

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 664

A bill to amend 1975 PA 148, entitled
"Debt management act,"
by amending sections 2, 3, 4, 5, 6, 8, 11, 12, 13, 14, 15, 16,
17, 18, 19, and 22 (MCL 451.412, 451.413, 451.414, 451.415,
451.416, 451.418, 451.421, 451.422, 451.423, 451.424, 451.425,
451.426, 451.427, 451.428, 451.429, and 451.432).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) ~~"Bureau" means the corporation and securities bureau of~~
3 ~~the department of commerce~~ "BUSINESS OF DEBT MANAGEMENT" MEANS
4 PROVIDING OR OFFERING TO PROVIDE DEBT MANAGEMENT TO 1 OR MORE
5 RESIDENTS OF THIS STATE.

6 (b) "Counselor" means an employee or agent of a licensee who
7 engages in ~~scheduling,~~ counseling ~~,~~ and budget analysis
8 functions AND SCHEDULING OF DEBTOR'S FUNDS.

1 (c) "Creditor" means a person for whose benefit ~~moneys are~~
2 MONEY IS being collected and disbursed by a licensee. ~~The~~ A
3 licensee is not a creditor for purposes of this act.

4 (d) "Debt management" means the planning and management of
5 the financial affairs of a debtor and the receipt of ~~funds~~
6 MONEY from the debtor for distribution to ~~creditors~~ A CREDITOR
7 in payment or partial payment of the debtor's obligations.

8 (e) "Debtor" means a person from whom ~~moneys are~~ MONEY IS
9 being collected for the benefit of ~~creditors~~ A CREDITOR of the
10 debtor.

11 (f) "Department" means the ~~department of commerce~~ OFFICE
12 OF FINANCIAL AND INSURANCE SERVICES.

13 (g) "Director" means the ~~director~~ COMMISSIONER of the
14 department ~~of commerce~~ or his OR HER authorized
15 representative.

16 (h) "Fees and charges of the licensee" means the total
17 amount of money to be charged a debtor by the licensee, including
18 the \$25.00 initial payment AND ANY CHARGES FOR ADVICE, MATERIALS,
19 OR REFERRALS.

20 (i) "License" means a written certificate or exemption order
21 issued by the director.

22 (j) "Licensee" means ~~an individual, partnership, unincor=~~
23 ~~porated association, or corporation~~ A PERSON licensed under this
24 act TO PERFORM DEBT MANAGEMENT SERVICES AND LOCATED INSIDE OR
25 OUTSIDE THE BOUNDARIES OF THIS STATE. ~~Except as to sections~~
26 ~~5(1), 5(3), or 8, a licensee includes a person exempted pursuant~~
27 ~~to section 4(2) or (4).~~

1 (k) "Office" means each location by street name, building
2 number, city, and state where a person engages in the BUSINESS OF
3 debt management. ~~business.~~

4 (l) "Office manager" means an employee or owner charged with
5 the supervision, oversight, or approval of the functions of
6 budget analysis, counseling, or scheduling.

7 (m) "Person" means an individual, ~~a~~ corporation, ~~a~~ part-
8 nership, ~~an~~ association, ~~a~~ joint stock company, ~~a~~ trust
9 where the interests of the beneficiaries are evidenced by a
10 security, LIMITED LIABILITY COMPANY, or ~~an unincorporated~~
11 ~~organization~~ OTHER LEGAL ENTITY.

12 (N) "SWEEP ARRANGEMENT" MEANS AN ARRANGEMENT THAT PROVIDES
13 FOR A TEMPORARY OR PERMANENT TRANSFER OF FUNDS FROM 1 TRUST
14 ACCOUNT TO ANOTHER TRUST ACCOUNT WHEN A PREDETERMINED TIME,
15 ACCOUNT BALANCE, OR OTHER CONDITION OCCURS OR IS FULFILLED.

16 Sec. 3. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A
17 person engaged in the business of debt management ~~shall be~~
18 ~~deemed to be~~ IS rendering a financial planning service
19 ~~requiring a debt management~~ AND MUST OBTAIN A license ~~or~~
20 ~~exemption, but this provision shall~~ UNDER THIS ACT.

21 (2) SUBSECTION (1) DOES not apply to the following when
22 engaged in the regular course of their respective businesses and
23 professions:

24 (a) ~~Attorneys~~ AN ATTORNEY at law, IF PROVIDING DEBT MAN-
25 AGEMENT ADVICE INCIDENTAL TO HIS OR HER LAW PRACTICE.

26 (B) A CERTIFIED PUBLIC ACCOUNTANT, IF PROVIDING DEBT
27 MANAGEMENT ADVICE INCIDENTAL TO HIS OR HER ACCOUNTING PRACTICE.

1 (C) ~~(b) Banks, fiduciaries, savings and loan institutions,~~
2 ~~and credit unions, as~~ A BANK, FIDUCIARY, SAVINGS AND LOAN INSTI-
3 TUTION, OR CREDIT UNION duly authorized and admitted to transact
4 business in this state and performing credit and financial
5 adjusting service in the regular course of ~~their~~ ITS principal
6 business.

7 (D) ~~(c) Title insurers and abstract companies~~ A TITLE
8 INSURER OR ABSTRACT COMPANY, while doing an escrow business.

9 (E) ~~(d) Employees and agents of licensees or exempt~~
10 ~~persons~~ AN EMPLOYEE OR AGENT OF A LICENSEE, acting solely in the
11 capacity of agent for the licensee. ~~or exempt person.~~

12 (F) ~~(e) Judicial officers or others~~ A JUDICIAL OFFICER OR
13 PERSON acting under court ~~orders~~ ORDER.

14 Sec. 4. (1) After January 1, 1976, a person LOCATED WITHIN
15 OR OUTSIDE OF THE BOUNDARIES OF THIS STATE shall not engage in
16 the business of debt management without first obtaining a license
17 ~~or exemption order~~ as required in this act. A contract of debt
18 management as defined by this act made by ~~an unlicensed~~ A
19 person ~~shall be~~ WITHOUT A LICENSE IS null and void.

20 ~~(2) Nonprofit corporations, tax exempt pursuant to section~~
21 ~~501(c) of the Internal Revenue Code of 1954, as amended, being~~ 26
22 ~~U.S.C. section 501, formed to advise, counsel, educate, and~~
23 ~~assist individuals in solving their financial difficulties by~~
24 ~~budgeting their incomes and expenses and effecting an orderly~~
25 ~~program for payment of their obligations, may be granted an~~
26 ~~annual exemption order from any requirement of this act. The~~
27 ~~exemption applicant shall file with the bureau annually or before~~

~~1 December 1, an exemption application in the form prescribed by
2 the administrator, an annual exemption application fee of \$50.00
3 plus \$50.00 per regular branch office in excess of 1 home office
4 in this state, and an adequate surety bond or other acceptable
5 deposit of cash, securities, or assignment of coverage or other
6 bonds in lieu of surety bond, if the director is satisfied that
7 comparable or more extensive coverage results. The exemption
8 provided by this subsection shall expire on December 31 of each
9 year.~~

~~10 (3) A person who is performing a debt management service
11 without receiving compensation or other remuneration from the
12 debtor or creditor, upon a showing of experience, character, and
13 general fitness to perform the service fairly and honestly and
14 upon a showing of safeguards in the handling of debtor funds, may
15 be granted an exemption order from any provision of this act.~~

~~16 (2) (4) A person who is performing a debt management serv-
17 ice and receiving compensation primarily from governmental organ-
18 izations, governmentally sponsored organizations, charitable
19 trusts, or foundations tax exempt pursuant to section 501(c) of
20 the Internal Revenue Code of 1954, as amended INTERNAL REVENUE
21 CODE OF 1986, upon a showing of safeguards in the handling of
22 debtor funds, may be granted an exemption from any provision of
23 this act if the exemption is found to be in the public interest.~~

~~24 Sec. 5. (1) A person desiring to obtain a license to
25 engage in the debt management business in this state shall file
26 with the department an application in writing, under oath,
27 setting forth the person's business name, the exact location of~~

~~1 the person's office, the names and addresses of the officers and
2 directors if an association or a corporation, and if a partner=
3 ship, the partnership name and the names and addresses of the
4 partners, a copy of the certificate of assumed name or certifi=
5 cate of partnership or articles of incorporation, and such addi=
6 tional data as the director prescribes by rule or order. At the
7 time of filing the application the applicant shall pay to the
8 department a license fee of \$50.00 for each office and an inves=
9 tigation fee of \$50.00. At the time of filing the application
10 the applicant shall furnish a surety bond to the people of the
11 state of Michigan in a sum equivalent of \$5,000.00 for each busi=
12 ness office maintained by the licensee, conditioned upon the
13 faithful accounting of all moneys collected upon accounts
14 entrusted to a licensee engaged in debt management, and the
15 licensee's employees and agents. The bond shall be approved by
16 the director and filed in the office of the bureau. A person,
17 firm, or corporation shall not engage in the business of debt
18 management until a good and sufficient bond is filed in accord=
19 ance with this act. The bureau may by rule provide for an appro=
20 priate deposit of cash, securities, or the assignment of the cov=
21 erage of other surety bonds in lieu of the debt management bond
22 if the director is satisfied that comparable or more extensive
23 coverage results. AN APPLICANT FOR A LICENSE TO ENGAGE IN THE
24 BUSINESS OF DEBT MANAGEMENT SHALL FILE AN APPLICATION WITH THE
25 DIRECTOR IN WRITING AND UNDER OATH THAT INCLUDES ALL OF THE
26 FOLLOWING:~~

1 (A) THE NAME AND EXACT ADDRESS OF THE APPLICANT AND THE NAME
2 AND ADDRESS OF EACH OF THE FOLLOWING, AS APPLICABLE:

3 (i) IF THE APPLICANT IS A CORPORATION, ITS OFFICERS AND
4 DIRECTORS.

5 (ii) IF THE APPLICANT IS AN ASSOCIATION, ITS OFFICERS AND
6 DIRECTORS.

7 (iii) IF THE APPLICANT IS A PARTNERSHIP, ITS PARTNERS.

8 (iv) IF THE APPLICANT IS A LIMITED LIABILITY COMPANY, ITS
9 MANAGER OR MANAGERS.

10 (v) IF THE APPLICANT IS ANY OTHER LEGAL ENTITY, ITS MANAGER
11 OR OTHER PERSON DESIGNATED TO CONTROL THE OPERATION OF THAT LEGAL
12 ENTITY.

13 (B) A COPY OF A CERTIFICATE OF AN ASSUMED NAME, IF
14 APPLICABLE.

15 (C) ONE OR MORE OF THE FOLLOWING, AS APPLICABLE:

16 (i) IF THE APPLICANT IS A CORPORATION, A COPY OF THE ARTI-
17 CLES OF INCORPORATION.

18 (ii) IF THE APPLICANT IS AN ASSOCIATION, A COPY OF THE ORGA-
19 NIZATIONAL DOCUMENTS OF THE ASSOCIATION.

20 (iii) IF THE APPLICANT IS A PARTNERSHIP, A COPY OF THE PART-
21 NERSHIP AGREEMENT.

22 (iv) IF THE APPLICANT IS A LIMITED LIABILITY COMPANY, A COPY
23 OF THE ARTICLES OF ORGANIZATION.

24 (2) ~~A licensee shall submit for approval concurrently with~~
25 ~~this application a blank copy of the form of contract to be used~~
26 ~~between the debtor and the licensee, the budget analysis form,~~
27 ~~and the creditor's agreement form that shall be used and shall~~

1 ~~submit to the bureau for approval all changes and amendments~~
2 ~~thereto. A contract or form may not be used without the approval~~
3 ~~of the bureau.~~ UPON FILING THE APPLICATION, THE APPLICANT SHALL
4 DO ALL OF THE FOLLOWING:

5 (A) PAY TO THE DEPARTMENT A LICENSE FEE OF \$50.00 FOR EACH
6 OFFICE.

7 (B) PAY TO THE DEPARTMENT AN INVESTIGATION FEE OF \$50.00.

8 (C) FURNISH A SURETY BOND TO THE PEOPLE OF THE STATE OF
9 MICHIGAN. THE AMOUNT OF THE SURETY BOND MUST EQUAL OR EXCEED THE
10 TOTAL AMOUNT OF MICHIGAN CLIENTS' FUNDS IN THE APPLICANT'S OR
11 LICENSEE'S TRUST ACCOUNT AT THE TIME OF APPLICATION FOR LICENSE
12 OR RENEWAL, AS DETERMINED BY THE DEPARTMENT, BUT IN NO EVENT
13 SHALL A SURETY BOND BE LESS THAN \$25,000.00 OR BE GREATER THAN
14 \$100,000.00. THE SURETY BOND SHALL BE CONDITIONED UPON THE
15 FAITHFUL ACCOUNTING OF ALL MONEY COLLECTED UPON ACCOUNTS
16 ENTRUSTED TO A LICENSEE ENGAGED IN THE BUSINESS OF DEBT MANAGE-
17 MENT OR THE LICENSEE'S EMPLOYEES AND AGENTS. THE SURETY BOND
18 SHALL BE APPROVED BY THE DEPARTMENT. IN LIEU OF A SURETY BOND,
19 THE DEPARTMENT MAY BY RULE PROVIDE FOR AN APPROPRIATE DEPOSIT OF
20 CASH OR SECURITIES, A LETTER OF CREDIT, OR THE ASSIGNMENT OF COV-
21 ERAGE OF OTHER BONDS IF THE DEPARTMENT IS SATISFIED THAT COM-
22 PARABLE OR MORE EXTENSIVE COVERAGE RESULTS.

23 (D) FILE AN APPOINTMENT OF THE DIRECTOR AS THE AGENT OF THE
24 APPLICANT FOR SERVICE OF PROCESS IN THIS STATE.

25 (3) SERVICE OF PROCESS UPON THE DIRECTOR SHALL BE CONSIDERED
26 SERVICE UPON AN APPLICANT OR LICENSEE, INCLUDING AN APPLICANT WHO
27 COMPLIES WITH OR FAILS TO COMPLY WITH SUBSECTION (2)(D).

1 (4) ~~—(3) The~~ UNLESS SURRENDERED, REVOKED, OR SUSPENDED, A
2 license issued under this act ~~shall expire~~ EXPIRES on December
3 31 ~~, following its issuance unless sooner surrendered, revoked,~~
4 ~~or suspended, but may be renewed as provided in this act~~ OF THE
5 YEAR FOR WHICH IT IS ISSUED. A LICENSEE MAY RENEW A LICENSE
6 BEFORE THE EXPIRATION DATE AS PROVIDED UNDER THIS ACT.

7 ~~—(4) The application shall be accompanied by an appointment~~
8 ~~of the director as agent of the applicant for service of process~~
9 ~~in this state. Service upon the director shall be sufficient~~
10 ~~service upon any licensee under the act, if the person seeking~~
11 ~~service upon the licensee shall certify to the director that a~~
12 ~~diligent attempt was made to affect personal service upon the~~
13 ~~licensee and that this effort was unavailing.~~

14 (5) A licensee shall ~~make~~ CREATE, maintain, and preserve
15 accurate and complete books and records relating to ~~his~~ THE
16 LICENSEE'S business. ~~These~~ THE books and records shall be
17 ~~kept current~~ MAINTAINED according to generally accepted
18 accounting ~~standards and procedures~~ PRINCIPLES. A licensee or
19 an applicant ~~for a license~~ shall ~~furnish written notice to~~
20 NOTIFY the ~~bureau specifying~~ DEPARTMENT IN WRITING OF the
21 address ~~of the place~~ where ~~those~~ THE books and records are
22 ~~to be~~ kept. ~~A change of~~ IF A LICENSEE CHANGES THE location
23 of ~~these~~ THE BOOKS AND records, ~~shall be reported promptly to~~
24 THE LICENSEE SHALL NOTIFY the ~~bureau~~ DEPARTMENT IN WRITING
25 WITHIN 10 BUSINESS DAYS AFTER THE CHANGE. The director may pre-
26 scribe by rule or order the form and contents of books and
27 records relating to a licensee's ~~debt management~~ business.

1 (6) ~~Financial statements shall be filed~~ AN APPLICANT SHALL
2 FILE A FINANCIAL STATEMENT with an application for A debt manage-
3 ment license. The director may require THAT THE financial
4 ~~statements~~ STATEMENT BE ~~certified~~ AUDITED OR REVIEWED by an
5 independent certified public accountant.

6 (7) IF A LICENSEE HAS A BOARD OF DIRECTORS OR THE EQUIVA-
7 LENT, THE DIRECTOR SHALL NOT REQUIRE THAT THE LICENSEE PROVIDE
8 INFORMATION CONCERNING A MEMBER OF THE BOARD OF DIRECTORS OR
9 EQUIVALENT, NOR REQUIRE THAT THE MEMBER SATISFY THE EXAMINATION
10 PROVISIONS OF THIS ACT, IF THAT MEMBER DOES NOT RECEIVE A SALARY,
11 STOCK DIVIDEND, OR OTHER FINANCIAL BENEFIT FROM THAT CORPORATION
12 OTHER THAN REIMBURSEMENT OF THE ACTUAL EXPENSES INCURRED IN CAR-
13 RYING OUT THE DUTIES OF A DIRECTOR OF THAT CORPORATION.

14 Sec. 6. (1) ~~Upon the filing of the application and payment~~
15 ~~of the fees and approval of the bond, the department shall inves-~~
16 ~~tigate the facts and shall issue a license to an applicant if it~~
17 ~~finds that the financial responsibility, experience, character,~~
18 ~~and general fitness of the applicant and of the members thereof,~~
19 ~~if the applicant is a partnership or an association, and of the~~
20 ~~officers and directors if the applicant is a corporation, are~~
21 ~~such as to command the confidence of the community to warrant~~
22 ~~belief that the business will be operated fairly and honestly~~
23 ~~within the provisions of this act.~~ UPON RECEIVING THE APPLICA-
24 TION AND APPROVING THE FEES AND SURETY BOND, THE DEPARTMENT SHALL
25 INVESTIGATE THE APPLICANT'S RESPONSIBILITY, EXPERIENCE, CHARAC-
26 TER, AND GENERAL FITNESS. IF THE RESULT OF THE INVESTIGATION
27 WARRANTS A BELIEF THAT THE BUSINESS WILL BE OPERATED FAIRLY AND

1 HONESTLY WITHIN THE PROVISIONS OF THIS ACT, THE DEPARTMENT SHALL
2 ISSUE A LICENSE. THE INVESTIGATION OF THE APPLICANT SHALL AT
3 LEAST INCLUDE INVESTIGATION OF THE FOLLOWING AS APPLICABLE:

4 (A) IF THE APPLICANT IS A CORPORATION, ITS OFFICERS AND
5 DIRECTORS.

6 (B) IF THE APPLICANT IS A PARTNERSHIP, ITS PARTNERS.

7 (C) IF THE APPLICANT IS AN ASSOCIATION, ITS OFFICERS.

8 (D) IF THE APPLICANT IS A LIMITED LIABILITY COMPANY, ITS
9 MANAGER OR MANAGERS.

10 (E) IF THE APPLICANT IS ANY OTHER LEGAL ENTITY, ITS MANAGER
11 OR OTHER PERSON DESIGNATED TO CONTROL THE OPERATION OF THAT LEGAL
12 ENTITY.

13 (2) A license shall not be issued if THE INVESTIGATION
14 REVEALS 1 OR MORE OF THE FOLLOWING:

15 (a) ~~An~~ THAT AN individual ~~applicant, or any of the~~
16 ~~applicant's members if the applicant is a partnership or associa-~~
17 ~~tion, or any of the applicant's officers or directors if the~~
18 ~~applicant is a corporation~~ INVESTIGATED UNDER SUBSECTION (1)
19 MEETS ANY OF THE FOLLOWING:

20 (i) Was ever convicted of a crime involving moral turpitude
21 ~~which shall include~~ INCLUDING forgery, embezzlement, obtaining
22 money under false pretenses, larceny, extortion, conspiracy to
23 defraud, or any other ~~like~~ SIMILAR offense.

24 (ii) Violated or failed to comply with ~~a provision of~~ this
25 act or a rule ~~or order~~ promulgated ~~or issued~~ under this act.

1 (iii) Had a license to engage in the business of debt
2 management revoked or suspended for any reason other than failure
3 to pay licensing fees in this state or another state.

4 (iv) Defaulted in the payment of money collected for others,
5 including the discharge of debts through bankruptcy proceedings.
6 The director may, at his OR HER discretion, waive this restric-
7 tion if provided with evidence of justifiable cause for the bank-
8 ruptcy, plus convincing evidence of the fitness of the bankrupt
9 party to carry out his or her functions under this act.

10 (b) An individual applicant is not at least 18 years of age
11 and a citizen of the United States.

12 (c) An applicant ~~which~~ THAT is a partnership, corporation,
13 ~~or~~ LIMITED LIABILITY COMPANY, association, OR OTHER LEGAL
14 ENTITY REQUIRED BY STATUTE TO OBTAIN AUTHORITY TO DO BUSINESS IN
15 THIS STATE has not been granted authority to do business in this
16 state.

17 (d) The applicant is an employee or owner of a collection
18 agency as defined in ~~Act No. 361 of the Public Acts of 1974,~~
19 ~~being sections 445.211 to 445.245 of the Michigan Compiled Laws~~
20 SECTION 901 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.901,
21 or process serving business or in any manner is affiliated with a
22 collection agency or process serving business. The director may,
23 in his OR HER discretion, waive this restriction on a showing of
24 sufficient safeguards in the operation of the collection agency.

25 (3) An ~~individual applicant, office manager, or counselor~~
26 APPLICANT SHALL PASS AN EXAMINATION ADMINISTERED BY THE DIRECTOR
27 OR HIS OR HER DESIGNEE BEFORE THE DIRECTOR GRANTS A LICENSE TO

1 THE APPLICANT UNDER THIS ACT. A COUNSELOR shall pass an
2 examination within the first 180 days of employment administered
3 by the director or his OR HER designee. ~~—, which~~ THE examination
4 may be oral or written, or partly oral and partly written, and
5 shall be practical in nature and sufficiently thorough to ascer-
6 tain the applicant's fitness. Questions on bookkeeping, credit
7 adjusting, business ethics, agency, contracts, debtor and credi-
8 tor relationships, trust funds, and the provisions of this act
9 and rules promulgated ~~thereunder~~ UNDER THIS ACT may be included
10 in the examination. The director may charge an examination fee
11 of \$25.00 for administering this examination.

12 Sec. 8. ~~A licensee shall before~~ BEFORE December 1 of each
13 year, ~~make~~ A LICENSEE SHALL FILE AN application ~~to~~ WITH the
14 department for renewal of its license. The application shall be
15 on the form prescribed by the department and shall be accompanied
16 by a fee of \$50.00 for each office together with a SURETY bond IN
17 THE SAME MANNER as ~~in the case of~~ an original application. The
18 application shall cover each branch office ~~which~~ THAT is under
19 the ownership and control of the applying entity. Financial
20 statements shall be filed with THE application for renewal of
21 ~~debt management licenses~~ A LICENSE. The director may require
22 THAT THE financial statements BE ~~certified~~ AUDITED OR REVIEWED
23 by an independent certified public accountant.

24 Sec. 11. ~~A license shall~~ ALL OF THE FOLLOWING APPLY TO A
25 LICENSE:

26 (a) ~~Be in~~ THE DIRECTOR SHALL PRESCRIBE the form and size
27 ~~prescribed by the director~~ OF A LICENSE.

1 (b) ~~Show~~ A LICENSE SHALL SHOW the name of the licensee and
2 the address at which the business of debt management is to be
3 conducted.

4 (c) ~~Show~~ A LICENSE SHALL SHOW the date of expiration of
5 the license as December 31, and show other ~~matter~~ INFORMATION
6 prescribed by the director.

7 (d) While in force, ~~be~~ THE LICENSE SHALL at all times BE
8 conspicuously displayed in the outer office of the ~~debt manage-~~
9 ~~ment agency~~ LICENSEE or branch ~~thereof~~ OFFICE OF THE
10 LICENSEE.

11 (e) ~~Not be~~ A LICENSE IS NOT transferable or assignable.

12 (f) ~~Be~~ A LICENSE SHALL BE surrendered to the ~~bureau~~
13 DEPARTMENT within 5 days after the date that the licensee either
14 ceases TO ENGAGE IN the BUSINESS OF debt management ~~business~~ or
15 has its license revoked.

16 Sec. 12. Before ~~any~~ A contract is ~~drawn up~~ FORMED
17 between a licensee and a debtor, a thorough and written budget
18 analysis shall be compiled ~~on a form approved by the director~~
19 ~~which indicates the amount of money the debtor can reasonably pay~~
20 ~~towards his obligations, a true copy of which shall be given~~ AND
21 A COPY DELIVERED to the debtor. A licensee shall not accept an
22 account unless a written and thorough budget analysis indicates
23 that the debtor can reasonably meet the requirements required by
24 the budget analysis. THE BUDGET ANALYSIS SHALL CONTAIN ALL OF
25 THE FOLLOWING INFORMATION ABOUT THE DEBTOR:

26 (A) NAME AND ADDRESS.

- 1 (B) MARITAL STATUS AND NUMBER OF DEPENDENTS.
- 2 (C) AMOUNT AND SOURCE OF ALL EMPLOYMENT COMPENSATION,
3 PAYMENTS FROM GOVERNMENT PROGRAMS, CHILD SUPPORT AND ALIMONY PAY-
4 MENTS, AND OTHER INCOME.
- 5 (D) NUMBER OF EXEMPTIONS CLAIMED ON THE DEBTOR'S MOST RECENT
6 FEDERAL INCOME TAX RETURN.
- 7 (E) GROSS INCOME PER PAY PERIOD, TYPE AND AMOUNT OF ALL PAY-
8 ROLL DEDUCTIONS, AND NET INCOME PER PAY PERIOD.
- 9 (F) MONTHLY HOME MORTGAGE OR RENTAL PAYMENT. IF THE HOME
10 MORTGAGE PAYMENT DOES NOT INCLUDE AN ESCROW FOR REAL ESTATE
11 TAXES, THE BUDGET ANALYSIS SHALL CONTAIN THE AMOUNT AND DUE DATES
12 OF THE REAL ESTATE TAXES ON THE PROPERTY.
- 13 (G) TYPE AND AMOUNT OF ALL OTHER FIXED PERIODIC PAYMENTS.
- 14 (H) TYPE AND AMOUNT OF FOOD, CLOTHING, UTILITY, VEHICLE,
15 INSURANCE, AND ALL OTHER LIVING EXPENSES.
- 16 (I) LIST OF CREDITORS INCLUDED IN THE PLAN.
- 17 (J) A DESCRIPTION OF AND AMOUNT OWED FOR ANY OUTSTANDING
18 GARNISHMENTS AND JUDGMENTS.
- 19 (K) PERIODIC AMOUNT AVAILABLE FOR PAYMENT TOWARD A DEBT MAN-
20 AGEMENT PLAN.
- 21 Sec. 13. (1) ~~A licensee shall not charge or receive a fee~~
22 ~~until the licensee has the consent of at least 51% in number and~~
23 ~~dollar amount of all the creditors of the debtor, or until 51% in~~
24 ~~number and dollar amount of creditors have accepted a payment.~~
25 UPON ESTABLISHING A DEBT MANAGEMENT PLAN FOR A DEBTOR, A LICENSEE
26 MAY CHARGE AND RECEIVE AN INITIAL FEE OF \$25.00. HOWEVER, UNLESS
27 51% OR MORE IN NUMBER AND DOLLAR AMOUNT OF ALL THE DEBTOR'S

1 CREDITORS CONSENT TO THE DEBT MANAGEMENT PROGRAM WITHIN 45 DAYS
2 OF ESTABLISHING THE DEBT MANAGEMENT PLAN, THE FEE SHALL BE
3 RETURNED TO THE DEBTOR AND THE DEBTOR'S ACCOUNT CLOSED.

4 (2) ~~Consents~~ CONSENT FROM A CREDITOR shall be recorded on
5 a separate ~~format, approved by the director and~~ FORM. THE FORM
6 shall contain ~~a~~ ALL OF THE FOLLOWING:

7 (A) A list of ALL the creditors. ~~, the~~

8 (B) THE manner in which consent was sought. ~~, the~~

9 (C) THE date of each contact. ~~,~~

10 (D) THE NAME OF the person contacted, ~~the response~~ IF
11 APPLICABLE.

12 (E) THE RESPONSE obtained ~~, any~~ FROM THE PERSON CONTACTED.

13 (F) ANY revised or special conditions or arrangements
14 ~~which~~ THAT condition ~~their~~ THE consent. ~~, and the~~

15 (G) THE date ~~at~~ ON which the required ~~consents were~~
16 CONSENT WAS secured. ~~The format shall contain other information~~
17 ~~the director may by rule or order prescribe.~~

18 (3) ~~Consent may be sought by mail and, in the case of writ-~~
19 ~~ten notice to a creditor without response, implied consent to the~~
20 ~~proposed payments may be presumed 14 calendar days after mailing~~
21 ~~the notice. In the case of payment to a creditor acceptance may~~
22 ~~be presumed 7 calendar days after mailing the check.~~ THE CONSENT
23 OF A CREDITOR MAY BE SOUGHT BY SENDING A NOTICE OF A DEBT MANAGE-
24 MENT PLAN TO A CREDITOR BY AN APPROPRIATE MEANS INCLUDING BY
25 TELEPHONE, FACSIMILE, ELECTRONIC MAIL, OR FIRST-CLASS MAIL. IF
26 THE CREDITOR DOES NOT RESPOND WITHIN 14 DAYS AFTER THE SENDING OF

1 THE NOTICE, IT MAY BE PRESUMED THAT THE CREDITOR HAS GIVEN
2 CONSENT.

3 (4) IF A PAYMENT UNDER THE DEBT MANAGEMENT PLAN IS SENT TO A
4 CREDITOR, ACCEPTANCE OF THE PAYMENT OR PLAN MAY BE PRESUMED 7
5 DAYS AFTER SENDING THE PAYMENT.

6 Sec. 14. (1) A contract between a licensee and debtor shall
7 INCLUDE ALL OF THE FOLLOWING:

8 (a) ~~List every~~ EACH creditor to whom payments will be made
9 and the amount ~~owing to that~~ OWED EACH creditor.

10 (b) ~~Disclose the rate and total maximum~~ THE TOTAL amount
11 of the licensee's charges.

12 (c) ~~Disclose the actual~~ THE beginning and ending dates of
13 the contract. ~~which shall not be longer than 24 months.~~

14 (d) ~~Disclose the~~ THE number of months and the total prin-
15 cipal amount plus approximate interest charges required to liqui-
16 date in full the debts, except mortgage or land contract interest
17 payments, described in the contract. ~~The licensee shall provide~~
18 ~~to the debtor an estimate of the affect of interest and carrying~~
19 ~~charges on the debtor's account.~~

20 (e) ~~Disclose the~~ THE name and address of the licensee and
21 of the debtor.

22 (f) ~~Contain such other and further~~ OTHER provisions or
23 disclosures ~~as~~ THAT the director ~~shall determine~~ DETERMINES
24 are necessary for the protection of the debtor and the proper
25 conduct of business by ~~the~~ A licensee.

26 (2) ~~Distribute to the creditors of the debtor monthly all~~
27 ~~funds received from a debtor or on behalf of the debtor, except~~

1 ~~that no more than an amount equal to one month's fee plus the~~
2 ~~close out fee may be retained in the debtor's trust account at~~
3 ~~any time, unless approved by the department by rule or order.~~

4 UNLESS OTHERWISE APPROVED BY THE DEPARTMENT AND EXCEPT FOR AN
5 AMOUNT DUE FOR 1 OR MORE MONTHLY FEES OR A CLOSEOUT FEE, A
6 LICENSEE SHALL DISTRIBUTE TO THE CREDITORS OF THE DEBTOR, AT
7 LEAST MONTHLY, ALL MONEY RECEIVED FROM A DEBTOR OR ON BEHALF OF A
8 DEBTOR.

9 Sec. 15. (1) ~~Payments~~ SUBJECT TO SUBSECTION (5), PAYMENTS
10 received by a licensee from or on behalf of a debtor for the ben-
11 efit of ~~creditors~~ A CREDITOR shall be held in trust in a sepa-
12 rate ~~bank~~ account maintained for the benefit of ~~debtors~~ THE
13 LICENSEE'S MICHIGAN CLIENTS AT A FINANCIAL INSTITUTION WHOSE
14 DEPOSITS ARE INSURED BY AN AGENCY OF THE UNITED STATES
15 GOVERNMENT. ~~The licensee shall not commingle a payment with his~~
16 ~~own property or funds, but shall maintain a separate trust~~
17 ~~account and deposit in that account payments received from a~~
18 ~~debtor. However, the licensee may deposit a specified amount of~~
19 ~~its own funds in the separate trust account upon approval of the~~
20 ~~director.~~ Disbursements whether to the debtor or to the credi-
21 tors of the debtor ~~,~~ shall be made from the trust account.
22 ~~Payments~~ A PAYMENT from a debtor or on behalf of a debtor shall
23 be deposited in the account not later than 2 business days after
24 receipt ~~thereof~~ OF THE PAYMENT. A SWEEP ARRANGEMENT MAY BE
25 UTILIZED IF THE TRUST ACCOUNT IS INSURED FOR 100% OR MORE OF THE
26 BALANCE IN THE TRUST ACCOUNT.

1 (2) The trust account shall be reconciled not less than once
2 a month. The reconciliation shall ~~consist of ascertaining~~
3 ASCERTAIN the actual cash balance in the account and ~~comparing~~
4 COMPARE it with the sum of the escrow balances in each debtor's
5 account. ~~This shall be done not more than 45 days after receipt~~
6 ~~of the monthly bank statement and shall be prepared on a form~~
7 ~~approved by the director and shall be kept as a permanent record~~
8 ~~of the licensee.~~ THE RECONCILIATION MAY BE DONE ELECTRONICALLY
9 OR BY ANY OTHER APPROPRIATE METHOD AND SHALL BE DONE NOT MORE
10 THAN 45 BUSINESS DAYS AFTER RECEIPT OF THE BANK STATEMENT. AN
11 ELECTRONIC OR OTHER APPROPRIATE NOTATION OF THE RECONCILIATION
12 SHALL BE KEPT AS A PERMANENT RECORD OF THE LICENSEE AND SHALL BE
13 CONSIDERED AS IN COMPLIANCE WITH THIS SECTION. EACH TRUST
14 ACCOUNT SHALL BE INDIVIDUALLY SCHEDULED IN A LICENSEE'S RECONCIL-
15 IATION RECORDS.

16 (3) The trust account shall at all times have an actual
17 ~~minimum~~ cash balance equal to OR GREATER THAN the sum of the
18 escrow balances of each debtor's account, and failure to maintain
19 that amount ~~shall be~~ IS cause for a summary suspension of the
20 license.

21 (4) ~~When the~~ IF A trust account fails to contain suffi-
22 cient funds to cover the debtor escrow balances, the licensee
23 shall immediately upon discovery ~~,~~ notify the director by
24 telephone, ~~or by telegraphic notice, followed by an explanatory~~
25 ~~letter, and the remedial action taken~~ FACSIMILE, ELECTRONIC
26 MAIL, OR OTHER METHOD APPROVED BY THE DEPARTMENT. THE LICENSEE

1 SHALL ALSO PROVIDE WRITTEN NOTICE INCLUDING A DESCRIPTION OF THE
2 REMEDIAL ACTION TAKEN.

3 (5) IF THE TRUST ACCOUNT DESCRIBED IN SUBSECTION (1) IS
4 MAINTAINED AT A FINANCIAL INSTITUTION DESCRIBED IN SUBSECTION (1)
5 LOCATED OUTSIDE OF THIS STATE, THE LICENSEE SHALL FURNISH A
6 SURETY BOND OR IRREVOCABLE LETTER OF CREDIT TO THE PEOPLE OF THE
7 STATE OF MICHIGAN IN AN AMOUNT EQUAL TO OR EXCEEDING 100% OF THE
8 AVERAGE AMOUNT OF DEPOSITS HELD IN THE TRUST ACCOUNT FROM MONTH
9 TO MONTH AND IN A FORM APPROVED BY THE DEPARTMENT. THIS REQUIRE-
10 MENT IS IN ADDITION TO AN APPLICANT'S OBLIGATION UNDER SECTION
11 5(2)(C).

12 Sec. 16. A licensee ~~or exempted person~~ shall DO ALL OF
13 THE FOLLOWING:

14 (a) ~~Make, keep, and preserve for 6 years the accounts, cor-~~
15 ~~respondence, memoranda, papers, books, and other records and make~~
16 ~~the reports that the department by rule prescribes as necessary~~
17 ~~or appropriate in the public interest or for the protection of~~
18 ~~debtors and creditors. The accounts, correspondence, memoranda,~~
19 ~~papers, books, and other records are subject at any time to rea-~~
20 ~~sonable periodic, special, or other examinations by examiners or~~
21 ~~other representatives of the department as the director deems~~
22 ~~necessary or appropriate in the public interest or for the pro-~~
23 ~~tection of the public.~~ CREATE AND MAINTAIN RECORDS OF THE
24 ACCOUNTS, CORRESPONDENCE, MEMORANDA, PAPERS, BOOKS, AND OTHER
25 RECORDS OF THE DEBT MANAGEMENT BUSINESS. IF THE LICENSEE ELECTS
26 NOT TO RETAIN ORIGINAL RECORDS, THE LICENSEE MAY UTILIZE
27 ELECTRONIC, PHOTOCOPY, OR COMPUTERIZED METHODS OF RECORD

1 KEEPING. THE LICENSEE SHALL PRESERVE THE RECORDS CREATED UNDER
2 THIS SUBDIVISION FOR AT LEAST 6 YEARS AFTER THEY ARE CREATED.

3 ~~(b) Deliver to the debtor a completed and signed true copy~~
4 ~~of the contract between the licensee and the debtor upon execu-~~
5 ~~tion of the contract.~~ MAKE ALL THE RECORDS CREATED AND MAIN-
6 TAINED UNDER SUBDIVISION (A) AVAILABLE FOR EXAMINATION BY EXAMIN-
7 ERS OF THE DEPARTMENT.

8 ~~-(c) Deliver to the debtor a receipt for a payment within 5~~
9 ~~days after receipt of that payment. The department may waive~~
10 ~~this requirement upon a showing of acceptable alternative~~
11 ~~notice.~~

12 ~~(d) Provide a debtor with a written statement covering the~~
13 ~~last 12 months activity within 5 business days of a request for~~
14 ~~the statement or with a verbal accounting upon demand. The writ-~~
15 ~~ten statement or verbal accounting shall indicate the total~~
16 ~~amount received from or on behalf of the debtor, the total amount~~
17 ~~paid to each individual creditor, the total amount of the charges~~
18 ~~deducted from payments, and the amount held in reserve.~~

19 (C) UPON CONTRACTING WITH A DEBTOR, GIVE A COPY OF THE CON-
20 TRACT TO THE DEBTOR.

21 (D) ~~-(e) Not more than 120 days after the date the contract~~
22 ~~is entered into, give the debtor a written statement which indi-~~
23 ~~cates the total amount received from or on behalf of the debtor,~~
24 ~~the total amount paid to each individual creditor, the total~~
25 ~~amount of the charges deducted from payments, and any amount held~~
26 ~~in reserve, a copy of this statement shall be retained in the~~
27 ~~debtor's file. The administrator may waive this requirement upon~~

1 ~~a showing of an acceptable alternative notice.~~ DELIVER A RECEIPT
2 TO A DEBTOR UPON RECEIVING CASH FROM A DEBTOR OR WITHIN 3 BUSI-
3 NESS DAYS AFTER RECEIVING A NONCASH PAYMENT FROM A DEBTOR, AND AT
4 LEAST MONTHLY BEGINNING WITH THE FIRST MONTH AFTER CONTRACTING
5 WITH A DEBTOR DELIVER A STATEMENT THAT INCLUDES THE DATES AND
6 AMOUNTS RECEIVED AND DISBURSED ON BEHALF OF THE DEBTOR.

7 (E) WITHIN 5 BUSINESS DAYS AFTER A REQUEST FROM A DEBTOR,
8 PROVIDE A WRITTEN STATEMENT THAT INCLUDES ALL OF THE FOLLOWING:

9 (i) ALL TRANSACTIONS CONCERNING THE MONEY RECEIVED FROM OR
10 ON BEHALF OF THE DEBTOR.

11 (ii) THE TOTAL AMOUNT PAID TO EACH CREDITOR.

12 (iii) THE TOTAL AMOUNT OF CHARGES DEDUCTED FROM THE PAYMENTS
13 RECEIVED.

14 (iv) THE AMOUNT HELD IN RESERVE.

15 (F) AT LEAST EVERY 90 DAYS AFTER CONTRACTING WITH A DEBTOR,
16 PROVIDE A WRITTEN STATEMENT TO THE DEBTOR THAT INCLUDES ALL OF
17 THE FOLLOWING:

18 (i) THE TOTAL AMOUNT RECEIVED FROM AND ON BEHALF OF THE
19 DEBTOR.

20 (ii) THE TOTAL AMOUNT PAID TO EACH CREDITOR.

21 (iii) THE TOTAL AMOUNT DEDUCTED FROM THE PAYMENTS RECEIVED.

22 (iv) THE AMOUNT HELD IN RESERVE.

23 (G) AT LEAST ANNUALLY, VERIFY OR CAUSE THE VERIFICATION OF
24 PAYMENTS TO SELECTED CREDITOR ACCOUNTS AND DO OR DESIGNATE 1 OR
25 MORE PERSONS TO DO ALL OF THE FOLLOWING:

26 (i) REVIEW EACH DEBTOR'S ACCOUNT FILE.

1 (ii) REVIEW CHECKS PAID BY THE LICENSEE.
2 (iii) REVIEW PROCEDURES USED BY THE LICENSEE FOR PROCESSING
3 CHECKS AND HANDLING CASH.
4 (iv) REVIEW THE COMPLAINT FILE MAINTAINED BY THE LICENSEE.
5 (v) VERIFY PAYMENTS TO SELECTED CREDITOR ACCOUNTS.
6 (vi) REVIEW SELECTED COUNSELOR RECORDS AND WORK PAPERS.
7 (H) IF A CONTRACT WITH A DEBTOR IS LAWFULLY SOLD, TRANS-
8 FERRED, OR ASSIGNED TO A LICENSEE FROM ANOTHER LICENSEE, FURNISH
9 TO THE DEBTOR A WRITTEN NOTICE OF THE SALE, TRANSFER, OR
10 ASSIGNMENT. THE NOTICE SHALL CONTAIN THE NAME AND ADDRESS OF THE
11 LICENSEE AND THE NAME OF THE COUNSELOR AUTHORIZED BY THE LICENSEE
12 TO MANAGE THE CONTRACT.
13 Sec. 17. The department may examine, without notice, the
14 condition and affairs of a licensee. ~~or exempted person.~~ In
15 connection with an examination, the department may examine on
16 oath a licensee ~~or exempted person,~~ and any director, officer,
17 employee, customer, creditor, MANAGER, MEMBER, PARTNER, or stock-
18 holder of the licensee ~~or exempted person~~ concerning the
19 affairs and business of the licensee. ~~or exempted person.~~ The
20 department shall ascertain whether the licensee ~~or exempted~~
21 ~~person~~ transacts its business in the manner prescribed by this
22 act and the rules promulgated under this act. The licensee ~~or~~
23 ~~exempted person~~ shall pay the actual cost of the examination as
24 determined by the department, which fee shall be deposited in the
25 state treasury to the credit of the department. Failure to pay
26 the examination fee within 30 days after receipt of demand from

1 the department shall automatically suspend the license of the
2 licensee until the fee is paid.

3 Sec. 18. (1) ~~By contract a~~ A licensee ~~or person exempt~~
4 ~~pursuant to section 4(2) or (4)~~ may charge a reasonable fee
5 ~~for~~ UNDER A debt management services CONTRACT. The fees and
6 charges of the licensee ~~with respect to a debtor's account~~
7 shall not exceed 15% of the amount of the debt to be liquidated
8 during the express term of the contract. The licensee ~~or person~~
9 ~~exempt pursuant to section 4(2) or (4)~~ may require THE DEBTOR TO
10 MAKE an initial payment ~~by the debtor~~ of ~~an amount~~ not more
11 than \$25.00, which is part of the ~~total~~ fees and charges
12 ~~stated in the contract~~ OF THE LICENSEE. ~~This amount shall be~~
13 ~~deducted from total fees and charges in determining the monthly~~
14 ~~amortizable amount for subsequent fees earned.~~ THE INITIAL PAY-
15 MENT MAY BE DEDUCTED FROM THE AMOUNT OF A SUBSEQUENT FEE THAT IS
16 AMORTIZED, IF ANY.

17 (2) ~~In~~ EXCEPT FOR A CANCELLATION DESCRIBED IN SUBSECTION
18 (3), FOR WHICH A LICENSEE MAY NOT COLLECT THE ADDITIONAL FEE
19 DESCRIBED IN THIS SUBSECTION, IN the event of cancellation or
20 default on the performance of the contract by the debtor before
21 its successful completion, the licensee ~~or person exempt pursu-~~
22 ~~ant to section 4(2) or (4)~~ may collect \$25.00 in addition to
23 fees AND CHARGES OF THE LICENSEE previously received. ~~an amount~~
24 ~~equal to \$25.00.~~ This ~~charge does not apply to total payment of~~
25 ~~the contract before the term of the contract expires~~ \$25.00 FEE
26 IS NOT SUBJECT TO THE 15% LIMITATION ON FEES AND CHARGES OF THE
27 LICENSEE IN SUBSECTION (1).

1 (3) A contract ~~shall not be effective until a~~ IS IN EFFECT
2 WHEN IT IS SIGNED BY THE LICENSEE AND THE DEBTOR AND THE debtor
3 has made a payment to the licensee. THE DEBTOR HAS THE RIGHT TO
4 CANCEL THE CONTRACT UNTIL 12 MIDNIGHT OF THE THIRD BUSINESS DAY
5 AFTER THE FIRST DAY THE CONTRACT IS IN EFFECT BY DELIVERING WRIT-
6 TEN NOTICE OF CANCELLATION TO THE LICENSEE. ~~for distribution to~~
7 ~~his creditors.~~

8 (4) ~~It shall be deemed a cancellation on behalf of the~~
9 ~~debtor if the debtor fails to make payments for 60 days, or 4~~
10 ~~consecutive payments are missed, whichever is the shorter~~
11 ~~period. In the event of extraordinary circumstances, the debtor~~
12 ~~may file with the licensee a letter of continuation of the con-~~
13 ~~tract for a specific period, which shall maintain the contract in~~
14 ~~effect, even if more than 4 consecutive payments are missed or 60~~
15 ~~days elapsed without payment. During this period the licensee~~
16 ~~may not accrue or assess fees or other charges. A letter of con-~~
17 ~~tinuation may not be filed with the licensee at the beginning of~~
18 ~~a contract. The contract between the licensee and the debtor~~
19 ~~shall clearly state the debtor's right to file a letter of con-~~
20 ~~tinuation of the contract under this subsection. IF A DEBTOR~~
21 ~~FAILS TO MAKE A PAYMENT TO A LICENSEE WITHIN 60 DAYS AFTER THE~~
22 ~~DATE A PAYMENT IS DUE UNDER A CONTRACT, THE CONTRACT IS CONSID-~~
23 ~~ERED CANCELED BY THE DEBTOR. A DEBTOR MAY FILE A LETTER OF CON-~~
24 ~~TINUATION OF A CONTRACT EVEN IF THE DEBTOR DID NOT MAKE A PAYMENT~~
25 ~~WITHIN 60 DAYS AFTER A PAYMENT WAS DUE. ALL OF THE FOLLOWING~~
26 ~~APPLY TO A LETTER OF CONTINUATION OF A CONTRACT:~~

1 (A) A DEBTOR MAY FILE ONLY 1 LETTER OF CONTINUATION WITH A
2 LICENSEE FOR ANY CONTRACT.

3 (B) A LETTER OF CONTINUATION MUST CONTAIN A DETAILED EXPLA-
4 NATION OF THE REASON OR REASONS FOR THE MISSED PAYMENT OR
5 PAYMENTS.

6 (C) A CONTRACT FOR WHICH A LETTER OF CONTINUATION THAT MEETS
7 THE REQUIREMENTS OF THIS SUBSECTION IS FILED REMAINS IN EFFECT
8 AND SUBJECT TO CANCELLATION FOR ANY FUTURE FAILURE TO MAKE A PAY-
9 MENT OR PAYMENTS AS DESCRIBED IN THIS SUBSECTION.

10 (D) A CONTRACT BETWEEN A LICENSEE AND A DEBTOR SHALL CLEARLY
11 PROVIDE FOR 1 LETTER OF CONTINUATION BY A DEBTOR.

12 (E) A DEBTOR MAY NOT FILE A LETTER OF CONTINUATION WITH A
13 LICENSEE AT THE BEGINNING OF A CONTRACT.

14 (5) ~~If a licensee contracts for, receives, or makes a~~
15 ~~charge in excess of the maximum permitted by this act or rules~~
16 ~~promulgated under this act, except as the result of an inadver-~~
17 ~~tent clerical error, the licensee shall return to the debtor the~~
18 ~~amount of the payments received from the debtor or on his behalf~~
19 ~~and not distributed to creditors, plus, as a penalty, an amount~~
20 ~~equal to the amount overcharged.~~ A LICENSEE SHALL NOT CONTRACT
21 FOR, RECEIVE, OR CHARGE A DEBTOR AN AMOUNT GREATER THAN AUTHO-
22 RIZED BY THIS ACT. A PERSON WHO VIOLATES THIS SUBSECTION, EXCEPT
23 AS THE RESULT OF AN INADVERTENT CLERICAL OR COMPUTER ERROR, SHALL
24 RETURN TO THE DEBTOR THE AMOUNT OF THE PAYMENTS RECEIVED FROM OR
25 ON BEHALF OF THE DEBTOR AND NOT DISTRIBUTED TO CREDITORS, AND, AS
26 A PENALTY, AN AMOUNT EQUAL TO THE AMOUNT OVERCHARGED.

1 Sec. 19. A licensee ~~or exempted person~~ shall not DO ANY
2 OF THE FOLLOWING:

3 (a) Purchase from a creditor any obligation of a debtor.

4 (b) Execute a contract or agreement to be signed by the
5 debtor unless the contract or agreement is fully and completely
6 filled in and finished.

7 (c) Lend money or credit except under a plan approved by the
8 ~~bureau~~ DEPARTMENT.

9 (d) Take a confession of judgment or power of attorney to
10 confess judgment against the debtor or appear as the debtor in a
11 judicial proceeding.

12 (e) Receive or charge a fee in the form of a promissory note
13 or other promise to pay, or receive or accept a mortgage or other
14 security ~~for any~~ IN REAL OR PERSONAL PROPERTY FOR A fee, ~~as to~~
15 ~~real or personal property,~~ or both.

16 (f) Take, concurrent with the signing of the contract or as
17 a part of the contract or as part of the application for the con-
18 tract, a release of an obligation to be performed on the part of
19 the licensee.

20 (g) Offer, pay, or give any cash, fee, gift, bonus, premi-
21 ums, reward, or other compensation to a person for referring a
22 prospective customer to the licensee. A PAYMENT BY THE LICENSEE
23 FOR THE LAWFUL SALE, TRANSFER, OR ASSIGNMENT OF A CONTRACT TO THE
24 LICENSEE FROM ANOTHER LICENSEE IS NOT SUBJECT TO THIS
25 SUBDIVISION.

26 (h) Receive any cash, fee, gift, bonus, premium, reward, or
27 other compensation from a person other than the debtor or a

1 person in the debtor's behalf in connection with ~~his activities~~
2 ~~as a licensee~~ THE LICENSEE'S BUSINESS OF DEBT MANAGEMENT, except
3 under a plan approved by order of the ~~bureau~~ DEPARTMENT.

4 (i) Disclose the debtors who have contracted with the
5 licensee other than to the director or his OR HER authorized rep-
6 resentative, or disclose the creditors of a debtor to anyone
7 other than the debtor, or the director or his OR HER authorized
8 representative, or another creditor of the debtor and then only
9 to the extent necessary to secure the cooperation of the creditor
10 in a debt management plan.

11 (j) ~~Advertise his services, or display, distribute, broad-~~
12 ~~cast, or televise or permit to be displayed, advertised, distrib-~~
13 ~~uted, broadcasted, or televised his services in any manner what-~~
14 ~~soever wherein~~ USE OR PERMIT THE USE OF a false, misleading, or
15 deceptive statement or representation with regard to the services
16 ~~to be performed by~~ OR CHARGES OF the licensee ~~or the charges~~
17 ~~to be made therefor~~ IN ANY ADVERTISEMENT, DISPLAY, BROADCAST, OR
18 OFFER OF THE LICENSEE'S SERVICES.

19 (k) Use an advertisement ~~which~~ THAT gives a telephone
20 number or post office box without identifying the licensee and
21 ~~his business~~ THE LICENSEE'S OFFICE address.

22 (l) Use advertisements containing ANY OF THE FOLLOWING
23 representations: ~~that~~

24 (i) THAT the licensee will provide funds to pay bills or
25 prevent attachments. ~~—~~

1 (ii) THAT a certain payment schedule will handle a certain
2 amount or range of indebtedness. ~~or garnishments, attachments,~~
3 ~~reposessions~~

4 (iii) THAT GARNISHMENT, ATTACHMENT, REPOSSESSION, or loss of
5 job will be prevented.

6 (m) Fail to provide to the debtor the full benefit of a com-
7 promise of a debt arranged by the licensee with a creditor.

8 (n) In connection with the making of a debt management con-
9 tract ~~or~~ WITH operation of the debtor's account:

10 (i) Employ any device, scheme, or artifice to defraud.

11 (ii) Make any untrue statement of a material fact or omit to
12 state a material fact necessary in order to make the statements
13 made, in the light of the circumstances under which they are
14 made, not misleading.

15 (iii) Engage in any act, practice, or course of business
16 ~~which~~ THAT operates or would operate as a fraud or deceit upon
17 any person.

18 (O) CONDUCT THE BUSINESS OF DEBT MANAGEMENT WITHOUT A SURETY
19 BOND, OR DEPOSIT OR ASSIGNMENT SATISFACTORY TO THE DEPARTMENT IN
20 LIEU OF A SURETY BOND, AS DESCRIBED IN SECTION 5(2), IN PLACE.

21 Sec. 22. (1) The director may promulgate rules PURSUANT TO
22 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
23 24.201 TO 24.328, make specific decisions, MAKE orders and rul-
24 ings ~~including therein~~ THAT INCLUDE demands and findings, and
25 take other necessary action for the implementation and enforce-
26 ment of this act. ~~Rules promulgated by the director under this~~

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~~1 act shall be promulgated pursuant to Act No. 306 of the Public
2 Acts of 1969, as amended.~~

3 (2) THE DIRECTOR MAY IN HIS OR HER DISCRETION PROVIDE FOR
4 ELECTRONIC FILING OF ANY DOCUMENT FILED WITH THE DIRECTOR OR
5 DEPARTMENT UNDER THIS ACT.