

2011 SESSION

SENATE SUBSTITUTE

11104091D

SENATE BILL NO. 930

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on January 17, 2011)

(Patron Prior to Substitute—Senator McDougle)

A *BILL to amend and reenact § 6.2-2000 of the Code of Virginia, relating to debt management plans; exemption.*

Be it enacted by the General Assembly of Virginia:

1. That § 6.2-2000 of the Code of Virginia is amended and reenacted as follows:

§ 6.2-2000. (Effective October 1, 2010) Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means any person that provides or offers to provide debt management plans for consumers.

"Consumer" means an individual residing in the Commonwealth who owes money to one or more creditors, for personal, family, or household purposes, including an individual who owes money jointly with one or more other individuals.

"Credit counselor" means an employee or agent of an agency who designs a debt management plan, provides consumer budget and basic financial planning services, or engages in debt settlement or debt pooling and distribution services on a consumer's behalf. *"Credit counselor" does not include licensed certified public accountants or licensed certified public accounting firms engaging in usual and customary services performed on behalf of clients.*

"Creditor" or "credit-granting organization" does not include (i) doctors, lawyers, or other professionals who receive payment for their services in installments or (ii) persons whose only participation in a credit transaction is to honor a credit card.

"Debt collector" means a person defined as a debt collector under 15 U.S.C. § 1692a of the federal Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.).

"Debt management plan" or "DMP" means a program whereby a person agrees to engage in debt pooling and distribution services on behalf of a consumer, or multiple consumers if a joint account.

"Debt pooling and distribution service" means an arrangement whereby a consumer gives money or control of his funds to a person for distribution to the consumer's creditors.

"Debt settlement" means any action or negotiation initiated or taken by or on behalf of any consumer with any creditor of the consumer for the purpose of obtaining debt forgiveness of a portion of the credit extended by the creditor to the consumer or reduction of payments, charges, or fees payable by the consumer.

"Duplicate original" means an exact copy with signatures created by the same impression as the original, or an exact copy bearing an original signature, or in the case of an electronic transaction, an electronic version with electronic signatures.

"Electronic signature" means a signature as defined in § 59.1-480.

"Licensee" means a person licensed under this chapter.

"Maintenance fee" means a fee paid by a consumer to an agency for the administration of a DMP.

"Principal" means any person who, directly or indirectly, owns or controls (i) 10 percent or more of the outstanding stock of a stock corporation or (ii) a 10 percent or greater interest in a person.

"Set-up fee" means a fee paid by a consumer to an agency for the establishment of a DMP.

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