

CHAPTER 25**DEBT ADJUSTMENT AND CREDIT COUNSELING****Authority**

N.J.S.A. 17:1-8 and 15e, 17:1C-33 et seq., and 17:16G-4, 5 and 6.

Source and Effective Date

R.2003 d.59, effective January 7, 2003.
See: 34 N.J.R. 2552(a), 35 N.J.R. 607(b).

Chapter Expiration Date

Chapter 25, Debt Adjustment and Credit Counseling, expires on January 7, 2008.

Chapter Historical Note

Chapter 25, Debt Adjustment and Credit Counseling, was adopted as R.1987 d.334, effective August 17, 1987. See: 19 N.J.R. 901(b), 19 N.J.R. 1544(b).

Pursuant to Executive Order No. 66(1978), Chapter 25, Debt Adjustment and Credit Counseling, was readopted as R.1992 d.323, effective July 23, 1992. As part of R.1992 d.323, effective August 17, 1992, Subchapter 2, Offices, Licensing, Bonds, Investigations, Examinations, was adopted. See: 24 N.J.R. 2106(a), 24 N.J.R. 2836(a).

Pursuant to Executive Order No. 66(1978), Chapter 25, Debt Adjustment and Credit Counseling, was readopted as R.1997 d.336, effective July 23, 1997. As a part of R.1997 d.336, effective August 18, 1997, Subchapter 2, Offices, Licensing Bonds, Investigations, Examinations, was renamed Subchapter 2, Licensing Requirements, and Subchapter 3, Administrative Penalties and Examination, was added. See: 29 N.J.R. 2500(a), 29 N.J.R. 3719(a).

Chapter 25, Debt Adjustment and Credit Counseling, was readopted as R.2003 d.59, effective January 7, 2003. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. DEBT ADJUSTMENT AND CREDIT COUNSELING FEES**3:25-1.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Acts” means the Debt Adjustment and Credit Counseling Act, N.J.S.A. 17:16G-1 et seq. and the New Jersey Home Ownership Security Act of 2002, N.J.S.A. 46:10-22 et seq.

“Affiliated” means a relationship in which the high-cost home loan credit counseling service is directly or indirectly controlled by, or under the common control of, the directors, principal officers and/or any shareholder of another company.

“Client” means an individual or a group of individuals comprising a single family unit.

“Commissioner” means the Commissioner of Banking and Insurance.

“Covered home loan” means a home loan in which the total points and fees payable in connection with the loan, excluding either a conventional prepayment penalty or not more than two bona fide discount points, exceed four percent of the total loan amount, or 4.5 percent of the total loan amount if the total loan amount is \$40,000 or less, and 4.5 percent of the total loan amount if the loan is insured by the Federal Housing Administration or guaranteed by the Federal Department of Veterans Affairs, or a home loan that is considered a high-cost home loan under the Home Ownership Security Act.

“Credit counseling” means any guidance or educational program or advice offered by a nonprofit social service agency or nonprofit consumer credit counseling agency regarding the use of credit or debt management.

“Debt Adjuster Act” means the Debt Adjustment and Credit Counseling Act, N.J.S.A. 17:16G-1 et seq.

“Debt adjustment” means either acting or offering to act for a consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or otherwise altering the terms of payment of any debts of the debtor, or, to that end, receiving money or other property from a debtor, or on behalf of the debtor, for payment to, or

distribution among, the creditors of the debtor, but shall not include the activities of an attorney-at-law of this State who is not principally engaged as a debt adjuster, a person who is a regular full-time employee of a debtor and who acts as an adjuster of his or her employer's debts, a person acting pursuant by any order or judgment of court, or pursuant to authority conferred by any law of this State or the United States, a person which is a creditor of the debtor or an agent of one or more creditors of the debtor and whose services in adjusting the debtor's debts are rendered without cost to the debtor, or a person who at the request of a debtor arranges for or makes a loan to the debtor and who at the authorization of the debtor acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan without compensation for the services rendered in adjusting those debts.

"Debtor" means a person or two or more persons who are jointly and severally indebted.

"Department" means the Department of Banking and Insurance.

"High-cost home loan" means a home loan for which the principal amount of the loan does not exceed \$350,000 as of 2003, adjusted annually to include the last published increase of the housing component of the national Consumer Price Index, New York-Northeastern New Jersey Region, and in which the terms of the loan meet or exceed one or more of the thresholds as defined in N.J.S.A. 46:10B-24. The annual adjustment in the principal amount of the loan shall be reflected through a notice of administrative change published in the New Jersey Register.

"High-cost home loan credit counseling" means the counseling of a borrower on a high-cost home loan transaction which includes the financing of points and fees in connection with the high-cost home loan.

"Home loan" means an extension of credit primarily for personal, family or household purposes, including an open-end credit plan, other than a reverse mortgage transaction, in which the loan is secured by a mortgage or deed of trust on real estate in this State upon which there is located or there is to be located a one to six family dwelling which is or will be occupied by a borrower as the borrower's principal dwelling; or a security interest in a manufactured home which is or will be occupied by a borrower as the borrower's principal dwelling.

"Home Ownership Security Act" means the New Jersey Home Ownership Security Act of 2002, N.J.S.A. 46:10B-22 et seq.

"Licensee" means a nonprofit social service or credit counseling agency licensed pursuant to N.J.S.A. 17:16G-2.

"Non-affiliated third party agency" means a non-profit social service or credit counseling agency which is not under the influence, control, or direction of any outside party such

as a landowner, real estate broker, lender, or consultant seeking to derive a profit or gain from the counseling services.

"Non-profit social service agency" or "nonprofit credit counseling agency" means any corporation duly organized under Title 15 or 15A of the New Jersey Statutes, and no part of the assets, income or profit of which is distributable to, or enures to the benefit of its members, directors or officers, except to the extent permitted under the Debt Adjustment and Credit Counseling Act, N.J.S.A. 17:16G-1 et seq.

"Points and fees" shall have the meaning as defined in the New Jersey Home Ownership Security Act of 2002, N.J.S.A. 46:10B-22 et seq.

Amended by R.1992 d.323, effective August 17, 1992.
See: 24 N.J.R. 2106(a), 24 N.J.R. 2836(a).

Revised text.

Amended by R.1997 d.336, effective August 18, 1997.
See: 29 N.J.R. 2500(a), 29 N.J.R. 3719(a).

Added "Nonprofit social service agency"; deleted "Billing cycle" and "Office"; and amended "Act", "Commissioner", "Department", and "Licensee".

Amended by R.2003 d.59, effective February 3, 2003.
See: 34 N.J.R. 2552(a), 35 N.J.R. 607(b).

In "Credit counseling", substituted "regarding the use of credit or debt management" for "for the purpose of fostering the responsible use of credit and debt management"; in "Debtor" substituted "a person" for "an individual debtor" and "persons" for "individuals".

Amended by R.2004 d.81, effective February 17, 2004.
See: 35 N.J.R. 4187(a), 36 N.J.R. 943(a).

Rewrote the section.

3:25-1.2 Fees charged by licensees

(a) A licensee may charge a fee to cover the cost of providing debt adjustment and credit counseling.

1. The fee for debt adjustment shall not exceed one percent of the gross monthly income of the client but in no case more than \$25.00 in any one month. This fee may be waived at the discretion of the licensee.

2. The fee that the licensee may charge a client for credit counseling services shall not exceed \$60.00 in any one month.

(b) The licensee shall provide to the client a written statement of the fees to be charged before providing any debt adjustment or credit counseling service.

Amended by R.1992 d.323, effective August 17, 1992.
See: 24 N.J.R. 2106(a), 24 N.J.R. 2836(a).

Revised text.

Repeal and New Rule, R.1997 d.336, effective August 18, 1997.
See: 29 N.J.R. 2500(a), 29 N.J.R. 3719(a).

Section was "Debt adjustment fees".

Amended by R.2003 d.59, effective February 3, 2003.
See: 34 N.J.R. 2552(a), 35 N.J.R. 607(b).

Rewrote (a)2.

3:25-1.3 (Reserved)

Repealed by R.1997 d.336, effective August 18, 1997.
See: 29 N.J.R. 2500(a), 29 N.J.R. 3719(a).

Section was "Credit counseling fees".