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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

IS 1/3/08

P.L. 2005, CHAPTER 287, *approved January 9, 2006*
Senate, No. 1722 (*Second Reprint*)

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

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 5 of P.L.1979, c.16 (C.17:16G-5) is amended to read as
8 follows:

9 5. ¹a.¹ Any nonprofit social service agency or nonprofit consumer
10 credit counseling agency licensed under this act shall be bonded to the
11 satisfaction of the commissioner ¹[and] for each location pursuant to
12 regulation. In setting the bonding requirements for each location, the
13 commissioner shall consider the number of debtors provided credit
14 counseling and debt adjustment services at that location, and the
15 balance of funds in the trust account required to be maintained
16 pursuant to section 3 of P.L. , c. (C.)(now before the
17 Legislature as this bill).

18 b. Each licensee shall file with the commissioner on or before
19 April 1 of each year a copy of its annual report, containing the
20 information required by the commissioner by regulation pursuant to
21 P.L.1979, c.16 (C.17:16G-1 et seq.) and section 3 of P.L. , c.
22 (C.) (now before the Legislature as this bill) accompanied by a fee
23 in an amount set by the commissioner by regulation.

24 c. Each licensee¹ shall have its financial records relating to debt
25 adjustment audited annually by a certified public accountant or a
26 registered public accountant, which audit shall be filed with the
27 commissioner. Such an audit shall certify that the salaries and
28 expenses paid by the licensee are reasonable compared to those
29 incurred by comparable organizations providing similar services.

30 ¹d.¹ After reviewing the annual ¹report and¹ audit, the
31 Commissioner of Banking **and Insurance** may cause an examination of
32 the [social service agency or consumer credit counseling agency]
33 licensee to be made, the actual expenses of such an examination shall
34 be paid by the [social service agency or consumer credit counseling
35 agency;] licensee, and the commissioner may maintain any action
36 against any [such agency] licensee to recover the fees and expenses
37 herein provided for.

38 ¹e.¹ The licensee shall make a copy of the annual ¹report and¹ audit

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted February 7, 2005.

² Assembly AFI committee amendments adopted June 9, 2005.

1 available for public inspection at each of the licensee's locations.
2 (cf: P.L.1979, c.16, s.5)

3
4 2. Section 8 of P.L.1979, c.16 (C.17:16G-8) is amended to read as
5 follows:

6 8. Any person who violates any provisions of this act shall be
7 subject to a penalty of [~~\$500.00~~] \$1,000 for the first offense and not
8 more than \$5,000 for the second and each subsequent offense to be
9 collected by and in the name of the commissioner in a summary
10 proceeding under ["the penalty enforcement law," N.J.S.2A:58-1 et
11 seq.] the "Penalty Enforcement Law of 1999," P.L.1999, c.274
12 (C.2A:58-10 et seq.).

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

26 (cf: P.L.1986, c.184, s.5)

27

28 3. (New section) Every licensee acting as a debt adjuster shall:

29 a. disburse to the appropriate creditors all funds received from a
30 debtor, less any fees permitted by section 6 of P.L.1979, c.16
31 (C.17:16G-6), within ¹[~~30~~] 10¹ days of receipt of those funds;
32 ¹[and]¹

33 b. maintain a separate trust account ¹[for each debtor for the
34 receipt of funds from that debtor and the disbursement of funds on
35 behalf of that debtor] in²[~~the trust department of~~]² a qualified bank
36 as defined in paragraph (12) of section 1 of P.L.1948, c.67 (C.17:9A-
37 1), in the name of the debt adjuster for the benefit of the debtors
38 serviced by the debt adjuster; and

39 c. maintain an appropriate ledger book for the trust account
40 required by subsection b. of this section, having at least one single
41 page for each debtor, with appropriate entries of all deposits into and
42 disbursements from each debtor's account, including copies of all
43 records showing disbursements to creditors and receipts from debtors,
44 which ledger book and records shall be maintained in accordance with
45 generally accepted accounting principles for not less than six years
46 following the close of each debtor's account¹.

1 4. This act shall take effect ¹**[immediately]** on the 90th day after
2 the date of enactment¹.

3

4

5

6

7 Establishes additional requirements for licensed debt adjusters;
8 increases penalties for licensing law violations.

SENATE, No. 1722

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JUNE 21, 2004

Sponsored by:
Senator JOSEPH CONIGLIO
District 38 (Bergen)

SYNOPSIS

Establishes additional requirements for licensed debt adjusters; increases penalties for licensing law violations.

CURRENT VERSION OF TEXT

As introduced.



S1722 CONIGLIO

2

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

3

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

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

9 5. Any nonprofit social service agency or nonprofit consumer
10 credit counseling agency licensed under this act shall be bonded to the
11 satisfaction of the commissioner and shall have its financial records
12 relating to debt adjustment audited annually by a certified public
13 accountant or a registered public accountant, which audit shall be filed
14 with the commissioner. Such an audit shall certify that the salaries and
15 expenses paid by the licensee are reasonable compared to those
16 incurred by comparable organizations providing similar services. After
17 reviewing the annual audit, the Commissioner of Banking and
18 Insurance may cause an examination of the [social service agency or
19 consumer credit counseling agency] licensee to be made, the actual
20 expenses of such an examination shall be paid by the [social service
21 agency or consumer credit counseling agency;] licensee, and the
22 commissioner may maintain any action against any [such agency]
23 licensee to recover the fees and expenses herein provided for. The
24 licensee shall make a copy of the annual audit available for public
25 inspection at each of the licensee's locations.

26 (cf: P.L.1979, c.16, s.5)

27

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

30 8. Any person who violates any provisions of this act shall be
31 subject to a penalty of [~~\$500.00~~] \$1,000 for the first offense and not
32 more than \$5,000 for the second and each subsequent offense to be
33 collected by and in the name of the commissioner in a summary
34 proceeding under ["the penalty enforcement law," N.J.S.2A:58-1 et
35 seq.] the "Penalty Enforcement Law of 1999," P.L.1999, c.274
36 (C.2A:58-10 et seq.).

37 If the commissioner has reason to believe that any person or
38 licensee has engaged in or is engaging in any practice or transaction
39 prohibited by P.L.1979, c.16 (C.17:16G-1 et seq.), the commissioner
40 may, in addition to any remedies available, bring a summary action in
41 the name of and on behalf of the State against the person or licensee
42 and any other person concerned or in any way participating in or about

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 to participate in those practices or transactions, to enjoin the person
2 or licensee from continuing those practices or engaging in or doing any
3 act in furtherance of those practices or in violation of that act. In
4 addition to any other remedies or penalties available for a violation of
5 P.L.1979, c.16 (C.17:16G-1 et seq.), any debtor injured by a violation
6 of P.L.1979, c.16 (C.17:16G-1 et seq.) may bring a civil action for
7 recovery of damages.

8 (cf: P.L.1986, c.184, s.5)

9

10 3. (New section) Every licensee acting as a debt adjuster shall:

11 a. disburse to the appropriate creditors all funds received from a
12 debtor, less any fees permitted by section 6 of P.L.1979, c.16
13 (C.17:16G-6), within 30 days of receipt of those funds; and

14 b. maintain a separate trust account for each debtor for the receipt
15 of funds from that debtor and the disbursement of funds on behalf of
16 that debtor.

17

18 4. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 This bill is intended to increase consumer protection for debtors, by
24 amending and supplementing P.L.1979, c.16 (C.17:16G-1 et seq.),
25 which is commonly known as the debt adjuster act. This act permits
26 nonprofit social services agencies and nonprofit consumer credit
27 counseling agencies to be licensed by the Department of Banking and
28 Insurance to provide debt adjustment and credit counseling services.

29 The bill provides that a copy of the annual audit currently required
30 to be filed with the Commissioner of Banking and Insurance must be
31 available for public inspection at each of the licensee's locations. The
32 bill requires every licensee acting as a debt adjuster to disburse to the
33 appropriate creditors all funds received from a debtor, less any
34 permissible fees, within 30 days of receipt of the funds. The bill also
35 requires the licensee to maintain a separate trust account for the
36 receipt and disbursement of funds on behalf of each debtor.

37 Further, the bill increases the current penalty of \$500 for any
38 violation of the debt adjuster act, to \$1,000 for the first offense and
39 not more than \$5,000 for the second and each subsequent offense.
40 Finally, the bill clarifies that a debtor injured by a violation of the act
41 may bring a civil action for recovery of damages, in addition to any
42 other available remedy.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1722

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 9, 2005

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Senate Bill No. 1722 (1R).

This bill is intended to increase consumer protection for debtors by amending and supplementing P.L.1979, c.16 (C.17:16G-1 et seq.), which is commonly known as the debt adjuster act. The act permits nonprofit social services agencies and nonprofit consumer credit counseling agencies to be licensed by the Department of Banking and Insurance to provide debt adjustment and credit counseling services.

As amended, the bill requires every licensee acting as a debt adjuster to disburse to the appropriate creditors all funds received from a debtor, less any permissible fees, within 10 days of receipt of the funds. The bill also requires the licensee to maintain a separate trust account in a qualified bank, in the name of the debt adjuster, for the benefit of the debtors serviced by the debt adjuster. It also requires the licensee to maintain an appropriate ledger book for the trust account, 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. The 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.

The bill revises the bonding requirement in the law to make it more specific to the size and book of business of each location of a debt adjuster. It also requires licensees to submit a copy of their annual report to the Commissioner of Banking and Insurance and provides that a copy of the annual report and the annual audit currently required to be filed with the commissioner must be available for public inspection at each of the licensee's locations.

Further, the bill increases the current penalty of \$500, for any

violation of the debt adjuster act, to \$1,000 for the first offense and not more than \$5,000 for the second and each subsequent offense. Finally, the bill clarifies that a debtor injured by a violation of the act may bring a civil action for recovery of damages, in addition to any other available remedy.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that:

(1) The requirement that debtor client funds be deposited "*in the trust department*" of an FDIC insured bank is eliminated. Such funds would still be required to be deposited in an FDIC insured bank, but the proposed change would remove potentially expensive and overburdensome administrative considerations for a bank holding and disbursing the funds.

(2) The bill, as amended, is identical to its Assembly counterpart, Assembly Bill No. 4133(1R).

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1722

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2005

The Senate Commerce Committee reports favorably, and with committee amendments, Senate Bill No. 1722.

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1722. As amended, this bill is intended to increase consumer protection for debtors by amending and supplementing P.L.1979, c.16 (C.17:16G-1 et seq.), which is commonly known as the debt adjuster act. This act permits nonprofit social services agencies and nonprofit consumer credit counseling agencies to be licensed by the Department of Banking and Insurance to provide debt adjustment and credit counseling services.

As amended, the bill requires every licensee acting as a debt adjuster to disburse to the appropriate creditors all funds received from a debtor, less any permissible fees, within 10 days of receipt of the funds. The bill also requires the licensee to maintain a separate trust account in the trust department of a qualified bank in the name of the debt adjuster for the benefit of the debtors serviced by the debt adjuster. It also requires the licensee to maintain an appropriate ledger book for the trust account, 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. The 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.

The bill revises the bonding requirement in the law to make it more specific to the size and book of business of each location of a debt adjuster. It also requires licensees to submit a copy of their annual report to the Commissioner of Banking and Insurance and provides that a copy of the annual report and the annual audit currently required to be filed with the commissioner must be available for public inspection at each of the licensee's locations.

Further, the bill increases the current penalty of \$500 for any violation of the debt adjuster act, to \$1,000 for the first offense and not more than \$5,000 for the second and each subsequent offense.

Finally, the bill clarifies that a debtor injured by a violation of the act may bring a civil action for recovery of damages, in addition to any other available remedy.

The committee amended the bill to:

- a. revise the bonding requirement in the law to make it more specific to the size and book of business of each location of a debt adjuster;
- b. require licensees to submit a copy of their annual report to the Commissioner of Banking and Insurance and authorizes the commissioner to assess a fee therefor;
- c. decrease the number of days from 30 to 10, within which the debt adjuster must disburse funds to creditors.
- d. specify that the required trust account be maintained in the trust department of a qualified bank and clarify that the debt adjuster need not maintain a separate trust account for each debtor serviced;
- e. require the debt adjuster to maintain an appropriate ledger book with a separate page for each debtor, and require that all books and records be maintained in accordance with generally accepted accounting principles, for a period of not less than six years after the close of the debtor's account; and
- f. extend the bill's effective date by 90 days.

FISCAL NOTE
[Second Reprint]
SENATE, No. 1722
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: NOVEMBER 4, 2005

SUMMARY

Synopsis: Establishes additional requirements for licensed debt adjusters; increases penalties for licensing law violations.

Type of Impact: No State cost

Agencies Affected: Department of Banking and Insurance

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$0	\$0	\$0

- ! The Office of Legislative Services **concurs** with the Executive estimate.
- ! The bill amends and supplements P.L.1979, c.16 (C.17:16G-1 et seq.), which is commonly known as the debt adjuster act.
- ! The bill requires every licensee acting as a debt adjuster to disburse to the appropriate creditors all funds received from a debtor, less any permissible fees, within 10 days of receipt of the funds.
- ! The bill revises the bonding requirement in the law to make it more specific to the size and book of business of each location of a debt adjuster. The bill also requires licensees to submit a copy of their annual report to the Commissioner of Banking and Insurance.
- ! The Department of Banking and Insurance estimates that any additional costs will be insignificant. The department indicates that they expect to receive a small number of additional annual reports to review as a result of the bill and will verify bonding compliance on an equally small amount of entities. As a result, the department does not anticipate that the additional oversight will require additional staff or financial resources.

BILL DESCRIPTION

Senate Bill No. 1722 (2R) of 2004 amends and supplements P.L.1979, c.16 (C.17:16G-1 et seq.), which is commonly known as the debt adjuster act. The act permits nonprofit social services agencies and nonprofit consumer credit counseling agencies to be licensed by the

Department of Banking and Insurance to provide debt adjustment and credit counseling services. The bill requires every licensee acting as a debt adjuster to disburse to the appropriate creditors all funds received from a debtor, less any permissible fees, within 10 days of receipt of the funds. The bill also requires the licensee to maintain a separate trust account in a qualified bank, in the name of the debt adjuster. It also requires the licensee to maintain an appropriate ledger book for the trust account.

The bill revises the bonding requirement in the law to make it more specific to the size and book of business of each location of a debt adjuster. It also requires licensees to submit a copy of their annual report to the Commissioner of Banking and Insurance and provides that a copy of the annual report and the annual audit currently required to be filed with the commissioner must be available for public inspection at each of the licensee's locations.

The bill increases the current penalty of \$500, for any violation of the debt adjuster act, to \$1,000 for the first offense and not more than \$5,000 for the second and each subsequent offense.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Banking and Insurance estimates that any additional costs will be insignificant. The department indicates that they expect to receive a small number of additional annual reports to review as a result of the bill and will verify bonding compliance on an equally small amount of entities. As a result, the department does not anticipate that the increased oversight will require additional staff or financial resources.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: *Commerce, Labor and Industry*

Analyst: *Sonya S. Davis*
Associate Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 4133

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 19, 2005

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

Assemblywoman Quigley, Assemblymen Prieto and Manzo

SYNOPSIS

Establishes additional requirements for licensed debt adjusters; increases penalties for licensing law violations.

CURRENT VERSION OF TEXT

As introduced.



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

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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

9 5. a. Any nonprofit social service agency or nonprofit consumer
10 credit counseling agency licensed under this act shall be bonded to the
11 satisfaction of the commissioner **[and]** for each location pursuant to
12 regulation. In setting the bonding requirements for each location, the
13 commissioner shall consider the number of debtors provided credit
14 counseling and debt adjustment services at that location, and the
15 balance of funds in the trust account required to be maintained
16 pursuant to section 3 of P.L. , c. (C.)(now before the
17 Legislature as this bill).

18 b. Each licensee shall file with the commissioner on or before April
19 1 of each year a copy of its annual report, containing the information
20 required by the commissioner by regulation pursuant to P.L.1979, c.16
21 (C.17:16G-1 et seq.) and section 3 of P.L. , c. (C.) (now
22 before the Legislature as this bill) accompanied by a fee in an amount
23 set by the commissioner by regulation.

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

30 d. After reviewing the annual report and audit, the Commissioner
31 of Banking and Insurance may cause an examination of the **[social**
32 **service agency or consumer credit counseling agency]** licensee to be
33 made, the actual expenses of such an examination shall be paid by the
34 **[social service agency or consumer credit counseling agency;]**
35 licensee, and the commissioner may maintain any action against any
36 **[such agency]** licensee to recover the fees and expenses herein
37 provided for.

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

40 (cf: P.L.1979, c.16, s.5)

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

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

3 8. Any person who violates any provisions of this act shall be
4 subject to a penalty of [~~\$500.00~~] \$1,000 for the first offense and not
5 more than \$5,000 for the second and each subsequent offense to be
6 collected by and in the name of the commissioner in a summary
7 proceeding under ["the penalty enforcement law," N.J.S.2A:58-1 et
8 seq.] the "Penalty Enforcement Law of 1999," P.L.1999, c.274
9 (C.2A:58-10 et seq.).

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

23 (cf: P.L.1986, c.184, s.5)

24

25 3. (New section) Every licensee acting as a debt adjuster shall:

26 a. disburse to the appropriate creditors all funds received from a
27 debtor, less any fees permitted by section 6 of P.L.1979, c.16
28 (C.17:16G-6), within 10 days of receipt of those funds;

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

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

41

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

1 STATEMENT

2

3 This bill is intended to increase consumer protection for debtors by
4 amending and supplementing P.L.1979, c.16 (C.17:16G-1 et seq.),
5 which is commonly known as the debt adjuster act. This act permits
6 nonprofit social services agencies and nonprofit consumer credit
7 counseling agencies to be licensed by the Department of Banking and
8 Insurance to provide debt adjustment and credit counseling services.

9 The bill requires every licensee acting as a debt adjuster to disburse
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11 permissible fees, within 10 days of receipt of the funds. The bill also
12 requires the licensee to maintain a separate trust account in the trust
13 department of a qualified bank in the name of the debt adjuster for the
14 benefit of the debtors serviced by the debt adjuster. It also requires
15 the licensee to maintain an appropriate ledger book for the trust
16 account, having at least one single page for each debtor, with
17 appropriate entries of all deposits into and disbursements from each
18 debtor's account, including copies of all records showing
19 disbursements to creditors and receipts from debtors. The ledger book
20 and records shall be maintained in accordance with generally accepted
21 accounting principles for not less than six years following the close of
22 each debtor's account.

23 The bill revises the bonding requirement in the law to make it more
24 specific to the size and book of business of each location of a debt
25 adjuster. It also requires licensees to submit a copy of their annual
26 report to the Commissioner of Banking and Insurance and provides
27 that a copy of the annual report and the annual audit currently required
28 to be filed with the commissioner must be available for public
29 inspection at each of the licensee's locations.

30 Further, the bill increases the current penalty of \$500 for any
31 violation of the debt adjuster act, to \$1,000 for the first offense and
32 not more than \$5,000 for the second and each subsequent offense.
33 Finally, the bill clarifies that a debtor injured by a violation of the act
34 may bring a civil action for recovery of damages, in addition to any
35 other available remedy.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4133

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 9, 2005

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 4133.

This bill is intended to increase consumer protection for debtors by amending and supplementing P.L.1979, c.16 (C.17:16G-1 et seq.), which is commonly known as the debt adjuster act. The act permits nonprofit social services agencies and nonprofit consumer credit counseling agencies to be licensed by the Department of Banking and Insurance to provide debt adjustment and credit counseling services.

As amended, the bill requires every licensee acting as a debt adjuster to disburse to the appropriate creditors all funds received from a debtor, less any permissible fees, within 10 days of receipt of the funds. The bill also requires the licensee to maintain a separate trust account in a qualified bank, in the name of the debt adjuster, for the benefit of the debtors serviced by the debt adjuster. It also requires the licensee to maintain an appropriate ledger book for the trust account, 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. The 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.

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Further, the bill increases the current penalty of \$500, for any violation of the debt adjuster act, to \$1,000 for the first offense and not more than \$5,000 for the second and each subsequent offense.

Finally, the bill clarifies that a debtor injured by a violation of the act may bring a civil action for recovery of damages, in addition to any other available remedy.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that:

(1) The requirement that debtor client funds be deposited "*in the trust department*" of an FDIC insured bank is eliminated. Such funds would still be required to be deposited in an FDIC insured bank, but the proposed change would remove potentially expensive and overburdensome administrative considerations for a bank holding and disbursing the funds.

(2) The bill, as amended, is identical to its Senate counterpart, Senate Bill No. 1722(2R).

FISCAL NOTE
[First Reprint]
ASSEMBLY, No. 4133
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: NOVEMBER 4, 2005

SUMMARY

Synopsis: Establishes additional requirements for licensed debt adjusters; increases penalties for licensing law violations.

Type of Impact: No State cost

Agencies Affected: Department of Banking and Insurance

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$0	\$0	\$0

- ! The Office of Legislative Services **concurs** with the Executive estimate.
- ! The bill amends and supplements P.L.1979, c.16 (C.17:16G-1 et seq.), which is commonly known as the debt adjuster act.
- ! The bill requires every licensee acting as a debt adjuster to disburse to the appropriate creditors all funds received from a debtor, less any permissible fees, within 10 days of receipt of the funds.
- ! The bill revises the bonding requirement in the law to make it more specific to the size and book of business of each location of a debt adjuster. The bill also requires licensees to submit a copy of their annual report to the Commissioner of Banking and Insurance.
- ! The Department of Banking and Insurance estimates that any additional costs will be insignificant. The department indicates that they expect to receive a small number of additional annual reports to review as a result of the bill and will verify bonding compliance on an equally small amount of entities. As a result, the department does not anticipate that the additional oversight will require additional staff or financial resources.

BILL DESCRIPTION

Assembly Bill No. 4133 (1R) of 2005 amends and supplements P.L.1979, c.16 (C.17:16G-1 et seq.), which is commonly known as the debt adjuster act. The act permits nonprofit social

services agencies and nonprofit consumer credit counseling agencies to be licensed by the Department of Banking and Insurance to provide debt adjustment and credit counseling services. The bill requires every licensee acting as a debt adjuster to disburse to the appropriate creditors all funds received from a debtor, less any permissible fees, within 10 days of receipt of the funds. The bill also requires the licensee to maintain a separate trust account in a qualified bank, in the name of the debt adjuster. It also requires the licensee to maintain an appropriate ledger book for the trust account.

The bill revises the bonding requirement in the law to make it more specific to the size and book of business of each location of a debt adjuster. It also requires licensees to submit a copy of their annual report to the Commissioner of Banking and Insurance and provides that a copy of the annual report and the annual audit currently required to be filed with the commissioner must be available for public inspection at each of the licensee's locations.

The bill increases the current penalty of \$500, for any violation of the debt adjuster act, to \$1,000 for the first offense and not more than \$5,000 for the second and each subsequent offense.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Banking and Insurance estimates that any additional costs will be insignificant. The department indicates that they expect to receive a small number of additional annual reports to review as a result of the bill and will verify bonding compliance on an equally small amount of entities. As a result, the department does not anticipate that the increased oversight will require additional staff or financial resources.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: *Commerce, Labor and Industry*
Analyst: *Sonya S. Davis*
Associate Fiscal Analyst
Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.