




# State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 11/28/2006 (Per: MDK)





 Appendix A ... Part 04 of 05

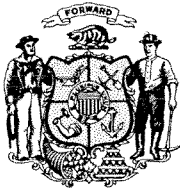
 The 2005 drafting file for LRB 05-5042

has been transferred to the drafting file for

**2007 LRB 07-0917**

 This cover sheet, the final request sheet, and the final version of the 2005 draft were copied on yellow paper, and returned to the original 2005 drafting file.

 The attached 2005 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-5042/PL

MDK:lmk:ra

stats ↓

ε

Kjf

By Friday 8/11

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERT A

Legon

1 AN ACT *to repeal* subchapter II of chapter 218 [precedes 218.02] and 426.102 (3);  
2 *to amend* 21.72 (1) (a) 12., 49.857 (1) (d) 12., 73.0301 (1) (d) 6. and 220.285 (1);  
3 and *to repeal and recreate* subchapter V of chapter 422 [precedes 422.501]  
4 of the statutes; **relating to:** adopting the Uniform Debt-Management Services  
5 Act, granting rule-making authority, and providing a penalty.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be prepared for a subsequent version of the draft.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

6 SECTION 1. 21.72 (1) (a) 12. of the statutes is amended to read:  
7 21.72 (1) (a) 12. A license or certificate of registration issued by the department  
8 of financial institutions, or a division of it, under ss. 138.09, 138.12, 217.06, 218.0101

1 to 218.0163, ~~218.02~~, 218.04, 218.05, 224.72, or 224.93, subch. V of ch. 422, or subch.  
2 III of ch. 551.

\*\*\*\*NOTE: I assume that you want to treat debt-management service providers under the bill the same as adjustment service companies under current law. If not, the above must be revised.

3 **SECTION 2.** 49.857 (1) (d) 12. of the statutes is amended to read:

4 49.857 (1) (d) 12. A license or certificate of registration issued under ss. 138.09,  
5 138.12, 217.06, 218.0101 to 218.0163, ~~218.02~~, 218.04, 218.05, 224.72, 224.93, subch.  
6 V of ch. 422, or subch. III of ch. 551.

\*\*\*\*NOTE: I assume that you want to treat debt-management service providers under the bill the same as adjustment service companies under current law. If not, the above must be revised.

7 **SECTION 3.** 73.0301 (1) (d) 6. of the statutes is amended to read:

8 73.0301 (1) (d) 6. A license or certificate of registration issued by the  
9 department of financial institutions, or a division of it, under ss. 138.09, 138.12,  
10 217.06, 218.0101 to 218.0163, ~~218.02~~, 218.04, 218.05, 224.72, 224.93 or under subch.  
11 V of ch. 422 or subch. III of ch. 551.

\*\*\*\*NOTE: I assume that you want to treat debt-management service providers under the bill the same as adjustment service companies under current law. If not, the above must be revised.

12 **SECTION 4.** Subchapter II of chapter 218 [precedes 218.02] of the statutes is  
13 repealed.

\*\*\*\*NOTE: The above subchapter consists of s. 218.02, which deals with adjustment service companies.

14 **SECTION 5.** 220.285 (1) of the statutes, as affected by 2005 Wisconsin Act 215,  
15 is amended to read:

16 220.285 (1) Any state bank, trust company bank, licensee under ss. 138.09,  
17 138.12, 218.0101 to 218.0163, ~~218.02~~, 218.04 or 218.05 or ch. 217, or person  
18 registered under s. 224.72 or subch. V of ch. 422 may cause any or all records kept  
19 by such bank, licensee, or registered person to be recorded, copied or reproduced by

1 any photostatic, photographic or miniature photographic process or by optical  
2 imaging if the process employed correctly, accurately and permanently copies,  
3 reproduces or forms a medium for copying, reproducing or recording the original  
4 record on a film or other durable material. A bank, licensee, or registered person may  
5 thereafter dispose of the original record after first obtaining the written consent of  
6 the division. This section, excepting that part of it which requires written consent  
7 of the division, is applicable to national banking associations insofar as it does not  
8 contravene federal law.

\*\*\*\*NOTE: I assume that you want to treat debt-management service providers under the bill the same as adjustment service companies under current law. If not, the above must be revised.

9 SECTION 6. Subchapter V of chapter 422 [precedes 422.501] of the statutes is  
10 repealed and recreated to read:

11 CHAPTER 422

12 SUBCHAPTER V

13 UNIFORM DEBT-MANAGEMENT

14 SERVICES ACT

15 422.501 Short title. This subchapter may be cited as the "Uniform  
16 Debt-Management Services Act."

17 422.502 Definitions. In this subchapter:

\*\*\*\*NOTE: The uniform act includes a definition of "administrator." However, that term is already defined under current law to refer to the secretary of DFI. See s. 421.301 (2).

18 (1) (a) "Affiliate," with respect to an individual, means any of the following:

\*\*\*\*NOTE: I added "with respect to an individual, means any of the following" to the above.

- 19 1. The spouse of the individual.  
20 2. A sibling of the individual or the spouse of a sibling.

1           3. An individual or the spouse of an individual who is a lineal ancestor or lineal  
2 descendant of the individual or the individual's spouse.

3           4. An aunt, uncle, great aunt, great uncle, first cousin, niece, nephew,  
4 grandniece, or grandnephew, whether related by the whole or the half blood or  
5 adoption, or the spouse of any of them.

6           5. Any other individual occupying the residence of the individual.

7           (b) "Affiliate," with respect to an entity, means any of the following:

\*\*\*\*NOTE: I added "with respect to an entity, means any of the following" to the  
above.

8           1. A person that directly or indirectly controls, is controlled by, or is under  
9 common control with the entity.

10          2. An officer of, or an individual performing similar functions with respect to,  
11 the entity.

12          3. A director of, or an individual performing similar functions with respect to,  
13 the entity.

14          4. Subject to adjustment of the dollar amount pursuant to s. 422.532 (6), a  
15 person that receives or received more than \$25,000 from the entity in either the  
16 current year or the preceding year or a person that owns more than 10 percent of, or  
17 an individual who is employed by or is a director of, a person that receives or received  
18 more than \$25,000 from the entity in either the current year or the preceding year.

19          5. An officer or director of, or an individual performing similar functions with  
20 respect to, a person described in subd. 1.

21          6. The spouse of, or an individual occupying the residence of, an individual  
22 described in subds. 1. through 5.

1           7. An individual who has the relationship specified in par. (a) 4. to an individual  
2 or the spouse of an individual described in subds. 1. through 5.

3           **(2)** "Agreement" means an agreement between a provider and an individual for  
4 the performance of debt-management services.

5           **(3)** "Bank" means a financial institution, including a commercial bank, savings  
6 bank, savings and loan association, credit union, and trust company, engaged in the  
7 business of banking, chartered under federal or state law, and regulated by a federal  
8 or state banking regulatory authority.

9           **(4)** "Business address" means the physical location of a business, including the  
10 name and number of a street.

11           **(5)** "Certified counselor" means an individual certified by a training program  
12 or certifying organization, approved by the administrator, that authenticates the  
13 competence of individuals providing education and assistance to other individuals  
14 in connection with debt-management services.

15           **(6)** "Concessions" means assent to repayment of a debt on terms more favorable  
16 to an individual than the terms of the contract between the individual and a creditor.

17           **(7)** "Day" means calendar day.

18           **(8)** "Debt-management services" means services as an intermediary between  
19 an individual and one or more creditors of the individual for the purpose of obtaining  
20 concessions, but does not include any of the following:

\*\*\*NOTE: I added "any of the following" to the above.

21           (a) Legal services provided in an attorney-client relationship by an attorney  
22 licensed or otherwise authorized to practice law in this state.

23           (b) Accounting services provided in an accountant-client relationship by a  
24 certified public accountant licensed to provide accounting services in this state.

1 (c) Financial-planning services provided in a financial planner-client  
2 relationship by a member of a financial-planning profession whose members the  
3 administrator, by rule, determines are all of the following:

\*\*\*\*NOTE: I added "all of the following" to the above.

- 4 1. Licensed by this state.
- 5 2. Subject to a disciplinary mechanism.
- 6 3. Subject to a code of professional responsibility.
- 7 4. Subject to a continuing-education requirement.

8 **(9)** "Entity" means a person other than an individual.

9 **(10)** "Good faith" means honesty in fact and the observance of reasonable  
10 standards of fair dealing.

11 **(11)** "Person" means an individual, corporation, business trust, estate, trust,  
12 partnership, limited liability company, association, joint venture, or any other legal  
13 or commercial entity. The term does not include a public corporation, government,  
14 or governmental subdivision, agency, or instrumentality.

15 **(12)** "Plan" means a program or strategy in which a provider furnishes debt  
16 management services to an individual and which includes a schedule of payments  
17 to be made by or on behalf of the individual and used to pay debts owed by the  
18 individual.

19 **(13)** "Principal amount of the debt" means the amount of a debt at the time of  
20 an agreement.

21 **(14)** "Provider" means a person that provides, offers to provide, or agrees to  
22 provide debt-management services directly or through others.

23 **(15)** "Record" means information that is inscribed on a tangible medium or that  
24 is stored in an electronic or other medium and is retrievable in perceivable form.

1           (16) "Settlement fee" means a charge imposed on or paid by an individual in  
2 connection with a creditor's assent to accept in full satisfaction of a debt an amount  
3 less than the principal amount of the debt.

4           (17) "Sign" means, with present intent to authenticate or adopt a record, any  
5 of the following:

*\*\*\*NOTE: I added "any of the following" to the above.*

- 6           (a) To execute or adopt a tangible symbol.
- 7           (b) To attach to or logically associate with the record an electronic sound,  
8 symbol, or process.

9           (18) "State" means a state of the United States, the District of Columbia,  
10 Puerto Rico, the United States Virgin Islands, or any territory or insular possession  
11 subject to the jurisdiction of the United States.

12           (19) "Trust account" means an account held by a provider that is all of the  
13 following:

*\*\*\*NOTE: I added "all of the following" to the above.*

- 14           (a) Established in an insured bank.
- 15           (b) Separate from other accounts of the provider or its designee.
- 16           (c) Designated as a trust account or other account designated to indicate that  
17 the money in the account is not the money of the provider or its designee.
- 18           (d) Used to hold money of one or more individuals for disbursement to creditors  
19 of the individuals.

20           **422.503 Exempt agreements and persons.** (1) This subchapter does not  
21 apply to an agreement with an individual who the provider has no reason to know  
22 resides in this state at the time of the agreement.



1 (2) This subchapter does not apply to a provider to the extent that the provider  
2 does any of the following:

\*\*\*NOTE: I added "does any of the following" to the above.

3 (a) Provides or agrees to provide debt-management, educational, or counseling  
4 services to an individual who the provider has no reason to know resides in this state  
5 at the time the provider agrees to provide the services.

6 (b) Receives no compensation for debt-management services from or on behalf  
7 of the individuals to whom it provides the services or from their creditors.

8 (3) This subchapter does not apply to any of the following persons or their  
9 employees when the person or the employee is engaged in the regular course of the  
10 person's business or profession:

\*\*\*NOTE: I added "any of the" before "following" in the above.

11 (a) A judicial officer, a person acting under an order of a court or an  
12 administrative agency, or an assignee for the benefit of creditors.

13 (b) A bank.

14 (c) An affiliate, as defined in s. 422.502 (1) (b) 1., of a bank if the affiliate is  
15 regulated by a federal or state banking regulatory authority.

16 (d) A title insurer, escrow company, or other person that provides bill-paying  
17 services if the provision of debt-management services is incidental to the bill-paying  
18 services.

19 **422.504 Registration required.** (1) Except as otherwise provided in sub. (2),  
20 a provider may not provide debt-management services to an individual who it  
21 reasonably should know resides in this state at the time it agrees to provide the  
22 services, unless the provider is registered under this subchapter.

\*\*\*NOTE: As explained in the drafter's note, I drafted the bill to allow both  
nonprofit and for-profit entities to provide all types of services. If you want to allow only  
nonprofit entities to provide services, or if you want to limit the types of services that

for-profit entities may provide, then a fourth subsection must be added to this section, based on section 4 (d) of the uniform act.

1 (2) If a provider is registered under this subchapter, sub. (1) does not apply to  
2 an employee or agent of the provider.

3 (3) The administrator shall maintain and publicize a list of the names of all  
4 registered providers.

5 **422.505 Application for registration: form, fee, and accompanying**  
6 **documents.** (1) An application for registration as a provider must be in a form  
7 prescribed by the administrator.

8 (2) Subject to adjustment of dollar amounts pursuant to s. 422.532 (6), an  
9 application for registration as a provider must be accompanied by all of the following:

\*\*\*NOTE: I added "all of the following" to the above.

10 (a) The fee established by the administrator.

11 (b) The bond required by s. 422.513.

12 (c) Identification of all trust accounts required by s. 422.522 and an irrevocable  
13 consent authorizing the administrator to review and examine the trust accounts.

14 (d) Evidence of insurance in the amount of \$250,000 that satisfies all of the  
15 following:

\*\*\*NOTE: I added "that satisfies all of the following" to the above.

16 1. The insurance is against the risks of dishonesty, fraud, theft, and other  
17 misconduct on the part of the applicant or a director, employee, or agent of the  
18 applicant.

19 2. The insurance is issued by an insurance company authorized to do business  
20 in this state and rated at least "A" by a nationally recognized rating organization.

21 3. The insurance has no deductible.

1 4. The insurance is payable to the applicant, the individuals who have  
2 agreements with the applicant, and this state, as their interests may appear.

3 5. The insurance is not subject to cancellation by the applicant without the  
4 approval of the administrator.

\*\*\*\*NOTE: added references to "the insurance" at the beginning of subsds. 1. to 5.  
above.

5 (e) If applicable, proof of compliance with s. 178.45, 180.1501, 181.1501, or  
6 183.1002.

\*\*\*\*NOTE: The statutes cited above refer to certificates that are required for  
out-of-state business entities to conduct business in this state.

7 (f) If the applicant is organized as a not-for-profit entity or is exempt from  
8 taxation, evidence of not-for-profit and tax-exempt status applicable to the  
9 applicant under the Internal Revenue Code, 26 USC 501.

\*\*\*\*NOTE: If you want to allow only nonprofit entities to provide debt-management  
services, then the "if" clause at the beginning of par. (f) should be removed.

\*\*\*\*NOTE: The uniform act includes an optional "as amended" after the cite to  
federal law. Under our drafting style, this phrase is not needed. Section 9.03 (3) of our  
drafting manual states: "The general rule for drafting is that a citation to a USC or  
CFR section that does not refer to a particular date refers to the provisions in effect  
whenever the statute is read rather than those in effect on the date that the statute  
became effective. Therefore, if a statutory reference to federal law does not specify a date,  
the intent is to incorporate future amendments." Therefore, throughout this draft, I have  
omitted "as amended" from the references to federal law.

10 **422.506 Application for registration: required information.** An  
11 application for registration must be signed and verified under oath or affirmation  
12 and include all of the following:

\*\*\*\*NOTE: The uniform act has optional language for signing under "oath" or  
"penalty of false statement." The Wisconsin statutes do not appear to have a consistent  
way to deal with this issue. Throughout the draft, I chose to refer to "verifying" under  
"oath or affirmation." Is that okay?

\*\*\*\*NOTE: I added "all of the following" to the above.

13 (1) The applicant's name, principal business address and telephone number,  
14 and all other business addresses in this state, electronic-mail addresses, and  
15 Internet Web site addresses.

1           (2) All names under which the applicant conducts business.

2           (3) The address of each location in this state at which the applicant will provide  
3 debt-management services or a statement that the applicant will have no such  
4 location.

5           (4) The name and home address of each officer and director of the applicant and  
6 each person that owns at least 10 percent of the applicant.

7           (5) Identification of every jurisdiction in which, during the 5 years immediately  
8 preceding the application the applicant or any of its officers or directors has been  
9 licensed or registered to provide debt-management services, or in which individuals  
10 have resided when they received debt-management services from the applicant.

*\*\*\*\*NOTE: The uniform act's version of the above consists of an introduction and 2 paragraphs.*

11           (6) A statement describing, to the extent it is known or should be known by the  
12 applicant, any material civil or criminal judgment or litigation and any material  
13 administrative or enforcement action by a governmental agency in any jurisdiction  
14 against the applicant, any of its officers, directors, owners, or agents, or any person  
15 who is authorized to have access to the trust account required by s. 422.522.

16           (7) The applicant's financial statements, audited by an accountant licensed to  
17 conduct audits, for each of the 2 years immediately preceding the application or, if  
18 it has not been in operation for the 2 years preceding the application, for the period  
19 of its existence.

20           (8) Evidence of accreditation by an independent accrediting organization  
21 approved by the administrator.

22           (9) Evidence that, within 12 months after initial employment, each of the  
23 applicant's counselors becomes certified as a certified counselor.

1           **(10)** A description of the 3 most commonly used educational programs that the  
2 applicant provides or intends to provide to individuals who reside in this state and  
3 a copy of any materials used or to be used in those programs.

4           **(11)** A description of the applicant's financial analysis and initial budget plan,  
5 including any form or electronic model, used to evaluate the financial condition of  
6 individuals.

7           **(12)** A copy of each form of agreement that the applicant will use with  
8 individuals who reside in this state.

9           **(13)** The schedule of fees and charges that the applicant will use with  
10 individuals who reside in this state.

11           **(14)** At the applicant's expense, the results of a criminal-records check,  
12 including fingerprints, conducted within the immediately preceding 12 months,  
13 covering every officer of the applicant and every employee or agent of the applicant  
14 who is authorized to have access to the trust account required by s. 422.522.

15           **(15)** The names and addresses of all employers of each director during the 10  
16 years immediately preceding the application.

17           **(16)** A description of any ownership interest of at least 10 percent by a director,  
18 owner, or employee of the applicant in all of the following:

*\*\*\*NOTE: I added "all of the following" to the above.*

19           (a) Any affiliate of the applicant.

20           (b) Any entity that provides products or services to the applicant or any  
21 individual relating to the applicant's debt-management services.

22           **(17)** A statement of the amount of compensation of the applicant's 5 most highly  
23 compensated employees for each of the 3 years immediately preceding the

1 application or, if it has not been in operation for the 3 years preceding the application,  
2 for the period of its existence.

3 (18) The identity of each director who is an affiliate, as defined in s. 422.502  
4 (1) (a) or (b) 1., 2., 4., 5., or 6., of the applicant.

5 (19) Any other information that the administrator reasonably requires to  
6 perform the administrator's duties under s. 422.509.

7 **422.507 Application for registration: obligation to update information.**

8 An applicant or registered provider shall notify the administrator within 10 days  
9 after a change in the information specified in s. 422.505 (2) (d) or (f) or 422.506 (1),  
10 (3), (6), (12), or (13).

11 **422.508 Application for registration: public information.** Except for the  
12 information required by s. 422.506 (7), (14), and (17) and the addresses required by  
13 s. 422.506 (4), the administrator shall make the information in an application for  
14 registration as a provider available to the public.

15 **422.509 Certificate of registration: issuance or denial.** (1) Except as  
16 otherwise provided in subs. (2) and (3), the administrator shall issue a certificate of  
17 registration as a provider to a person that complies with ss. 422.505 and 422.506.

18 (2) The administrator may deny registration if any of the following apply:

*\*\*\*NOTE: I added "any of the following apply" to the above.*

19 (a) The application contains information that is materially erroneous or  
20 incomplete.

21 (b) An officer, director, or owner of the applicant has been convicted of a crime,  
22 or suffered a civil judgment, involving dishonesty or the violation of state or federal  
23 securities laws.

1 (c) The applicant or any of its officers, directors, or owners has defaulted in the  
2 payment of money collected for others.

3 (d) The administrator finds that the financial responsibility, experience,  
4 character, or general fitness of the applicant or its owners, directors, employees, or  
5 agents does not warrant belief that the business will be operated in compliance with  
6 this subchapter.

7 (3) The administrator shall deny registration if any of the following apply:

\*\*\*\*NOTE: I added "any of the following apply" to the above.

INCFAT  
14-9

8 (a) The application is not accompanied by the fee established by the  
9 administrator.

\*\*\*\*NOTE: Section 422.505 (2) (b) requires an applicant to provide a bond. Should  
failure to provide the bond also be grounds for registration denial?

10 (b) With respect to an applicant that is organized as a not-for-profit entity or  
11 has obtained tax-exempt status under the Internal Revenue Code, 26 USC 501, the  
12 applicant's board of directors is not independent of the applicant's employees and  
13 agents.

\*\*\*\*NOTE: If you want to limit certification to nonprofits, the phrase "with respect  
to" should be eliminated.

14 (4) Subject to adjustment of the dollar amount pursuant to s. 422.532 (6), a  
15 board of directors is not independent for purposes of sub. (3) if any of the following  
16 apply:

\*\*\*\*NOTE: I moved "more than one-fourth of its members" from the above  
subsection to the below paragraphs.

17 (a) More than one-fourth of its members are affiliates of the applicant, as  
18 defined in s. 422.502 (1) (a) or (b) 1., 2., 4., 5., 6., or 7.

19 (b) After the date 10 years before first becoming a director of the applicant,  
20 more than one-fourth of its members were employed by or directors of a person that

1 received from the applicant more than \$25,000 in either the current year or the  
2 preceding year.

3 **422.510 Certificate of registration: timing.** (1) The administrator shall  
4 approve or deny an initial registration as a provider within 120 days after an  
5 application is filed. In connection with a request pursuant to s. 422.506 (19) for  
6 additional information, the administrator may extend the 120-day period for not  
7 more than 60 days. Within 7 days after denying an application, the administrator,  
8 in a record, shall inform the applicant of the reasons for the denial.

9 (2) If the administrator denies an application for registration as a provider or  
10 does not act on an application within the time prescribed in sub. (1), the applicant  
11 may appeal and request a hearing pursuant to subch. III of ch. 227.

12 (3) Subject to ss. 422.511 (4) and 422.534, a registration as a provider is valid  
13 for one year.

14 **422.511 Renewal of registration.** (1) A provider must obtain a renewal of  
15 its registration annually.

16 (2) An application for renewal of registration as a provider must be in a form  
17 prescribed by the administrator, signed and verified under oath or affirmation, and  
18 must satisfy all of the following:

19 *\*\*\*\*NOTE: I added "must satisfy all of the following" to the above.*

20 (a) Be filed no fewer than 30 and no more than 60 days before the registration  
21 expires.

22 (b) Be accompanied by the fee established by the administrator and the bond  
required by s. 422.513.



1 (c) Contain the matter required for initial registration as a provider by s.  
2 422.506 (8) and (9) and a financial statement, audited by an accountant licensed to  
3 conduct audits, for the applicant's fiscal year immediately preceding the application.

4 (d) Disclose any changes in the information contained in the applicant's  
5 application for registration or its immediately previous application for renewal, as  
6 applicable.

7 (e) Supply evidence of insurance in an amount equal to the larger of \$250,000  
8 or the highest daily balance in the trust account required by s. 422.522 during the  
9 6 month period immediately preceding the application and that satisfies all of the  
10 following:

*Handwritten note:* \*\*\*NOTE: I added "and that satisfies all of the following" to the above. I also added references to "the insurance" to the beginning of the following subdivisions.

11 1. The insurance is against risks of dishonesty, fraud, theft, and other  
12 misconduct on the part of the applicant or a director, employee, or agent of the  
13 applicant.

14 2. The insurance is issued by an insurance company authorized to do business  
15 in this state and rated at least "A" by a nationally recognized rating organization.

16 3. The insurance has no deductible.

17 4. The insurance is payable to the applicant, the individuals who have  
18 agreements with the applicant, and this state, as their interests may appear.

19 5. The insurance is not subject to cancellation by the applicant without the  
20 approval of the administrator.

21 (f) Disclose the total amount of money received by the applicant pursuant to  
22 plans during the preceding 12 months from or on behalf of individuals who reside in

1 this state and the total amount of money distributed to creditors of those individuals  
2 during that period.

3 (g) Disclose, to the best of the applicant's knowledge, the gross amount of money  
4 accumulated during the preceding 12 months pursuant to plans by or on behalf of  
5 individuals who reside in this state and with whom the applicant has agreements.

6 (h) Provide any other information that the administrator reasonably requires  
7 to perform the administrator's duties under this section.

8 (3) Except for the information required by s. 422.506 (7), (14), and (17) and the  
9 addresses required by s. 422.506 (4), the administrator shall make the information  
10 in an application for renewal of registration as a provider available to the public.

11 (4) If a registered provider files a timely and complete application for renewal  
12 of registration, the registration remains effective until the administrator, in a record,  
13 notifies the applicant of a denial and states the reasons for the denial.

14 (5) If the administrator denies an application for renewal of registration as a  
15 provider, the applicant, within 30 days after receiving notice of the denial, may  
16 appeal and request a hearing pursuant to subch. III of ch. 227. Subject to s. 422.534,  
17 while the appeal is pending the applicant shall continue to provide  
18 debt-management services to individuals with whom it has agreements. If the  
19 denial is affirmed, subject to the administrator's order and s. 422.534, the applicant  
20 shall continue to provide debt-management services to individuals with whom it has  
21 agreements until, with the approval of the administrator, it transfers the  
22 agreements to another registered provider or returns to the individuals all  
23 unexpended money that is under the applicant's control.

24 **422.512 Registration in another state.** If a provider holds a license or  
25 certificate of registration in another state authorizing it to provide

1 debt-management services, the provider may submit a copy of that license or  
2 certificate and the application for it instead of an application in the form prescribed  
3 by s. 422.505 (1), 422.506, or 422.511 (2). The administrator shall accept the  
4 application and the license or certificate from the other state as an application for  
5 registration as a provider or for renewal of registration as a provider, as appropriate,  
6 in this state if all of the following apply:

\*\*\*\*NOTE: I added "all of the following apply" to the above.

7 (1) The application in the other state contains information substantially  
8 similar to or more comprehensive than that required in an application submitted in  
9 this state.

10 (2) The applicant provides the information required by s. 422.506 (1), (3), (10),  
11 (12), and (13).

12 (3) The applicant, verified under oath or affirmation, certifies that the  
13 information contained in the application is current or, to the extent it is not current,  
14 supplements the application to make the information current.

15 **422.513 Bond required.** (1) Except as otherwise provided in s. 422.514, a  
16 provider that is required to be registered under this subchapter shall file a surety  
17 bond with the administrator, which must satisfy all of the following:

\*\*\*\*NOTE: I added "satisfy all of the following" to the above.

18 (a) Be in effect during the period of registration and for 2 years after the  
19 provider ceases providing debt-management services to individuals in this state.

20 (b) Run to this state for the benefit of this state and of individuals who reside  
21 in this state when they agree to receive debt-management services from the  
22 provider, as their interests may appear.

1           (2) Subject to adjustment of the dollar amount pursuant to s. 422.532 (6), a  
2           surety bond filed pursuant to sub. (1) must satisfy all of the following:

*\*\*\*\*NOTE: I added "satisfy all of the following" to the above.*

3           (a) Be in the amount of \$50,000 or other larger or smaller amount that the  
4           administrator determines is warranted by the financial condition and business  
5           experience of the provider, the history of the provider in performing  
6           debt-management services, the risk to individuals, and any other factor the  
7           administrator considers appropriate.

8           (b) Be issued by a bonding, surety, or insurance company authorized to do  
9           business in this state and rated at least "A" by a nationally recognized rating  
10          organization.

11          (c) Have payment conditioned upon noncompliance of the provider or its agent  
12          with this subchapter.

13          (3) If the principal amount of a surety bond is reduced by payment of a claim  
14          or a judgment, the provider shall immediately notify the administrator and, within  
15          30 days after notice by the administrator, file a new or additional surety bond in an  
16          amount set by the administrator. The amount of the new or additional bond must  
17          be at least the amount of the bond immediately before payment of the claim or  
18          judgment. If for any reason a surety terminates a bond, the provider shall  
19          immediately file a new surety bond in the amount of \$50,000 or other amount  
20          determined pursuant to sub. (2).

21          (4) The administrator or an individual may obtain satisfaction out of the surety  
22          bond procured pursuant to this section if any of the following apply:

*\*\*\*\*NOTE: I added "any of the following apply" to the above.*

1 (a) The administrator assesses expenses under s. 422.532 (2) (a), issues a final  
2 order under s. 422.533 (1) (b), or recovers a final judgment under s. 422.533 (1) (d)  
3 or (e) or (4).

4 (b) An individual recovers a final judgment pursuant to s. 422.535 (1), (2), or  
5 (3) (a), (b), or (d).

6 (5) If claims against a surety bond exceed or are reasonably expected to exceed  
7 the amount of the bond, the administrator, on the initiative of the administrator or  
8 on petition of the surety, shall, unless the proceeds are adequate to pay all costs,  
9 judgments, and claims, distribute the proceeds in the following order:

10 (a) To satisfaction of a final order or judgment under s. 422.533 (1) (b), (d), or  
11 (e) or (4).

12 (b) To final judgments recovered by individuals pursuant to s. 422.535 (1), (2),  
13 or (3) (a), (b), or (d), pro rata.

14 (c) To claims of individuals established to the satisfaction of the administrator,  
15 pro rata.

16 (d) If a final order or judgment is issued under s. 422.533 (1), to the expenses  
17 charged pursuant to s. 422.532 (2) (a).

18 **422.514 Bond required: substitute. (1)** Instead of the surety bond required  
19 by s. 422.513, a provider may deliver to the administrator any of the following, in the  
20 amount required by s. 422.513 (2), and, except as otherwise provided in par. (b) 1.,  
21 payable or available to this state and to individuals who reside in this state when  
22 they agree to receive debt-management services from the provider, as their interests  
23 may appear, if the provider or its agent does not comply with this subchapter:

\*\*\*NOTE: I added "any of the following" after "may deliver to the administrator."

1 (a) A certificate of insurance issued by an insurance company authorized to do  
2 business in this state and rated at least "A" by a nationally recognized rating  
3 organization, with no deductible.

4 (b) With the approval of the administrator, any of the following:

*\*\*\*NOTE: I added "any of the following" to the above.*

5 1. An irrevocable letter of credit, issued or confirmed by a bank approved by the  
6 administrator, payable upon presentation of a certificate by the administrator  
7 stating that the provider or its agent has not complied with this subchapter.

8 2. Bonds or other obligations of the United States or guaranteed by the United  
9 States or bonds or other obligations of this state or a political subdivision of this state,  
10 to be deposited and maintained with a bank approved by the administrator for this  
11 purpose.

12 (2) If a provider furnishes a substitute pursuant to sub. (1), the provisions of  
13 s. 422.513 (1), (3), (4), and (5) apply to the substitute.

14 **422.515 Requirement of good faith.** A provider shall act in good faith in all  
15 matters under this subchapter.

16 **422.516 Customer service.** A provider that is required to be registered under  
17 this subchapter shall maintain a toll-free communication system, staffed at a level  
18 that reasonably permits an individual to speak to a certified counselor or  
19 customer-service representative, as appropriate, during ordinary business hours.

20 **422.517 Prerequisites for providing debt-management services. (1)**  
21 Before providing debt-management services, a registered provider shall give the  
22 individual an itemized list of goods and services and the charges for each. The list  
23 must be clear and conspicuous, be in a record the individual may keep whether or not  
24 the individual assents to an agreement, and describe all of the following:

\*\*\*NOTE: I added "all of the following" to the above and added references to the "goods and services" at the beginning of the following paragraphs

1 (a) The goods and services the provider offers free of additional charge if the  
2 individual enters into an agreement.

3 (b) The good and services the provider offers for a charge if the individual does  
4 not enter into an agreement.

5 (c) The good and services the provider offers for a charge if the individual enters  
6 into an agreement, using the following terminology, as applicable, and format:

7 Set-up fee .....  
8 *dollar amount of fee*

9 Monthly service fee .....  
10 *dollar amount of fee or method of determining amount*

11 Settlement fee .....  
12 *dollar amount of fee or method of determining amount*

13 Goods and services in addition to those provided in connection with a plan:

14 .....  
15 *(item) dollar amount or method of determining amount*

16 .....  
17 *(item) dollar amount or method of determining amount*

18 (2) A provider may not furnish debt-management services unless the provider,  
19 through the services of a certified counselor, has satisfied all of the following:

\*\*\*NOTE: I added "has satisfied all of the following" to the above and added references to the "provider" at the beginning of the following paragraphs.

20 (a) The provider provides the individual with reasonable education about the  
21 management of personal finance.

22 (b) The provider has prepared a financial analysis.

1 (c) If the individual is to make regular, periodic payments, the provider has  
2 satisfied all of the following:

\*\*\*\*NOTE: I added "has satisfied all of the following" to the above and added  
references to the "provider" at the beginning of the following subdivisions.

3 1. The provider has prepared a plan for the individual.

4 2. The provider has made a determination, based on the provider's analysis of  
5 the information provided by the individual and otherwise available to it, that the  
6 plan is suitable for the individual and the individual will be able to meet the payment  
7 obligations under the plan.

8 3. The provider believes that each creditor of the individual listed as a  
9 participating creditor in the plan will accept payment of the individual's debts as  
10 provided in the plan.

11 (3) Before an individual assents to an agreement to engage in a plan, a provider  
12 shall do all of the following:

\*\*\*\*NOTE: I added "do all of the following" to the above.

13 (a) Provide the individual with a copy of the analysis and plan required by sub.  
14 (2) in a record that identifies the provider and that the individual may keep whether  
15 or not the individual assents to the agreement.

16 (b) Inform the individual of the availability, at the individual's option, of  
17 assistance by a toll-free communication system or in person to discuss the financial  
18 analysis and plan required by sub. (2).

19 (c) With respect to all creditors identified by the individual or otherwise known  
20 by the provider to be creditors of the individual, provide the individual with a list of  
21 all of the following:

\*\*\*\*NOTE: I added "of all of the following" to the above.



1           1. Creditors that the provider expects to participate in the plan and grant  
2 concessions.

3           2. Creditors that the provider expects to participate in the plan but not grant  
4 concessions.

5           3. Creditors that the provider expects not to participate in the plan.

6           4. All other creditors.

7           (4) Before an individual assents to an agreement to engage in a plan, the  
8 provider shall inform the individual, in a record that contains nothing else, that is  
9 given separately, and that the individual may keep whether or not the individual  
10 assents to the agreement, of all of the following:

*\*\*\*\*NOTE. I added "of all of the following" to the above.*

11           (a) The name and business address of the provider.

12           (b) That plans are not suitable for all individuals and the individual may ask  
13 the provider about other ways, including bankruptcy, to deal with indebtedness.

14           (c) That establishment of a plan may adversely affect the individual's credit  
15 rating or credit scores.

16           (d) That nonpayment of debt may lead creditors to increase finance and other  
17 charges or undertake collection activity, including litigation.

18           (e) Unless it is not true, that the provider may receive compensation from the  
19 creditors of the individual.

20           (f) That, unless the individual is insolvent, if a creditor settles for less than the  
21 full amount of the debt, the plan may result in the creation of taxable income to the  
22 individual, even though the individual does not receive any money.

23           (5) If a provider may receive payments from an individual's creditors and the  
24 plan contemplates that the individual's creditors will reduce finance charges or fees

1 for late payment, default, or delinquency, the provider may comply with sub. (4) by  
2 providing the following disclosure, surrounded by black lines:

3 **IMPORTANT INFORMATION FOR YOU TO CONSIDER**

4 (1) Debt-management plans are not right for all individuals, and you may ask  
5 us to provide information about other ways, including bankruptcy, to deal with your  
6 debts.

7 (2) Using a debt-management plan may hurt your credit rating or credit scores.

8 (3) We may receive compensation for our services from your creditors.

9 .....

10 *Name and business address of provider*

11 (6) If a provider will not receive payments from an individual's creditors and  
12 the plan contemplates that the individual's creditors will reduce finance charges or  
13 fees for late payment, default, or delinquency, a provider may comply with sub. (4)  
14 by providing the following disclosure, surrounded by black lines:

15 **IMPORTANT INFORMATION FOR YOU TO CONSIDER**

16 (1) Debt-management plans are not right for all individuals, and you may ask  
17 us to provide information about other ways, including bankruptcy, to deal with your  
18 debts.

19 (2) Using a debt-management plan may hurt your credit rating or credit scores.

20 .....

21 *Name and business address of provider*

22 (7) If a plan contemplates that creditors will settle debts for less than the full  
23 principal amount of debt owed, a provider may comply with sub. (4) by providing the  
24 following disclosure, surrounded by black lines:

25 **IMPORTANT INFORMATION FOR YOU TO CONSIDER**