

CHAPTER 287

AN ACT concerning debt adjustment and credit counseling and amending and supplementing P.L.1979, c.16.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.1979, c.16 (C.17:16G-5) is amended to read as follows:

C.17:16G-5 Bond; financial records; annual audit; filing; examination of agency; annual reports.

5. a. Any nonprofit social service agency or nonprofit consumer credit counseling agency licensed under this act shall be bonded to the satisfaction of the commissioner for each location pursuant to regulation. In setting the bonding requirements for each location, the commissioner shall consider the number of debtors provided credit counseling and debt adjustment services at that location, and the balance of funds in the trust account required to be maintained pursuant to section 3 of P.L.2005, c.287 (C.17:16G-9).

b. The commissioner may require a licensee to file an annual report containing that information required by the commissioner by regulation concerning activities conducted as a licensee in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by regulation.

c. The commissioner may require a high cost home loan counselor to file an annual report containing that information required by the commissioner by regulation concerning activities conducted pursuant to subsection g. of section 5 of P.L.2003, c.64 (C.46:10B-26) as a registrant in the preceding calendar year. The report shall be submitted under oath and in the form specified by the commissioner by regulation.

d. Each licensee shall file with the commissioner on or before April 1 of each year a copy of its annual report, containing the information required by the commissioner by regulation pursuant to P.L.1979, c.16 (C.17:16G-1 et seq.) and section 3 of P.L.2005, c.287 (C.17:16G-9) accompanied by a fee in an amount set by the commissioner by regulation.

e. Each licensee shall have its financial records relating to debt adjustment audited annually by a certified public accountant or a public accountant, which audit shall be filed with the commissioner. Such an audit shall certify that the salaries and expenses paid by the licensee are reasonable compared to those incurred by comparable organizations providing similar services.

f. After reviewing the annual report and audit, the Commissioner of Banking and Insurance may cause an examination of the licensee to be made, the actual expenses of such an examination shall be paid by the licensee, and the commissioner may maintain any action against any licensee to recover the fees and expenses herein provided for.

g. The licensee shall make a copy of the annual report and audit available for public inspection at each of the licensee's locations.

2. Section 8 of P.L.1979, c.16 (C.17:16G-8) is amended to read as follows:

C.17:16G-8 Penalties; summary action; civil action.

8. Any person who violates any provisions of this act shall be subject to a penalty of \$1,000 for the first offense and not more than \$5,000 for the second and each subsequent offense to be collected by and in the name of the commissioner in a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

If the commissioner has reason to believe that any person or licensee has engaged in or is engaging in any practice or transaction prohibited by P.L.1979, c.16 (C.17:16G-1 et seq.), the commissioner may, in addition to any remedies available, bring a summary action in the name of and on behalf of the State against the person or licensee and any other person concerned or in any way participating in or about to participate in those practices or transactions, to enjoin the person or licensee from continuing those practices or engaging in or doing any act in furtherance of those practices or in violation of that act. In addition to any other remedies or penalties available for a violation of P.L.1979, c.16 (C.17:16G-1 et seq.), any debtor injured by a violation of P.L.1979, c.16 (C.17:16G-1 et seq.) may bring a civil action for recovery of damages.

C.17:16G-9 Responsibilities of licensee acting as debt adjuster.

3. Every licensee acting as a debt adjuster shall:

a. disburse to the appropriate creditors all funds received from a debtor, less any fees

permitted by section 6 of P.L.1979, c.16 (C.17:16G-6), within 10 days of receipt of those funds;

b. maintain a separate trust account in a qualified bank as defined in paragraph (12) of section 1 of P.L.1948, c.67 (C.17:9A-1), in the name of the debt adjuster for the benefit of the debtors serviced by the debt adjuster; and

c. maintain an appropriate ledger book for the trust account required by subsection b. of this section, having at least one single page for each debtor, with appropriate entries of all deposits into and disbursements from each debtor's account, including copies of all records showing disbursements to creditors and receipts from debtors, which ledger book and records shall be maintained in accordance with generally accepted accounting principles for not less than six years following the close of each debtor's account.

4. This act shall take effect on the 90th day after the date of enactment

Approved January 9, 2006.