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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 622 Session of  
2013

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INTRODUCED BY WARD, WHITE, BOSCOLA, BROWNE, RAFFERTY, BREWSTER,  
MENSCH, ERICKSON, SCHWANK, FERLO, HUGHES, SOLOBAY AND WAUGH,  
MARCH 6, 2013

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REFERRED TO BANKING AND INSURANCE, MARCH 6, 2013

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AN ACT

1 Providing for the licensure of persons providing debt settlement  
2 services, for powers and duties of the Department of Banking  
3 and for enforcement; imposing civil penalties; and making a  
4 related repeal.

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22 The General Assembly of the Commonwealth of Pennsylvania  
23 hereby enacts as follows:

24 CHAPTER 1

25 PRELIMINARY PROVISIONS

26 Section 101. Short title.

27 This act shall be known and may be cited as the Debt  
28 Settlement Services Act.

29 Section 102. Definitions.

30 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 "Affiliate." Any of the following:

4 (1) A person that directly controls, is controlled by or  
5 is under common control with the licensee.

6 (2) An officer of or individual performing similar  
7 functions with respect to the licensee.

8 (3) A director of or individual performing similar  
9 functions with respect to the licensee.

10 (4) An officer or director of or an individual  
11 performing similar functions with respect to a person  
12 described in paragraph (1).

13 "Agreement." An agreement between a provider and an  
14 individual for the performance of debt settlement services.

15 "Bank." A financial institution, including a commercial  
16 bank, savings bank, savings and loan association, credit union,  
17 mortgage bank and trust company, engaged in the business of  
18 banking, chartered under Federal or State law and regulated by a  
19 Federal or State banking regulatory authority.

20 "Concessions." Assent to repayment of a debt on terms more  
21 favorable to an individual than the terms of the contract  
22 between the individual and a creditor.

23 "Debt settlement services." Services as an intermediary  
24 between an individual and one or more unsecured creditors of the  
25 individual for the purpose of obtaining concessions where the  
26 contemplated concessions involve a reduction in principal of the  
27 individual's unsecured debt. The term does not include:

28 (1) Legal services provided in an attorney-client  
29 relationship by an attorney licensed or otherwise authorized  
30 to practice law in this Commonwealth.

1           (2) Accounting services provided in an accountant-client  
2 relationship by a certified public accountant licensed to  
3 provide accounting services in this Commonwealth.

4           (3) Financial planning services provided in a financial  
5 planner-client relationship by a licensed member of a  
6 financial planning profession.

7 "Department." The Department of Banking of the Commonwealth.

8 "Good faith." Honesty in fact and the observance of  
9 reasonable standards of fair dealing.

10 "Payday loan." As follows:

11           (1) A loan or advance of money or credit to a consumer  
12 that, for a fee, finance charge or other consideration, does  
13 all of the following:

14               (i) Accepts a check or other repayment mechanism  
15 from the consumer.

16               (ii) Agrees to hold the check or repayment mechanism  
17 for a deferment period.

18               (iii) Pays to the consumer a cash advance, a locally  
19 cashable check, debit card or money order or credits to  
20 the consumer's account the amount of the check less  
21 finance charges permitted.

22           (2) The term includes an arrangement in which a person  
23 pays a cash advance to a consumer in return for a repayment  
24 mechanism and a fee, finance charge or other consideration.

25 "Person." An individual, corporation, business trust,  
26 estate, trust, partnership, limited liability company,  
27 association, joint venture or any other legal or commercial  
28 entity. The term does not include a public corporation,  
29 government or governmental subdivision, agency or  
30 instrumentality.

1 "Program." A program or strategy in which a provider  
2 furnishes debt settlement services.

3 "Provider." A person required to be licensed under this act  
4 and that provides, offers to provide or agrees to provide debt  
5 settlement services.

6 "Record." Information that is inscribed on a tangible medium  
7 or that is stored in an electronic or other medium and is  
8 retrievable in perceivable form.

9 "Secretary." The Secretary of Banking of the Commonwealth.  
10 Section 103. Nonapplicability.

11 This act does not apply to the following persons or their  
12 employees when the person or the employee is engaged in the  
13 regular course of the person's business or profession:

14 (1) A judicial officer, a person acting under an order  
15 of a court or an administrative agency or an assignee for the  
16 benefit of creditors.

17 (2) A bank, bank holding company or the subsidiary,  
18 agent or affiliate of either, or a credit union or other  
19 financial institution licensed under Federal or State law.

20 (3) A title insurer, escrow company or other person that  
21 provides bill-paying services if the provision of debt  
22 settlement services is incidental to the bill-paying  
23 services.

24 CHAPTER 3

25 LICENSURE

26 Section 301. Requirements.

27 (a) General rule.--Except as provided under subsection (b)  
28 and on or after the effective date of this section, a provider  
29 may not provide debt settlement services to an individual who it  
30 reasonably should know resides in this Commonwealth at the time

1 it agrees to provide the services, unless the provider is  
2 licensed under this act.

3 (b) Nonapplicability.--If a provider is licensed under this  
4 act, subsection (a) shall not apply to an employee or agent of  
5 the provider.

6 (c) Listing.--The department shall maintain and publicize a  
7 list of the names of all licensed providers.

8 Section 302. Application and required documentation.

9 (a) Form.--An application for licensure as a provider must  
10 be in a form prescribed by the department.

11 (b) Fee and documentation.--An application for licensure as  
12 a provider must be accompanied by:

13 (1) A licensing fee established by the department.

14 (2) One of the following:

15 (i) Evidence of minimum insurance in an amount of  
16 \$25,000.

17 (ii) A surety bond filed with the department, in a  
18 form approved by the department, for a term no less than  
19 the expiration of the license and in the amount of  
20 \$25,000. The surety bond must run to the Commonwealth for  
21 the benefit of the Commonwealth and of an individual who  
22 resides in this Commonwealth that agrees to receive debt  
23 settlement services from the provider. Payment of surety  
24 bond must be conditioned upon noncompliance of the  
25 provider or its agent with this act.

26 (3) Proof that the provider is authorized by the laws of  
27 this Commonwealth to conduct business in this Commonwealth.

28 Section 303. Required information for application.

29 An application for a license under this act shall be  
30 submitted to the department in the form required by the

1 department and shall include the following:

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

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

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

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

10 (5) A description of the ownership interest of an  
11 officer, director, agent or employee of the applicant in an  
12 affiliate or subsidiary of the applicant or in another  
13 business entity that will provide any service to the  
14 applicant or to a consumer relating to the applicant's  
15 provision of debt settlement services.

16 (6) A list of other states in which the applicant is  
17 licensed or registered for the provision of debt settlement  
18 services, including a relevant license or registration number  
19 and information regarding whether a license or registration  
20 in another state has ever been suspended or revoked.

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

25 (8) A copy of the applicant's standard debt settlement  
26 services agreement.

27 (9) A penal bond meeting the requirements of section  
28 305.

29 (10) Except as provided under section 304, a  
30 nonrefundable fee of \$2,000.

1           (11) Any other reasonable requests for information that  
2           the department determines to be necessary to its review of a  
3           license application.

4 Section 304. Not-for-profit license fees.

5           Notwithstanding any other provision of this act, a domestic  
6           or foreign not-for-profit corporation or association registered  
7           under 15 Pa.C.S. Pt. II Subpt. C (relating to nonprofit  
8           corporations) with the Secretary of the Commonwealth which has  
9           annual gross revenues from debt settlement services fees and  
10          charges of less than \$3,000,000 annually shall pay an initial  
11          license fee of \$500 and an annual renewal fee of \$350.

12 Section 305. Penal bond.

13          (a) Issuance.--

14           (1) The department shall issue a license under this act  
15          if, prior to the issuance of the license, the applicant  
16          obtains and maintains a bond that meets all of the following:

17                  (i) Is from a surety company authorized to do  
18                  business in this Commonwealth.

19                  (ii) Is in an amount equal to \$25,000.

20                  (iii) The licensee will hold directly or in trust.

21                  (iv) Is in a form acceptable to the department.

22           (2) The bond shall meet all of the following:

23                  (i) Be a penal bond conditioned on compliance with  
24                  this act and subject to forfeiture by the department.

25                  (ii) Run to the Commonwealth for its use.

26                  (iii) Be for the use of a person against the  
27                  licensee for the benefit of a consumer who is injured by  
28                  a violation of this act or regulation promulgated under  
29                  this act.

30                  (iv) Contains a cancellation provision as provided



1 under subsection (d).

2 (b) Right of aggrieved person.--

3 (1) If a person is aggrieved, the person may do one of  
4 the following:

5 (i) With the written consent of the department,  
6 recover fees and costs from a bond by filing a claim with  
7 the surety company or maintaining an action on the bond.

8 (ii) Recover fees and costs by filing a formal  
9 complaint against the licensee with the department which  
10 shall adjudicate the matter. The adjudication shall be  
11 binding upon the surety company and enforceable by the  
12 department in Commonwealth Court and by an aggrieved  
13 person in any court.

14 (2) An aggrieved person seeking to recover from a bond  
15 that has already been forfeited by the department or which  
16 the department is in the process of forfeiting may recover  
17 payment on the bond if, after filing a petition with the  
18 department, the department consents to the aggrieved person's  
19 requested payment or portion of the payment. The department  
20 may pay the aggrieved person from the bond proceeds it  
21 recovers.

22 (c) Additional relief.--

23 (1) Nothing under this section shall be construed to  
24 limit the ability of a court or magisterial district judge to  
25 award to an aggrieved person other damages, court costs and  
26 attorney fees, except that claims that are not fees or  
27 related costs may not be recovered from the bond.

28 (2) The department may consent to or order pro rata or  
29 other recovery on the bond for an aggrieved person if claims  
30 against the bond may or shall exceed its full monetary

1 amount.

2 (d) Cancellation of bonds.--A bond shall contain a provision  
3 that it may not be canceled for cause unless notice of intention  
4 to cancel is given to the department at least 30 days before the  
5 day upon which cancellation takes effect. Cancellation of the  
6 bond shall not invalidate the bond regarding the period of time  
7 it was in effect.

8 Section 306. Application information.

9 An applicant or licensed provider must notify the department  
10 within 60 days after a change in the information required under  
11 section 302(b)(2)(i) or 303(1), (3) or (5).

12 Section 307. Public availability of application information.

13 Except for the addresses required under section 303(3) and  
14 the proprietary information required under section 303(5), the  
15 department shall make the information in an application for  
16 licensure and renewal of licensure as a provider available to  
17 the public.

18 Section 308. Certificate of licensure.

19 (a) Time for issuance.--The department shall decide whether  
20 to issue a license to an applicant within 60 days of receiving  
21 the applicant's completed application. The department may extend  
22 the time period for 30 days and shall notify the applicant of  
23 the extended time period, including a final decision date, in  
24 writing.

25 (b) Investigation.--Upon receipt of a completed application  
26 the department may conduct an investigation of the applicant,  
27 including its owners, officers, directors, principals or agents,  
28 in order to decide whether to issue the license.

29 (c) Appeal of denial.--If the department refuses to issue a  
30 license, it shall notify the applicant in writing that the

1 license has been denied, including the reason for the denial and  
2 that the applicant has the right to appeal the denial to the  
3 secretary within 30 days.

4 (d) Duration.--A license shall be issued for a period of one  
5 year on a schedule determined by the department, except that if  
6 a license is issued prior to the beginning of a licensing year,  
7 the license shall only be valid until the end of that licensing  
8 year, at which time it may be renewed subject to this act. If a  
9 license is denied, canceled, surrendered, revoked or suspended,  
10 no part of the license fee or license renewal fee shall be  
11 subject to rebate.

12 (e) Contents.--The license shall be on a form determined by  
13 the department and shall contain the name of the licensee, the  
14 address at which the licensee is conducting business and a  
15 license number.

16 (f) Display.--The license must be displayed prominently at  
17 the licensee's business locations.

18 (g) Transfer prohibited.--

19 (1) Except as provided for under this subsection, the  
20 license may not be transferred, assigned or pledged.

21 (2) A licensee may, upon notice to the department,  
22 transfer up to 50% of the securities of a licensee to another  
23 entity without affecting the validity of a license granted  
24 under this act.

25 (h) Conditional licenses.--The department may impose  
26 conditions on the issuance of a license under this act. If the  
27 department determines that conditions imposed upon a license  
28 have not been fulfilled, the department may take action  
29 authorized under this act against the licensee. For applicants,  
30 the department may issue licenses effective immediately upon

1 receipt of an application, which shall be conditional licenses  
2 issued under this subsection.

3 (i) Transitional license.--

4 (1) A person that is providing debt settlement services  
5 before the effective date of this section and that seeks to  
6 continue providing the services after the effective date of  
7 this section shall submit an application for a license under  
8 this act not less than ten days prior to the effective date  
9 of this section. The applicant may continue to provide debt  
10 settlement services, according to this act, while the  
11 department processes the application for licensure.

12 (2) A person providing debt settlement services before  
13 the effective date of this section who does not submit an  
14 application for a license within ten days of the effective  
15 date of this section must cease operations until it has met  
16 the conditions for licensure under this act.

17 Section 309. Renewal of license.

18 (a) Procedure.--An application for renewal of a license  
19 shall be submitted to the department in the manner determined by  
20 the department. The application for renewal shall be accompanied  
21 by a fee of \$1,250.

22 (b) Required condition.--The department shall determine the  
23 information and documentation that shall be provided in the  
24 application for renewal of a license in a manner sufficient to  
25 establish that the licensee will continue to conduct its  
26 business in accordance with this act.

27 Section 310. Grounds for denial.

28 (a) Reasons.--The department may deny, suspend, revoke or  
29 refuse to renew a license if the applicant or one of its owners,  
30 officers, directors, principals or agents did any of the

1 following:

2 (1) Made a material misstatement in the license  
3 application or a submission required under this act or by the  
4 department.

5 (2) Failed to comply with or violated a provision of  
6 this act or a regulation, order or statement of policy issued  
7 by the department under this act.

8 (3) Engaged in unfair or unethical conduct in connection  
9 with the debt settlement services business in this  
10 Commonwealth.

11 (4) Does not possess the financial responsibility,  
12 character, reputation, integrity and general fitness  
13 sufficient to warrant the belief that the debt settlement  
14 services business will be conducted lawfully, honestly and in  
15 the public interest.

16 (5) Has been convicted of or pleaded guilty or nolo  
17 contendere to a crime of moral turpitude or to an offense  
18 graded as a felony.

19 (6) Is currently enjoined by a court of competent  
20 jurisdiction from engaging in the business of debt settlement  
21 services in this Commonwealth.

22 (7) Has had a license issued by the department denied,  
23 not renewed, suspended or revoked.

24 (8) Has become the subject of a United States Postal  
25 Service fraud order.

26 (9) Has an outstanding debt to the Commonwealth or a  
27 Commonwealth agency.

28 (10) Has failed to maintain the bond required under  
29 section 305.

30 (11) Becomes insolvent.

1 (b) Definitions.--As used in this section the following  
2 words and phrases shall have the meanings given to them in this  
3 subsection:

4 "Insolvent." As follows:

5 (1) The liabilities of the applicant or licensee exceed  
6 the assets of the applicant or licensee.

7 (2) The applicant or licensee cannot meet the  
8 obligations of the applicant or licensee as they mature or is  
9 in a financial condition that the applicant or licensee  
10 cannot continue in business in a safe manner to the customers  
11 of the applicant or licensee.

12 Section 311. Payday loans.

13 The department shall deny a license under this act to an  
14 applicant that offers payday loans at the same location for  
15 which the applicant seeks a license under this act.

16 Section 312. Reinstatement.

17 The department may reinstate a license that was previously  
18 suspended, revoked or denied renewal, if all of the following  
19 exist:

20 (1) A condition that warranted the original action has  
21 been corrected to the department's satisfaction.

22 (2) The department has reason to believe that the  
23 condition is not likely to occur again.

24 (3) The licensee satisfies all other requirements of  
25 this act.

26 Section 313. Limitations.

27 (a) Name or address.--A licensee may not conduct business  
28 under this act under a name or at an address different from that  
29 contained on the licensee's license. If a licensee changes its  
30 name or its business address, it shall notify the department

1 within ten days of the change and the department shall issue a  
2 new license specifying the licensee's new name or address.

3 (b) Other businesses.--A licensee may not conduct a business  
4 other than the debt settlement service business licensed by the  
5 department under this act unless it notifies the department in  
6 writing at least 30 days before beginning to conduct that  
7 business.

8 CHAPTER 5

9 PROVIDER RESPONSIBILITIES

10 Section 501. Good faith.

11 A provider must act in good faith in all matters under this  
12 act.

13 Section 502. Prerequisites for providing debt settlement  
14 services.

15 (a) Disclosure.--Before an individual consents to pay for  
16 goods or services offered by a provider, the provider must  
17 disclose truthfully, in a clear and conspicuous manner, the  
18 following material information:

19 (1) All of the following:

20 (i) The amount of time necessary to achieve the  
21 represented results.

22 (ii) The extent to which the debt settlement  
23 services may include a settlement offer to any of the  
24 individual's creditors or debt collectors, including:

25 (A) The time by which the provider will make a  
26 bona fide settlement offer to each of the  
27 individual's creditors or debt collectors.

28 (B) The cost to the individual for providing  
29 debt settlement services.

30 (2) If the debt settlement service includes a settlement

1 offer to any of the individual's creditors or debt  
2 collectors, the amount of money or the percentage of each  
3 outstanding debt that the individual shall accumulate before  
4 the provider will make a bona fide settlement offer to each  
5 of them.

6 (3) If an aspect of the debt settlement services relies  
7 upon or results in the individual's failure to make timely  
8 payments to creditors or debt collectors, that the use of the  
9 debt settlement services will likely adversely affect the  
10 individual's creditworthiness, may result in the individual  
11 being subject to collection actions or sued by creditors or  
12 debt collectors and may increase the amount of money the  
13 individual owes due to the accrual of fees and interest.

14 (4) If the provider requests or requires the individual  
15 to place funds in an account at a bank, that the individual  
16 owns the funds held in the account, the individual may  
17 withdraw from the debt settlement services at any time  
18 without penalty and, if the individual withdraws, that the  
19 individual shall receive all funds in the account, other than  
20 funds earned by the provider, within seven business days of  
21 the individual's request.

22 (b) Prohibition.--A provider may not misrepresent, directly  
23 or by implication, any material aspect of any debt settlement  
24 services, including:

25 (1) The amount of money or the percentage of the debt  
26 amount that an individual may save by using the service.

27 (2) The amount of time necessary to achieve the  
28 represented result.

29 (3) The amount of money or the percentage of each  
30 outstanding debt that the individual shall accumulate before



1 the provider will initiate attempts with the individual's  
2 creditors or debt collectors or make a bona fide offer to  
3 negotiate, settle or modify the terms of the individual's  
4 debt.

5 (4) The effect of the service on the individual's  
6 creditworthiness.

7 (5) The effect of the service on collection efforts of  
8 the individual's creditors or debt collectors.

9 (6) The percentage or number of individuals who attain  
10 the represented results.

11 (7) Whether debt settlement services are offered or  
12 provided by a nonprofit entity.

13 (c) Payment or consideration.--A provider may not receive  
14 payment of a fee or consideration for debt settlement services  
15 unless:

16 (1) The provider has renegotiated, settled, reduced or  
17 otherwise altered the terms of at least one debt under a debt  
18 settlement plan.

19 (2) The individual has made at least one payment under  
20 the debt settlement plan.

21 (3) The fee or consideration for settling each  
22 individual debt enrolled in a debt settlement plan meets one  
23 of the following:

24 (i) Bears the same proportional relationship to the  
25 total fee for settling the entire debt balance as the  
26 individual debt amount bears to the entire debt amount.  
27 For purposes of this subparagraph, the individual debt  
28 amount and the entire debt amount shall be amounts owed  
29 at the time the debt was enrolled in the debt settlement  
30 service.

1           (ii) Is a percentage of the amount saved as a result  
2 of the settlement. The percentage charged may not change  
3 from one individual debt to another. For purposes of this  
4 subparagraph, the amount saved shall be the difference  
5 between the amount owed at the time the debt was enrolled  
6 in the debt settlement service and the amount actually  
7 paid to satisfy the debt.

8       (d) Construction.--Nothing under this section shall prohibit  
9 requesting or requiring the individual to place funds in an  
10 account to be used for the provider's fees for payments to  
11 creditors or debt collectors in connection with the  
12 renegotiation, settlement, reduction or other alteration of the  
13 terms of payment or other terms of debt, if:

14           (1) The funds are held in an account at a bank.

15           (2) The individual owns the funds held in the account  
16 and is paid any accrued interest on the account, if any is  
17 earned.

18           (3) If the provider does not administer the account, the  
19 entity administering the account is not owned, controlled by  
20 or affiliated with the provider.

21           (4) The entity administering the account does not give  
22 or accept any money or other compensation in exchange for  
23 referrals of business by the provider.

24           (5) The individual may withdraw from the debt settlement  
25 services at any time without penalty and shall receive all  
26 funds in the account, other than funds earned by the provider  
27 in compliance with this section, within seven days of the  
28 individual's request.

29       (e) Nonlicensed provider.--If a provider is not licensed as  
30 required under this act when an individual assents to an

1 agreement, the agreement shall be voidable by the individual.

2 CHAPTER 7

3 ADMINISTRATION AND ENFORCEMENT

4 Section 701. Powers and duties.

5 The department shall have the authority to:

6 (1) As follows:

7 (i) Examine an instrument, document, account, book,  
8 record or file of a licensee or a person having a  
9 connection to the licensee or make other investigations  
10 as may be necessary to administer this act. The  
11 examination may include documents, accounts, books or  
12 records that relate to the operation of the licensee that  
13 are in the possession of an affiliate, subsidiary or  
14 other business entity.

15 (ii) Under the authority of this paragraph, the  
16 department may remove an instrument, document, account,  
17 book, record or file of a licensee or person to a  
18 location outside of the licensee's or person's office  
19 location.

20 (iii) The examination may be conducted without prior  
21 notice to the licensee or person and the costs of the  
22 examination shall be paid by the licensee or person  
23 subject to the examination.

24 (2) Conduct administrative hearings on a matter  
25 pertaining to this act and issue subpoenas to compel the  
26 attendance of witnesses or the production of documents,  
27 accounts, books or records at a hearing. A document, account,  
28 book or record subject to subpoena may be retained by the  
29 department until the proceeding in connection with which it  
30 was subpoenaed is completed. A department official may

1 administer oaths or affirmations to a person whose testimony  
2 is required.

3 (3) Request and receive information or records,  
4 including reports of criminal history record information,  
5 from a Federal, State, local or foreign government entity  
6 regarding an applicant, a licensee or a person related to the  
7 business of debt settlement services. The cost associated  
8 with the request shall be paid by the applicant or licensee.

9 (4) Promulgate regulations or issue statements of policy  
10 or orders to ensure the proper administration or enforcement  
11 of this act and the proper conduct of licensees under this  
12 act.

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

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

19 (7) Issue a cease and desist order that takes effect  
20 immediately and is subject to a hearing within 14 days of the  
21 issuance of the order.

22 (8) Impose other conditions or take other actions as the  
23 department deems appropriate to administer or enforce this  
24 act.

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

26 (i) Information for licensees on the provisions of  
27 this act.

28 (ii) Information for consumers regarding the  
29 protections of this act.

30 (iii) Information on filing consumer complaints,

1 including a toll-free telephone number.

2 (iv) A list of current licensees.

3 Section 702. Administrative proceedings.

4 (a) Hearings.--A person aggrieved by a decision of the  
5 department may appeal the decision to the secretary. The appeal  
6 shall be conducted under 2 Pa.C.S. Ch. 5 Subch. A (relating to  
7 practice and procedure of Commonwealth agencies).

8 (b) Injunctions.--The department may maintain an action for  
9 an injunction or other process against a person to restrain or  
10 prevent the person from violating this act.

11 (c) Final orders.--

12 (1) A decision of the secretary shall be a final order  
13 of the department and shall be enforceable in a court of  
14 competent jurisdiction.

15 (2) The department may publish final adjudications  
16 issued under this section, subject to redaction or  
17 modification to preserve confidentiality.

18 (d) Appeals.--A person aggrieved by a decision of the  
19 secretary may appeal the decision under 2 Pa.C.S. Ch. 7 Subch. A  
20 (relating to judicial review of Commonwealth agency action).

21 Section 703. Reports to department.

22 (a) Annual report.--A licensee shall file an annual report  
23 with the department on a date determined by the department  
24 setting forth information as the department shall require  
25 concerning the debt settlement services business conducted by  
26 the licensee during the preceding calendar year. The report  
27 shall be on a form provided by the department.

28 (b) Report of enforcement action.--A licensee shall report  
29 to the department a final, nonappealable order finding a  
30 licensee guilty or liable in any enforcement action taken

1 against the licensee by any Federal or State agency. The report  
2 must be filed no later than seven days after the licensee is  
3 made aware of the final order. The licensee shall provide  
4 updates to the department as to the status of an enforcement  
5 action as required by the department.

6 (c) Penalty.--A licensee who fails to file an annual report  
7 with the department as required under subsection (a) may be  
8 subject to a penalty of \$100 for each day after the date that  
9 the annual report was required to be filed.

10 Section 704. Violations.

11 (a) Imposition.--The department may impose a civil penalty  
12 of up to \$10,000 for each violation of this act.

13 (b) Unfair trade practices.--A person who is in violation of  
14 this act shall be in violation of the act of December 17, 1968  
15 (P.L.1224, No.387), known as the Unfair Trade Practices and  
16 Consumer Protection Law.

17 Section 705. Banking Fund.

18 A fee or penalty collected by the department under this act  
19 shall be deposited into the Banking Fund.

20 CHAPTER 21

21 MISCELLANEOUS PROVISIONS

22 Section 2101. Relation to Electronic Signatures in Global and  
23 National Commerce Act.

24 This act modifies, limits and supersedes the Electronic  
25 Signatures in Global and National Commerce Act (Public Law 106-  
26 229, 15 U.S.C. § 7001 et seq.), but does not modify, limit or  
27 supersede section 101(c) of the Electronic Signatures in Global  
28 and National Commerce Act or authorize electronic delivery of  
29 any of the notices described in section 103(b) of the Electronic  
30 Signatures in Global and National Commerce Act.

1 Section 2102. Transitional provisions.

2 Transactions entered into before the effective date of this  
3 section and the rights, duties and interests resulting from the  
4 transactions may be completed, terminated or enforced as  
5 required or permitted by a law repealed or modified under this  
6 act as though the repeal or modification had not occurred.

7 Section 2103. Repeal.

8 (a) Intent.--The General Assembly declares that the repeal  
9 under subsection (b) is necessary to effectuate the purposes of  
10 this act.

11 (b) Provision.--The act of October 9, 2008 (P.L.1421,  
12 No.117), known as the Debt Management Services Act, is repealed  
13 insofar as it applies to debt settlement services.

14 Section 2104. Effective date.

15 This act shall take effect in 60 days.