

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 622 Session of 2013

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

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, DECEMBER 9, 2013

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 SECURITIES and for enforcement; imposing civil penalties; <--
4 and making a 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 AND SECURITIES of <--
8 the Commonwealth.

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

11 ~~"Payday loan." As follows:~~ <--

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

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

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

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

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

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

1 instrumentality.

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

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

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

10 "Secretary." The Secretary of Banking AND SECURITIES of the <--
11 Commonwealth.

12 Section 103. Nonapplicability.

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

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

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

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

26 CHAPTER 3

27 LICENSURE

28 Section 301. Requirements.

29 (a) General rule.--Except as provided under subsection (b)
30 and on or after the effective date of this section, a provider

1 may not provide debt settlement services to an individual who it
2 reasonably should know resides in this Commonwealth at the time
3 it agrees to provide the services, unless the provider is
4 licensed under this act.

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

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

10 Section 302. Application and required documentation.

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

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

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

16 (2) One of the following:

17 (i) Evidence of minimum insurance in an amount of
18 \$25,000.

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

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

30 Section 303. Required information for application.

1 An application for a license under this act shall be
2 submitted to the department in the form required by the
3 department and shall include the following:

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

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

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

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

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

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

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

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

29 (9) A penal bond meeting the requirements of section
30 305.

1 ~~(10) Except as provided under section 304, a~~ <--
2 ~~nonrefundable fee of \$2,000.~~

3 ~~(11)~~ (10) Any other reasonable requests for information <--
4 that the department determines to be necessary to its review
5 of a license application.

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

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

14 Section 305. Penal bond.

15 (a) Issuance.--

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

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

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

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

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

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

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

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

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

1 this act.

2 (iv) Contains a cancellation provision as provided
3 under subsection (d).

4 (b) Right of aggrieved person.--

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

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

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

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

24 (c) Additional relief.--

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

30 (2) The department may consent to or order pro rata or

1 other recovery on the bond for an aggrieved person if claims
2 against the bond may or shall exceed its full monetary
3 amount.

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

10 Section 306. Application information.

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

14 Section 307. Public availability of application information.

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

20 Section 308. Certificate of licensure.

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

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

1 (c) Appeal of denial.--If the department refuses to issue a
2 license, it shall notify the applicant in writing that the
3 license has been denied, including the reason for the denial and
4 that the applicant has the right to appeal the denial to the
5 secretary within 30 days.

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

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

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

20 (g) Transfer prohibited.--

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

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

27 (h) Conditional licenses.--The department may impose
28 conditions on the issuance of a license under this act. If the
29 department determines that conditions imposed upon a license
30 have not been fulfilled, the department may take action

1 authorized under this act against the licensee. For applicants,
2 the department may issue licenses effective immediately upon
3 receipt of an application, which shall be conditional licenses
4 issued under this subsection.

5 (i) Transitional license.--

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

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

20 Section 309. Renewal of license.

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

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

30 Section 310. Grounds for denial.

1 (a) Reasons.--The department may deny, suspend, revoke or
2 refuse to renew a license if the applicant or one of its owners,
3 officers, directors, principals or agents did any of the
4 following:

5 (1) Made a material misstatement in the license
6 application or a submission required under this act or by the
7 department.

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

11 (3) Engaged in unfair or unethical conduct in connection
12 with the debt settlement services business in this
13 Commonwealth.

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

19 (5) Has been convicted of or pleaded guilty or nolo
20 contendere to a crime of moral turpitude or to an offense
21 graded as a felony.

22 (6) Is currently enjoined by a court of competent
23 jurisdiction from engaging in the business of debt settlement
24 services in this Commonwealth.

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

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

29 (9) Has an outstanding debt to the Commonwealth or a
30 Commonwealth agency.

1 (10) Has failed to maintain the bond required under
2 section 305.

3 (11) Becomes insolvent.

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

7 "Insolvent." As follows:

8 (1) The liabilities of the applicant or licensee exceed
9 the assets of the applicant or licensee.

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

15 Section 311. ~~Payday loans.~~

<--

16 ~~The department shall deny a license under this act to an~~
17 ~~applicant that offers payday loans at the same location for~~
18 ~~which the applicant seeks a license under this act.~~ (RESERVED).

<--

19 Section 312. Reinstatement.

20 The department may reinstate a license that was previously
21 suspended, revoked or denied renewal, if all of the following
22 exist:

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

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

27 (3) The licensee satisfies all other requirements of
28 this act.

29 Section 313. Limitations.

30 (a) Name or address.--A licensee may not conduct business

1 under this act under a name or at an address different from that
2 contained on the licensee's license. If a licensee changes its
3 name or its business address, it shall notify the department
4 within ten days of the change and the department shall issue a
5 new license specifying the licensee's new name or address.

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

11 CHAPTER 5

12 PROVIDER RESPONSIBILITIES

13 Section 501. Good faith.

14 A provider must act in good faith in all matters under this
15 act.

16 Section 502. Prerequisites for providing debt settlement
17 services.

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

22 (1) All of the following:

23 (i) The amount of time necessary to achieve the
24 represented results.

25 (ii) The extent to which the debt settlement
26 services may include a settlement offer to any of the
27 individual's creditors or debt collectors, including+ <--

28 ~~(A) The time by which the provider will make a~~
29 ~~bona fide settlement offer to each of the~~
30 ~~individual's creditors or debt collectors.~~

1 ~~(B) The cost to the individual for providing~~
2 ~~debt settlement services.~~

3 THE TIME BY WHICH THE PROVIDER WILL MAKE A BONA FIDE <--
4 SETTLEMENT OFFER TO EACH OF THE INDIVIDUAL'S CREDITORS OR
5 DEBT COLLECTORS.

6 (III) THE COST TO THE INDIVIDUAL FOR PROVIDING DEBT
7 SETTLEMENT SERVICES.

8 (2) If the debt settlement service includes a settlement
9 offer to any of the individual's creditors or debt
10 collectors, the amount of money or the percentage of each
11 outstanding debt that the individual shall accumulate before
12 the provider will make a bona fide settlement offer to each
13 of them.

14 (3) If an aspect of the debt settlement services relies
15 upon or results in the individual's failure to make timely
16 payments to creditors or debt collectors, that the use of the
17 debt settlement services will likely adversely affect the
18 individual's creditworthiness, may result in the individual
19 being subject to collection actions or sued by creditors or
20 debt collectors and may increase the amount of money the
21 individual owes due to the accrual of fees and interest.

22 (4) If the provider requests or requires the individual
23 to place funds in an account at a bank, that the individual
24 owns the funds held in the account, the individual may
25 withdraw from the debt settlement services at any time
26 without penalty and, if the individual withdraws, that the
27 individual shall receive all funds in the account, other than
28 funds earned by the provider, within seven business days of
29 the individual's request.

30 (b) Prohibition.--A provider may not misrepresent, directly

1 or by implication, any material aspect of any debt settlement
2 services, including:

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

5 (2) The amount of time necessary to achieve the
6 represented result.

7 (3) The amount of money or the percentage of each
8 outstanding debt that the individual shall accumulate before
9 the provider will initiate attempts with the individual's
10 creditors or debt collectors or make a bona fide offer to
11 negotiate, settle or modify the terms of the individual's
12 debt.

13 (4) The effect of the service on the individual's
14 creditworthiness.

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

17 (6) The percentage or number of individuals who attain
18 the represented results.

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

21 (c) Payment or consideration.--A provider may not receive
22 payment of a fee or consideration for debt settlement services
23 unless:

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

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

29 (3) The fee or consideration for settling each
30 individual debt enrolled in a debt settlement plan meets one

1 of the following:

2 (i) Bears the same proportional relationship to the
3 total fee for settling the entire debt balance as the
4 individual RENEGOTIATED, SETTLED, REDUCED OR OTHERWISE <--
5 ALTERED debt amount bears to the entire debt amount. For
6 purposes of this subparagraph, the individual debt amount
7 and the entire debt amount shall be amounts owed at the
8 time the debt was enrolled in the debt settlement
9 service.

10 (ii) Is a percentage of the amount saved as a result
11 of the settlement. The percentage charged may not change
12 from one individual RENEGOTIATED, SETTLED, REDUCED OR <--
13 OTHERWISE ALTERED debt to another. For purposes of this
14 subparagraph, the amount saved shall be the difference
15 between the amount owed at the time the debt was enrolled
16 in the debt settlement service and the amount actually
17 paid to satisfy the debt.

18 (d) Construction.--Nothing under this section shall prohibit
19 requesting or requiring the individual to place funds in an
20 account to be used for the provider's fees for payments to
21 creditors or debt collectors in connection with the
22 renegotiation, settlement, reduction or other alteration of the
23 terms of payment or other terms of debt, if:

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

25 (2) The individual owns the funds held in the account
26 and is paid any accrued interest on the account, if any is
27 earned.

28 (3) If the provider does not administer the account, the
29 entity administering the account is not owned, controlled by
30 or affiliated with the provider.

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

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

9 (e) Nonlicensed provider.--If a provider is not licensed as
10 required under this act when an individual assents to an
11 agreement, the agreement shall be voidable by the individual.

12 CHAPTER 7

13 ADMINISTRATION AND ENFORCEMENT

14 Section 701. Powers and duties.

15 The department shall have the authority to:

16 (1) As follows:

17 (i) Examine an instrument, document, account, book,
18 record or file of a licensee or a person having a
19 connection to the licensee or make other investigations
20 as may be necessary to administer this act. The
21 examination may include documents, accounts, books or
22 records that relate to the operation of the licensee that
23 are in the possession of an affiliate, subsidiary or
24 other business entity.

25 (ii) Under the authority of this paragraph, the
26 department may remove an instrument, document, account,
27 book, record or file of a licensee or person to a
28 location outside of the licensee's or person's office
29 location.

30 (iii) The examination may be conducted without prior

1 notice to the licensee or person and the costs of the
2 examination shall be paid by the licensee or person
3 subject to the examination.

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

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

19 (4) Promulgate regulations or issue statements of policy
20 or orders to ensure the proper administration or enforcement
21 of this act and the proper conduct of licensees under this
22 act.

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

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

29 (7) Issue a cease and desist order that takes effect
30 immediately and is subject to a hearing within 14 days of the

1 issuance of the order.

2 (8) Impose other conditions or take other actions as the
3 department deems appropriate to administer or enforce this
4 act.

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

6 (i) Information for licensees on the provisions of
7 this act.

8 (ii) Information for consumers regarding the
9 protections of this act.

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

12 (iv) A list of current licensees.

13 Section 702. Administrative proceedings.

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

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

21 (c) Final orders.--

22 (1) A decision of the secretary shall be a final order
23 of the department and shall be enforceable in a court of
24 competent jurisdiction.

25 (2) The department may publish final adjudications
26 issued under this section, subject to redaction or
27 modification to preserve confidentiality.

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

1 Section 703. Reports to department.

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

8 (b) Report of enforcement action.--A licensee shall report
9 to the department a final, nonappealable order finding a
10 licensee guilty or liable in any enforcement action taken
11 against the licensee by any Federal or State agency. The report
12 must be filed no later than seven days after the licensee is
13 made aware of the final order. The licensee shall provide
14 updates to the department as to the status of an enforcement
15 action as required by the department.

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

20 Section 704. Violations.

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

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

27 Section 705. Banking Fund.

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

30 CHAPTER 21

MISCELLANEOUS PROVISIONS

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

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

Section 2102. Transitional provisions.

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

Section 2103. Repeal.

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

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

Section 2104. Effective date.

This act shall take effect in 60 days.