

DEBT MANAGEMENT ACT (EXCERPT)
Act 148 of 1975

***** 451.426.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 16, 2015 *****

451.426.amended Duties of licensee.

Sec. 16. (1) A licensee shall do all of the following:

(a) Create and maintain records of the accounts, contracts, correspondence, memoranda, papers, books, and other records of the debt management business. If the licensee elects not to retain original records, the licensee may utilize electronic, photocopy, or computerized methods of record keeping. The licensee shall preserve the records created under this subdivision for at least 6 years after they are created.

(b) Make all the records created and maintained under subdivision (a) available for examination by examiners of the department.

(c) When it enters into a contract with a debtor, give a copy of the contract to the debtor.

(d) Deliver a receipt to a debtor when it receives cash from a debtor, and at least monthly beginning with the first month after contracting with a debtor deliver a statement that includes the dates and amounts received and disbursed on behalf of the debtor and the fees collected by the licensee on those amounts.

(e) Within 5 business days after a request from a debtor, provide a written statement that includes all of the following:

(i) All transactions concerning the money received from or on behalf of the debtor.

(ii) The total amount paid to each creditor.

(iii) The total amount of fees collected by the licensee on the amounts described in subparagraph (ii).

(iv) The amount held in reserve.

(f) At least every 90 days after contracting with a debtor, provide a written statement to the debtor that includes all of the following:

(i) The total amount received from and on behalf of the debtor.

(ii) The total amount paid to each creditor.

(iii) The total amount of fees collected by the licensee on the amounts described in subparagraph (ii).

(iv) The amount held in reserve.

(g) Subject to subsection (2), at least annually, do, or designate or direct 1 or more persons to do, all of the following:

(i) Review procedures used by the licensee for processing checks and handling cash.

(ii) Verify that payments to selected creditor accounts are properly disbursed.

(iii) Verify that consumer complaints are properly handled.

(iv) Review selected client files to confirm that they contain the proper documentation.

(h) If a contract with a debtor is lawfully sold, transferred, or assigned to a licensee by another licensee, furnish to the debtor a written notice of the sale, transfer, or assignment. The notice shall contain the name, address, and contact telephone number of the licensee.

(2) A licensee that has proper controls in place to ensure that the actions described in subsection (1)(g)(i) to (iv) are done meets the requirements of subsection (1)(g).

(3) Annually, on or before a date established by the director, each licensee shall file with the director a report, on a form provided by the director, stating the licensee's volume and type of business activities for the immediately preceding calendar year.

History: 1975, Act 148, Eff. Mar. 31, 1976;—Am. 2000, Act 255, Imd. Eff. June 29, 2000;—Am. 2014, Act 362, Eff. Mar. 16, 2015.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.