

CHAPTER 25

DEBT ADJUSTMENT AND CREDIT COUNSELING

Authority

N.J.S.A. 17:1-15e and 17:16G-4, 5 and 6.

Source and Effective Date

R.1997 d.336, effective July 23, 1997.
See: 29 N.J.R. 2500(a), 29 N.J.R. 3719(a).

Executive Order No. 66(1978) Expiration Date

Chapter 25, Debt Adjustment and Credit Counseling, expires on July 23, 2002.

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 was readopted as R.1992 d.323, effective July 23, 1992. See: 24 N.J.R. 2106(a), 24 N.J.R. 2836(a). As part of R.1992 d.323, effective August 17, 1992, Subchapter 2, Offices, Licensing, Bonds, Investigations, Examinations, was adopted.

Pursuant to Executive Order No. 66(1978), Chapter 25 was readopted as R.1997 d.336, effective July 23, 1997. See: Source and Effective Date. As a part of R.1997 d.336, effective August 18, 1997, the name of Subchapter 2, Offices, Licensing Bonds, Investigations, Examinations, was changed to Subchapter 2, Licensing Requirements, and Subchapter 3, Administrative Penalties and Examination, was added. 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.

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

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

“Commissioner” means the Commissioner of Banking and Insurance.

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

“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 an individual debtor or two or more individuals who are jointly and severally indebted.

“Department” means the Department of Banking and Insurance.

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

“Nonprofit social service agency” or “nonprofit credit counseling agency” means any corporation duly organized under Title 15 or 15A of the New Jersey Statutes, 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 Act.

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".

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 maximum fee that a client may be charged for credit counseling services is \$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".

3:25-1.3 (Reserved)

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.

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".

3:25-1.4 (Reserved)

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.

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 "Prior notice".

SUBCHAPTER 2. LICENSING REQUIREMENTS

3:25-2.1 Eligibility for license

(a) No person other than a nonprofit social service agency or a nonprofit credit counseling agency shall act as a debt adjuster or provide credit counseling.

(b) To be eligible for a license, a nonprofit social service agency or nonprofit consumer credit counseling agency shall establish a board of directors whose function shall be to establish the policies of the agency. No more than 40 percent of the members of the board shall have as their principal employer any corporation, association or institution that offers credit to the general public.

New Rule, R.1997 d.336, effective August 18, 1997.

See: 29 N.J.R. 2500(a), 29 N.J.R. 3719(a).

Former section recodified to N.J.A.C. 3:25-2.3.

3:25-2.2 Application for license

(a) Prior to providing debt adjustment or credit counseling services, a corporation shall obtain a license from the Department. The license application shall be on a form approved by the Commissioner and shall include the following information:

1. A Certificate of Incorporation bearing the New Jersey Secretary of State's dated filing stamp or, for foreign (out-of-State) corporations, a copy of the Certificate of Authority to do business in New Jersey bearing the New Jersey Secretary of State's dated filing stamp;

2. If the corporation uses a doing business as name, a copy of the registration of fictitious corporate name bearing the New Jersey Secretary of State's dated filing stamp;

3. A completed certified consent certificate authorizing a criminal record check for each corporate director or trustee;

4. A completed biographical information form and personal financial statement for each director or trustee;

5. Information on whether any director, trustee or member of an advisory or other similar committee has ever had a license, permit or other authorization, other than a driver's license, been suspended or revoked by this or any other state or has been affiliated directly or indirectly with any other organization that has had such a license suspended or revoked;

6. An unqualified financial statement prepared by a certified public accountant or a public accountant demonstrating the financial condition of the corporation;

7. The applicant's balance sheet and profit and loss statement for the last fiscal period, if available;

8. If the primary source of operating funds is obtained from outside sources such as financial institutions, retail merchants, industrial concerns, labor unions, trade associations, religious organizations, foundations, etc., a schedule citing the names and addresses of all such individual contributors and the amount contributed and the amount anticipated for the current fiscal period;