Prohibited practices

All of these laws prohibit some activities. Practices most commonly prohibited are:

1. Purchasing from a creditor any obligation of a debtor;
2. Operating both as a collection agent and as a debt pooler;
3. Receiving or charging any fee in the form of a promissory note or other promise to pay, or receiving or accepting any mortgage or other security for any fee, both as to real or personal property;
4. Advertising falsely, or making misleading or deceptive statements or representations as to the services to be performed or the charges to be made;
5. Using a contract form which has not been approved by the administrator.

A provision in the Connecticut law not found in any other law prohibits any licensee from using any word or phrase which states or implies that "he is bonded, approved, bonded by the State or approved by the State."

Investigation authority

Most of the laws authorize the administrator to investigate the business of debt pooling at any time and/or upon complaint. Usually, the licensee pays the cost of the investigation. Only Washington has no specific provision of this nature. The Washington law does, however, require that books and records be kept open for inspection.

The laws of Connecticut, Michigan, Nebraska, and Utah permit the administrator to examine, without notice, the conditions and affairs of each licensee. Colorado requires that the licensee be given 5 days' notice that the examination is to be made, and that he pay the cost of the actual examination, not to exceed $50 a day. Illinois specifies that the business must be examined at least once a year, and limits the cost of such examination to $50 a day. Only Minnesota, of the States authorizing investigations, has no provision as to payment of such investigation. The other laws provide that the actual cost of the examination bust be paid by the licensee; failure to pay such cost within a specified period is cause for revocation of the license.

Separate accounts

The majority of the States (California, Colorado, Connecticut, Idaho, Illinois, Michigan, Nebraska, Oregon, Utah, and Washington) require licensees to maintain separate trust accounts of funds received from debtors; commingling of their own funds with those received from debtors for payment to creditors is prohibited.

Maintenance of records

All of the laws require debt poolers to maintain specified records, which must be available for inspection. Ten laws specify the length of time such records must be preserved after the final entry is made: 2 years in Illinois and Minnesota, 4 years in California, 5 years in Idaho and Nebraska, 6 years in Washington, and 7 years in Colorado, Connecticut, Michigan, and Utah.

Miscellaneous provisions

The laws of California, Connecticut, Michigan, Nebraska, and Oregon provide that a contract shall not be effective until a debtor has made a payment to the debt pooler for distribution to his creditors.

Colorado, Connecticut, Michigan, and Nebraska do not permit a licensee to accept an account unless a thorough financial analysis indicates that the debtor can reasonably meet the requirements of the contract.

Idaho, Oregon, and Washington require applicants for a license to take an examination which may be either written or oral or both.

Several of the laws require citizenship and minimum age (usually 21) before a license may be granted.

Annual reports

California and Oregon require a licensee to file an annual report with the administrator concerning their business and operations. The report must include money paid by debtors which has not been transmitted to creditors. California requires a certified audit report prepared by an independent public accountant, while Oregon requires a "verified" report. Connecticut requires the