

**ASSEMBLY AMENDMENT 1,  
TO 2007 ASSEMBLY BILL 218**

September 13, 2007 – Offered by Representative NEWCOMER.

1           At the locations indicated, amend the bill as follows:

2           **1.** Page 6, line 6: after that line insert:

3           “(dm) “Certified debt specialist” means an individual certified by a training  
4 program or certifying organization, approved by the division, that authenticates the  
5 competence of individuals providing education and assistance to debtors as part of  
6 the initial enrollment for debt–management services offered by a person that does  
7 not hold money for individuals with whom agreements are made.”.

8           **2.** Page 8, line 4: after that line insert:

9           “5. Not an account held by a person other than a provider or affiliate of a  
10 provider.”.

11           **3.** Page 8, line 14: delete “creditors, unless the” and substitute “creditors.”.

12           **4.** Page 8, line 15: delete lines 15 and 16.

13           **5.** Page 8, line 16: after that line insert:

1           “3. Provides debt management services only to persons that have incurred debt  
2 in the conduct of business.”.

3           **6.** Page 9, line 10: after that line insert:

4           “7. A member of a financial–planning profession whose members the division,  
5 by rule, determines are licensed by this state and subject to a disciplinary  
6 mechanism, code of professional responsibility, and continuing education  
7 requirement, if the member’s provision of debt–management services is incidental  
8 to the provision of financial–planning services.”.

9           **7.** Page 9, line 24: delete that line and substitute:

10          “2. The bond or other security required under sub. (13) or (13m).”.

11          **8.** Page 10, line 3: delete “\$250,000” and substitute “\$1,000,000”.

12          **9.** Page 10, line 10: delete “no deductible” and substitute “a deductible of no  
13 more than \$5,000”.

14          **10.** Page 10, line 11: delete that line and substitute:

15          “d. The insurance insures the applicant for claims made by individuals in this  
16 or any other state, who have”.

17          **11.** Page 10, line 13: delete lines 13 and 14.

18          **12.** Page 10, line 20: delete lines 20 and 21.

19          **13.** Page 11, line 8: delete “title, name, and” and substitute “name and”.

20          **14.** Page 11, line 9: delete the material beginning with “; the” and ending with  
21 “of each” on line 10 and substitute “and each”.

22          **15.** Page 11, line 16: delete lines 16 to 24 and substitute:

1           “(f) A statement describing, to the extent it is known or should be known by the  
2           applicant, any material civil or criminal judgment or litigation and any material  
3           administrative or enforcement action by a governmental agency in any jurisdiction  
4           against the applicant, any of its officers, directors, owners, or agents, or any person  
5           who is authorized to initiate transactions to the trust account required under sub.  
6           (21).”.

7           **16.** Page 12, line 8: after “counselors” insert “or debt specialists”.

8           **17.** Page 12, line 8: after “certified counselor” insert “or certified debt  
9           specialist”.

10          **18.** Page 12, line 19: delete lines 19 to 21 and substitute:

11          “(n) At the applicant’s expense, the results of a state and national  
12          fingerprint–based criminal history records check, conducted within the immediately  
13          preceding 12 months. For purposes of 28 USC 534 (a) (4), the division is the state  
14          agency authorized to receive the results of the check. The check shall cover all of the  
15          following:”.

16          **19.** Page 12, line 23: delete “have access” and substitute “initiate  
17          transactions”.

18          **20.** Page 13, line 1: delete “10” and substitute “5”.

19          **21.** Page 13, line 2: after “application” insert “, except that, if a director  
20          receives no compensation from the provider, the applicable period shall be 2 years”.

21          **22.** Page 13, line 8: delete “A statement” and substitute “For not–for–profit  
22          providers, a statement”.

23          **23.** Page 13, line 13: delete “or 2. f.,” and substitute “2. f., or 2. g.,”.

1           **24.** Page 13, line 17: delete “10” and substitute “15”.

2           **25.** Page 13, line 20: delete “(n),” and substitute “(k), (n), (o),”.

3           **26.** Page 14, line 11: before “finds” insert “upon reasonable belief”.

4           **27.** Page 14, line 16: delete “under sub. (13)” and substitute “or other security  
5 under sub. (13) or (13m)”.

6           **28.** Page 15, line 8: delete “or 2. f.” and substitute “2. f., or 2. g.”.

7           **29.** Page 15, line 12: after that line insert:

8           “(e) The division may temporarily approve a license in the event an applicant  
9 has made a timely effort to obtain a criminal–records check as required in sub. (6)  
10 (n), but for which a timely return of information has not occurred, for a reasonable  
11 period of time but no longer than 120 days, provided that the applicant has provided  
12 all other required information in the application for licensure and the division finds  
13 no reason to believe from the information that has been provided that the applicant  
14 may not provide fair and honest services to debtors under this section.”.

15           **30.** Page 15, line 14: delete “120” and substitute “90”.

16           **31.** Page 15, line 16: delete “120–day” and substitute “90–day”.

17           **32.** Page 15, line 16: delete “60” and substitute “30”.

18           **33.** Page 15, line 24: after that line insert:

19           “(am) The division shall mail an application for renewal to each provider at  
20 least 60 days prior to the expiration date of a license.”.

21           **34.** Page 16, line 5: after “bond” insert “or other security”.

22           **35.** Page 16, line 6: after “(13)” insert “or (13m)”.

23           **36.** Page 16, line 8: delete “audited” and substitute “reviewed”.

1           **37.** Page 16, line 9: after “application” insert “, except that the 3rd renewal  
2 after initial licensure and every 4th renewal thereafter shall be audited rather than  
3 reviewed”.

4           **38.** Page 16, line 13: delete “\$250,000” and substitute “\$1,000,000”.

5           **39.** Page 16, line 14: after “balance” insert “attributable to residents of  
6 Wisconsin”.

7           **40.** Page 16, line 22: delete “no deductible” and substitute “a deductible of no  
8 more than \$5,000”.

9           **41.** Page 16, line 23: delete that line and substitute:

10           “d. The insurance insures the applicant for claims made by individuals in this  
11 or any other state, who have”.

12           **42.** Page 17, line 1: delete lines 1 and 2.

13           **43.** Page 17, line 7: delete lines 7 to 9 and substitute:

14           “7. If the applicant does not hold money on behalf of any debtor, disclose for  
15 business done with debtors in this state during the preceding 12 months the number  
16 of debtors with whom the applicant has had agreements, the number of fully settled  
17 debt agreements with creditors that the applicant concluded for debtors, and an  
18 estimate of the total amount of debt under contract between applicant and debtors.”.

19           **44.** Page 17, line 12: delete “(n),” and substitute “(k), (n), (o),”.

20           **45.** Page 18, line 2: after that line insert:

21           “(f) If a licensed provider fails to file by July 1 a complete application for renewal  
22 of a license and the required renewal fee, the license shall automatically expire on  
23 that date.”.

1           **46.** Page 18, line 18: after that line insert:

2           “(d) The application is accompanied by the items required in sub. (5) (b).”.

3           **47.** Page 18, line 19: delete “A provider” and substitute “Except as otherwise  
4 provided in sub. (13m), a provider”.

5           **48.** Page 20, line 14: after that line insert:

6           “(13m) BOND REQUIRED — SUBSTITUTE. (a) Instead of the surety bond required  
7 by sub. (13), a provider may deliver any of the following to the division, in the amount  
8 required by sub. (13) (b), and, except as otherwise provided in subd. 2., payable or  
9 available to this state and to individuals who reside in this state when they agree to  
10 receive debt-management services from the provider, as their interests may appear,  
11 if the provider or its agent does not comply with this section:

12           1. A certificate of insurance issued by an insurance company authorized to do  
13 business in this state and rated at least “A” by a nationally recognized rating  
14 organization.

15           2. With the approval of the division, an irrevocable letter of credit, issued or  
16 confirmed by a bank approved by the division, payable upon presentation of a  
17 certificate by the division stating that the provider or its agent has not complied with  
18 this section.

19           (b) If a provider furnishes a substitute pursuant to par. (a), the provisions of  
20 sub. (13) (a), (c), (d), and (e) apply to the substitute.”.

21           **49.** Page 20, line 19: after “counselor” insert “, certified debt specialist,”.

22           **50.** Page 21, line 19: after “counselor” insert “or certified debt specialist”.

23           **51.** Page 27, line 18: delete “Each creditor” and substitute “If the provider  
24 holds money on behalf of the debtor, each creditor”.

1           **52.** Page 27, line 21: delete “That the” and substitute “If the provider holds  
2 money on behalf of the debtor, that the”.

3           **53.** Page 28, line 18: delete that line and substitute “of any collected  
4 settlement fees for debts remaining unsettled at the time of termination.”.

5           **54.** Page 29, line 7: delete “principal amount of the debt” and substitute  
6 “actual balance of the debt owed at the time of settlement”.

7           **55.** Page 29, line 12: delete “principal amount of the debt” and substitute  
8 “actual balance of the debt owed at the time of settlement”.

9           **56.** Page 34, line 20: delete the material beginning with “a provider” and  
10 ending with “following” on line 21 and substitute “all of the following apply:”.

11           **57.** Page 34, line 22: delete the material beginning with that line and ending  
12 with page 35, line 3 and substitute:

13           “a. A provider may charge total fees in an amount not to exceed 18 percent of  
14 the principal amount of the debt, which shall include, subject to sub. (18) (d), a fee  
15 for consultation, obtaining a credit report, setting up an account, and the like, in an  
16 amount not exceeding 4 percent of the principal amount of the debt.

17           b. Total fees may be collected over no less than half of the length of the plan as  
18 estimated at the inception of the plan unless accelerated by the individual or until  
19 offers of settlement by creditors are obtained on at least half of the debts enrolled to  
20 the provider.

21           c. In no case shall aggregate fees exceed 18 percent of the total principal amount  
22 of the debt.

23           d. Notwithstanding subd. 2. a., 2. b., or 2. c., no debtor who completes all of his  
24 or her obligations under the agreement may be charged fees such that those fees,

1 when added to the aggregate of offers of settlement obtained by the provider for the  
2 debtor, exceed the principal amount of the debt.”.

3 **58.** Page 35, line 9: after that line insert:

4 “5. In no case shall aggregate fees exceed 18 percent of the total principal  
5 amount of the debt.”.

6 **59.** Page 35, line 13: delete lines 13 to 20.

7 **60.** Page 36, line 20: delete lines 20 and 21 and substitute:

8 “2. Sixty–five percent of any collected settlement fees for debts remaining  
9 unsettled at the time of the termination.”.

10 **61.** Page 38, line 2: delete “principal amount of the debt owed a creditor” and  
11 substitute “actual balance of the debt owed a creditor at the time of settlement”.

12 **62.** Page 38, line 6: delete “principal amount of the debt owed a creditor” and  
13 substitute “actual balance of the debt owed a creditor at the time of settlement”.

14 **63.** Page 38, line 17: after “prospective customer,” insert “except for a sales  
15 lead,”.

16 **64.** Page 39, line 13: before “garnishment” insert “collection activity,”.

17 **65.** Page 39, line 24: after that line insert:

18 “17. Advise, encourage, or suggest to the individual not to make a payment to  
19 creditors under the plan.”.

20 **66.** Page 40, line 19: delete “(f)” and substitute “(d) 2.”.

21 **67.** Page 45, line 15: delete “required under sub. (13)” and substitute “or other  
22 security required under sub. (13) or (13m)”.



