether by  
6 the licensee or any other person;

7 (ii) made or executed within this Commonwealth after  
8 the effective date of this act; or

9 (iii) notwithstanding the place of execution,  
10 entered into with a resident of this Commonwealth.

11 (2) Any person who engages in debt management services  
12 or debt settlement services in this Commonwealth.

13 (b) Moratorium.--

14 (1) The following are within the scope of this  
15 subsection:

16 (i) Section 3(b).

17 (ii) The provisions of section 4(b) relating to debt  
18 settlement services.

19 (iii) The provisions of section 14(5)(iii) relating  
20 to debt settlement services.

21 (iv) The provisions of section 16(c) relating to  
22 debt settlement services.

23 (v) The provisions of section 21.

24 (2) The provisions referred to in paragraph (1) shall  
25 not apply during the period:

26 (i) beginning on the effective date of this  
27 subsection; and

28 (ii) ending 60 days after the publication of  
29 regulations under section 17(4)(ii).

30 Section 2. This act shall take effect immediately.