

CHAPTER 173

AN ACT concerning certain debt adjustment activities, and amending P.L.1979, c.16 and N.J.S.2C:21-19.

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

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

C.17:16G-1 Definitions.

1. As used in this act:

- a. "Nonprofit social service agency" or "nonprofit consumer credit counseling agency" means any corporation duly organized under Title 15 of the Revised Statutes or Title 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 this act, and which is engaged in debt adjustment.

- b. "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.

- c. (1) "Debt adjuster" means a person who either (a) acts or offers 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 (b) who, to that end, receives money or other property from the debtor, or on behalf of the debtor, for payment to, or distribution among, the creditors of the debtor.

- (2) The following persons shall not be deemed debt adjusters: (a) an attorney-at-law of this State who is not principally engaged as a debt adjuster; (b) a person who is a regular, full-time employee of a debtor, and who acts as an adjuster of his employer's debts; (c) a person acting pursuant to any order or judgment of court, or pursuant to authority conferred by any law of this State or the United States; (d) a person who 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; (e) 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; or (f) a person who is: (i) certified by the United States Secretary of Housing and Urban Development as a housing counseling organization or agency pursuant to section 106 of Pub.L.90-448 (12 U.S.C. s.1701x); (ii) participating in a counseling program approved by the New Jersey Housing and Mortgage Finance Agency; and (iii) not holding or disbursing the debtor's funds.

- d. "Debtor" means an individual or two or more individuals who are jointly and severally, or jointly or severally indebted.

2. N.J.S.2C:21-19 is amended to read as follows:

Wrongful credit practices and related offenses.

2C:21-19. Wrongful Credit Practices and Related Offenses.

- a. Criminal usury. A person is guilty of criminal usury when not being authorized or permitted by law to do so, he:

- (1) Loans or agrees to loan, directly or indirectly, any money or other property at a rate exceeding the maximum rate permitted by law; or

(2) Takes, agrees to take, or receives any money or other property as interest on the loan or on the forbearance of any money or other interest in excess of the maximum rate permitted by law.

For the purposes of this section and notwithstanding any law of this State which permits as a maximum interest rate a rate or rates agreed to by the parties of the transaction, any loan or forbearance with an interest rate which exceeds 30% per annum shall not be a rate authorized or permitted by law, except if the loan or forbearance is made to a corporation, limited liability company or limited liability partnership any rate not in excess of 50% per annum shall be a rate authorized or permitted by law.

Criminal usury is a crime of the second degree if the rate of interest on any loan made to any person exceeds 50% per annum or the equivalent rate for a longer or shorter period. It is a crime of the third degree if the interest rate on any loan made to any person except a corporation, limited liability company or limited liability partnership does not exceed 50% per annum but the amount of the loan or forbearance exceeds \$1,000.00. Otherwise, making a loan to any person in violation of subsections a.(1) and a.(2) of this section is a disorderly persons offense.

b. Business of criminal usury. Any person who knowingly engages in the business of making loans or forbearances in violation of subsection a. of this section is guilty of a crime of the second degree and, notwithstanding the provisions of N.J.S. 2C:43-3, shall be subject to a fine of not more than \$250,000.00 and any other appropriate disposition authorized by N.J.S. 2C:43-2b.

c. Possession of usurious loan records. A person is guilty of a crime of the third degree when, with knowledge of the nature thereof, he possesses any writing, paper instrument or article used to record criminally usurious transactions prohibited by subsection a. of this section.

d. Unlawful collection practices. A person is guilty of a disorderly persons offense when, with purpose to enforce a claim or judgment for money or property, he sends, mails or delivers to another person a notice, document or other instrument which has no judicial or official sanction and which in its format or appearance simulates a summons, complaint, court order or process or an insignia, seal or printed form of a federal, State or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that such notice, document or instrument has a judicial or official sanction.

e. Making a false statement of credit terms. A person is guilty of a disorderly persons offense when he understates or fails to state the interest rate, or makes a false or inaccurate or incomplete statement of any other credit terms.

f. Debt adjusters. Any person who shall act or offer to act as a debt adjuster without a license as required by P.L.1979, c.16 (C.17:16G-1 et seq.), unless exempt from licensure pursuant to that act, shall be guilty of a crime of the fourth degree.

3. This act shall take effect immediately.

Approved January 11, 2010.