

[Second Reprint]

SENATE, No. 1310

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

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District 19 (Middlesex)

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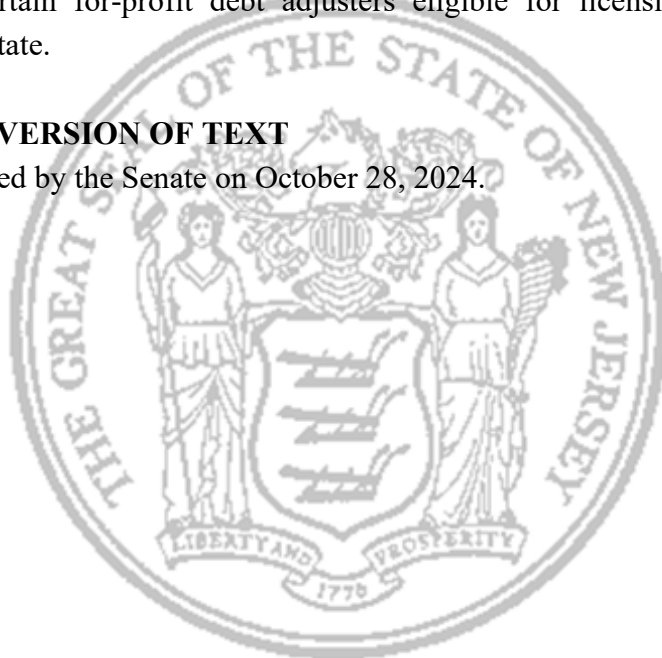
Senators McKnight, Cruz-Perez, Burgess and Greenstein

SYNOPSIS

Makes certain for-profit debt adjusters eligible for licensing to conduct business in State.

CURRENT VERSION OF TEXT

As amended by the Senate on October 28, 2024.



(Sponsorship Updated As Of: 1/12/2026)

1 AN ACT concerning the licensing of debt adjusters and amending
2 ¹and supplementing¹ 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 1 of P.L.1979, c.16 (C.17:16G-1) is amended to read
8 as follows:

9 1. As used in this act:

10 a. "Nonprofit social service agency" or "nonprofit consumer
11 credit counseling agency" means any corporation duly organized
12 under Title 15 of the Revised Statutes or Title 15A of the New
13 Jersey Statutes, no part of the assets, income or profit of which is
14 distributable to, or enures to the benefit of its members, directors or
15 officers, except to the extent permitted under this act, and which is
16 engaged in debt adjustment.

17 b. "Credit counseling" means any guidance or educational
18 program or advice offered by a nonprofit social service agency or
19 nonprofit consumer credit counseling agency for the purpose of
20 fostering the responsible use of credit and debt management.

21 c. (1) "Debt adjuster" means a person who either (a) acts or
22 offers to act for a consideration as an intermediary between a debtor
23 and his creditors for the purpose of settling, compounding, or
24 otherwise altering the terms of payment of any debts of the debtor,
25 or (b) who, to that end, receives money or other property from the
26 debtor, or on behalf of the debtor, for payment to, or distribution
27 among, the creditors of the debtor.

28 (2) The following persons shall not be deemed debt adjusters:

29 (a) **[an attorney-at-law of this State who is not principally engaged**
30 **as a debt adjuster]** any person engaged in the practice of law; (b) a
31 person who is a regular, full-time employee of a debtor, and who
32 acts as an adjuster of his employer's debts; (c) a person acting
33 pursuant to any order or judgment of court, or pursuant to authority
34 conferred by any law of this State or the United States; (d) a person
35 who is a creditor of the debtor, or an agent of one or more creditors
36 of the debtor, and whose services in adjusting the debtor's debts are
37 rendered without cost to the debtor; (e) a person who, at the request
38 of a debtor, arranges for or makes a loan to the debtor, and who, at
39 the authorization of the debtor, acts as an adjuster of the debtor's
40 debts in the disbursement of the proceeds of the loan, without
41 compensation for the services rendered in adjusting those debts; or
42 (f) a person who is: (i) certified by the United States Secretary of
43 Housing and Urban Development as a housing counseling

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is 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 June 10, 2024.**

²**Senate floor amendments adopted October 28, 2024.**

1 organization or agency pursuant to section 106 of Pub.L.90-448 (12
2 U.S.C. s.1701x); (ii) participating in a counseling program
3 approved by the New Jersey Housing and Mortgage Finance
4 Agency; and (iii) not holding
5 or disbursing the debtor's funds.

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

8 e. "For-profit debt adjuster" means a person or entity that
9 conducts some or all of the activities described in paragraph (1) of
10 subsection c. of this section but: (1) does not receive or hold,
11 actually or constructively, consumer funds; and (2) is subject to the
12 provisions of 16 C.F.R. 310.4, or any successor federal law or
13 regulation.

14 (cf: P.L.2009, c.173, s.1)

15

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

18 2. a. No person other than a nonprofit social service agency
19 **[or]**, a nonprofit consumer credit counseling agency, or a for-profit
20 debt adjuster shall act as a debt adjuster.

21 b. It shall be unlawful for any nonprofit social service agency
22 **[or]**, nonprofit consumer credit counseling agency, or for-profit
23 debt adjuster to act as a debt adjuster without first obtaining a
24 license from the Commissioner of the Department of Banking
25 pursuant to this act.

26 c. A licensee is authorized to offer credit counseling.

27 (cf: P.L.1986, c.184, s.2)

28

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

31 5. a. Any nonprofit social service agency or nonprofit consumer
32 credit counseling agency licensed under this act shall be bonded to the
33 satisfaction of the commissioner for each location pursuant to
34 regulation. In setting the bonding requirements for each location, the
35 commissioner shall consider the number of debtors provided credit
36 counseling and debt adjustment services at that location, and the
37 balance of funds in the trust account required to be maintained
38 pursuant to section 3 of P.L.2005, c.287 (C.17:16G-9). A for-profit
39 debt adjuster shall not be subject to requirements of this subsection.

40 b. The commissioner may require a licensee to file an annual
41 report containing that information required by the commissioner by
42 regulation concerning activities conducted as a licensee in the
43 preceding calendar year. The report shall be submitted under oath and
44 in the form and within the time specified by the commissioner by
45 regulation. ²The report shall include the total number of active
46 consumers in the State, the total number of enrolled consumers in the
47 State, the total fees collected in the State, and the total amount of debt
48 settled in the State. A licensee that fails to file a report in accordance

1 with this subsection shall be subject to the penalties for failure to make
2 and file the report pursuant to subsection d. of this section.²

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

10 d. Each licensee shall file with the commissioner on or before
11 April 1 of each year a copy of its annual report, containing the
12 information required by the commissioner by regulation pursuant to
13 P.L.1979, c.16 (C.17:16G-1 et seq.) and section 3 of P.L.2005, c.287
14 (C.17:16G-9). A licensee or high-cost home loan counselor that fails to
15 make and file its annual report in the form and within the time
16 provided in this section shall be subject to a penalty of not more than
17 \$100 for each day's failure, and the commissioner may revoke or
18 suspend its authority to do business in this State. The penalty may be
19 collected in a summary proceeding pursuant to the "Penalty
20 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). A
21 warrant may issue in lieu of a summons.

22 e. Each licensee shall have its financial records relating to debt
23 adjustment audited annually by a certified public accountant or a
24 public accountant, which audit shall be filed with the commissioner.
25 Such an audit shall certify that the salaries and expenses paid by the
26 licensee are reasonable compared to those incurred by comparable
27 organizations providing similar, except that a for-profit debt adjuster
28 shall not be required to provide this certification.

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

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

36 (cf: P.L.2007, c.81, s.25)

37

38 4. Section 6 of P.L.1979, c.16 (C.17:16G-6) is amended to read as
39 follows:

40 6. a. A licensee may charge a fee to cover the cost of providing
41 debt adjustment and credit counseling.

42 b. The fee for debt adjustment for a nonprofit social service
43 agency and a nonprofit consumer credit counseling agency shall not
44 exceed 1% of the gross monthly income of the person to whom the
45 service is rendered, but in no case more than \$15.00 in any one month,
46 except as may be otherwise provided by rule or regulation
47 promulgated by the commissioner. This fee may be waived in the
48 discretion of the licensee.

1 c. The commissioner is authorized to establish the maximum fee
2 that may be charged by a nonprofit social service agency and a
3 nonprofit consumer credit counseling agency for credit counseling.

4 d. The commissioner is authorized to establish maximum fees that
5 may be charged by for-profit debt adjusters for debt adjustment and
6 credit counseling^{2, 2}.

7 (cf: P.L.1986, c.184, s.4)

8
9 ¹5. (New section) Every for-profit debt adjuster licensee shall, at
10 the time an agreement is executed by a debtor, or as shortly thereafter
11 as practical, distribute or otherwise make available to the debtor, in
12 paper form or by electronic means if the debtor so agrees, a copy of
13 the executed agreement. The agreement shall disclose:

14 a. the services that the licensee will perform;

15 b. the methodology that the licensee will use to calculate fees to
16 be charged for debt adjusting services and, if reasonably available at
17 the time the agreement is executed, the fees that the licensee will
18 charge;

19 c. the amount of time, estimated in good faith, to achieve the
20 resolution of all enrolled debts;

21 d. to the extent that the debt adjusting service may include a
22 resolution offer to any of the debtor's creditors:

23 (1) the amount of money or the percentage of each outstanding
24 debt that the debtor needs to accumulate before the licensee will make
25 a bona fide resolution offer to each of the creditors; and

26 (2) the date, estimated in good faith, when the licensee will make a
27 bona fide resolution offer to each of the creditors;

28 e. that debt adjusting may not be suitable for all individuals;

29 f. to the extent that any aspect of the debt adjusting service relies
30 upon or results in the debtor's failure to make timely payments to
31 creditors, that the failure to pay one's debts will likely adversely affect
32 the debtor's creditworthiness, may result in the debtor being subject to
33 collections efforts, including lawsuits by creditors, and may increase
34 the amount of money the debtor owes due to the accrual of fees and
35 interest;

36 g. that, unless the debtor is insolvent, if a creditor resolves a debt
37 for less than its full amount, the resolution may result in the creation of
38 taxable income to the debtor, even though the debtor does not receive
39 any money;

40 h. that specific results cannot be predicted or guaranteed and the
41 licensee cannot require a creditor to negotiate or resolve a debt;

42 i. that debt adjusting programs require that individuals meet
43 regular savings goals in order to enable resolutions;

44 j. that the licensee:

45 (1) does not provide tax, accounting, or legal advice to individuals,
46 unless the licensee is licensed to provide that advice;

1 (2) is the debtor's advocate and does not receive compensation of
2 any sort from creditors for providing debt adjusting services to the
3 debtor; and

4 (3) does not make monthly or other payments to the debtor's
5 creditors; and

6 k. the list of debts covered by the agreement.¹

7
8 ¹**[5.] 6.¹** (New section) The provisions of P.L.1979, c.16
9 (C.17:16G-1 et seq.) that are applicable to for-profit debt adjusters
10 are only applicable to the extent that they are not in conflict with
11 the provisions of 16 C.F.R. 310.4 or any successor federal law or
12 regulation.

13
14 ¹**[6.] 7.¹** This act shall take effect ²**[immediately]** on the 180th
15 day after the date of enactment².