

State Legislative Update

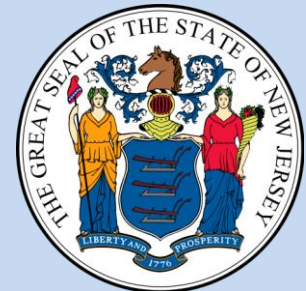
Association of Independent Consumer Credit Counseling Agencies

Laura C. Tharney, Esq.
Deputy Director

New Jersey Law Revision Commission



19th Annual Conference
July 20, 2012
Washington, D.C.



Contact Information

Laura C. Tharney, Esq., Deputy Director

New Jersey Law Revision Commission

Web site www.njlrc.org

Email lct@njlrc.org

New Jersey Debt-Management Services Act

NJDMSA

- What is the New Jersey Law Revision Commission?
- How does the Commission function?
- What has the process been in NJ regarding the Debt-Management Services Act?
- How crucial is the role played by individual and organizational commenters?

Law Revision Commissions

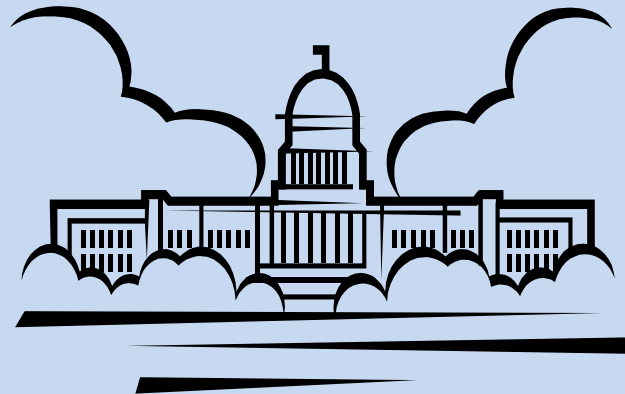
- How common are LRCs?
- How do they operate?

Law Revision Commissions

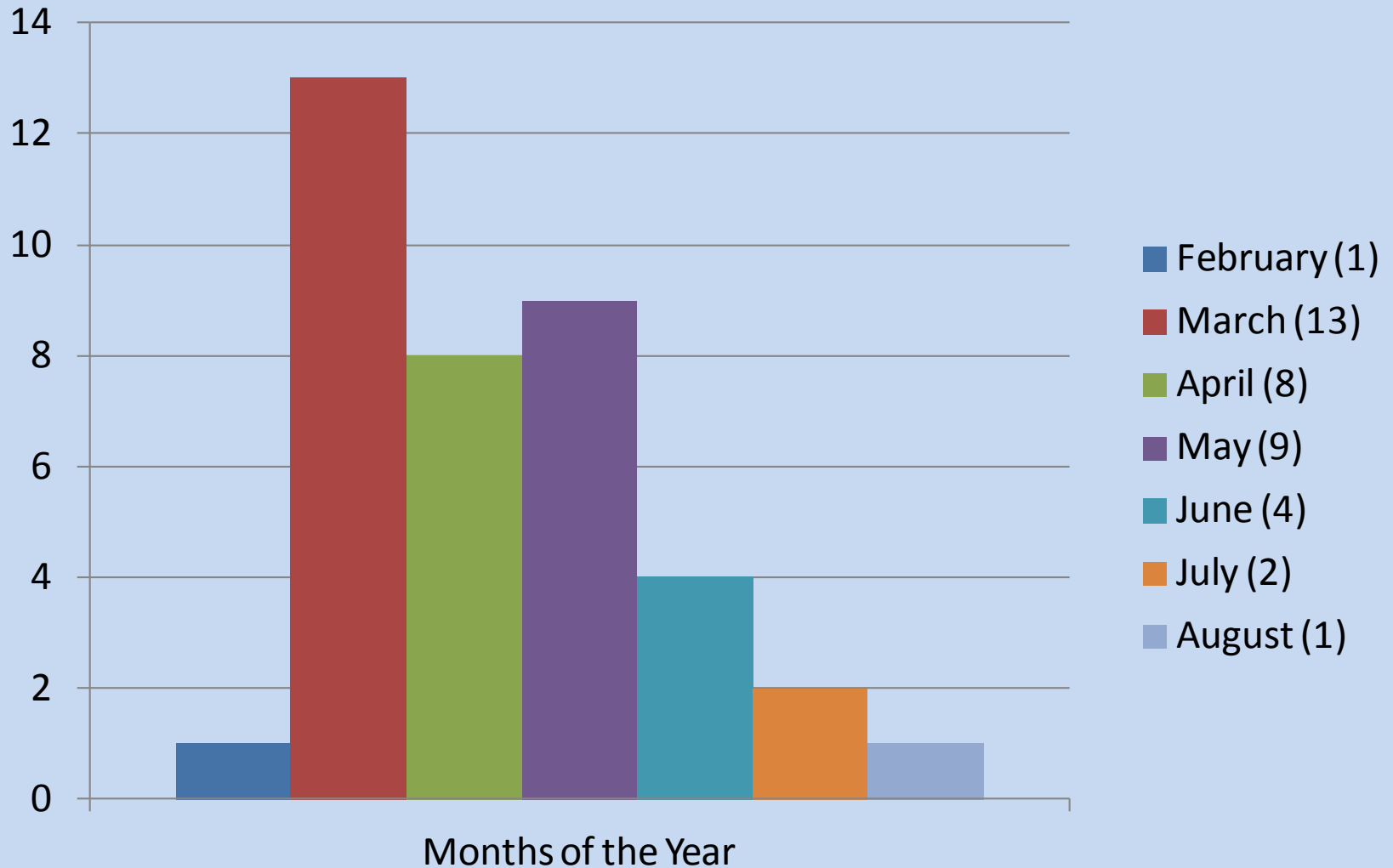
- Not all states have a law revision commission
- State Law Revision Commissions (LRCs)
 - Not all state LRCs are staffed
 - Not all state LRCs operate the same way
 - Not all have similar budgets
 - LRC reports not self-executing
 - Not all state legislatures have the same schedule
 - Not all legislatures and LRCs have schedules that match

Legislative Schedules

- Thirty-eight state legislatures have regularly scheduled sessions ⁽¹⁾
 - Start in January or February
 - Meet for a set number of months
- Eight meet throughout the year ⁽²⁾
- Four have no sessions scheduled for 2012 ⁽³⁾



Legislative Schedules – Ending Months ⁽⁴⁾



Law Revision Commissions

- 8 LRCs in US

- Seven law revision commissions

California

~~Connecticut~~

~~Louisiana~~

Michigan

New Jersey

New York

Oregon

Rhode Island

Washington

- One is a constitution revision commission

Florida

New Jersey's LRC

- Staffed
 - 4 full-time staff
 - Executive Director, Deputy Director, Staff Attorney, Administrative Assistant
 - 3 part-time staff
 - Legislative Law Clerks
 - 7 commissioners
- Works year-round
 - Meets once a month every month (third Thursday) except August
- Schedule and operation differs from LRCs in other states

State Law Revision Commissions

- Florida
 - Constitutional revision commission
 - 37 members
 - Meets once every 20 years
- California
 - Staffed
 - 5 staff
 - 7 commissioners (3 vacancies)
 - Meeting schedule changes
 - Will meet 6 times this year

State Law Revision Commissions

- Michigan
 - Staffed
 - 2 staff
 - 8 commissioners
 - Meeting schedule not clear (June?)
- New York
 - Staffed
 - 3 staff
 - 5 commissioners
 - No meetings listed for this year
 - Met twice last year

State Law Revision Commissions

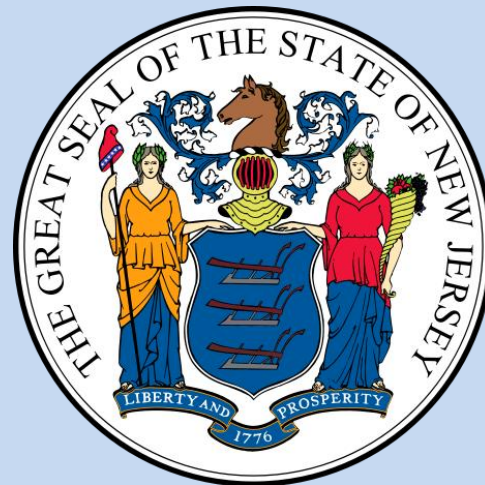
- Oregon
 - Staffed
 - 5 staff
 - 15 commissioners
 - Meets three times per year
 - No indication of any meetings this year
- Rhode Island
 - Limited detail
 - Not clear if staffed

State Law Revision Commissions

- Washington
 - Staffed
 - 2 staff
 - 13 commissioners
 - Meets four months out of the year

Law Revision in New Jersey

- A tradition of law revision
- First Law Revision Commission
 - Established in 1925
 - Produced the Revised Statutes of 1937



Law Revision in New Jersey

- Legislature intended that revision and codification continue after 1937
 - First Law Revision Commission continued in operation until 1939
 - Commission functions transferred to a number of successor agencies, including:
 - Advisory Commission on Revision of Statutes
 - Legislative Commission on Statute Revision
 - Office of Legislative Services

How does the NJLRC function?

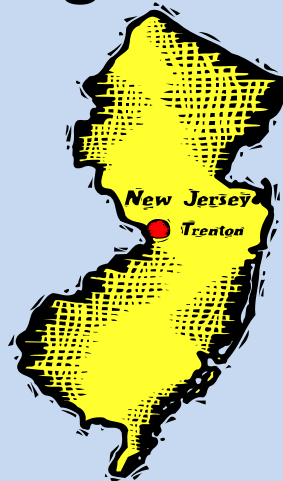
- What are the responsibilities of the Commission?
- Where do its projects come from?
- How many projects does it work on and how many are ultimately enacted?

Law Revision in New Jersey

- Current New Jersey Law Revision Commission created by statute in 1985 (*N.J.S. 1:12A-1*)
- Statute effective January 1986
- Commission began work in 1987
- Through the end of 2011:
 - 105 Final Reports and Recommendations filed with Legislature
 - 39 enacted into law

NJ Law Revision Commission

Mandate: “promote and encourage the clarification and simplification of the law...and its better adaptation to present social needs, secure the better administration of justice and carry on scholarly legal research and work.”



NJ Law Revision Commission

- Duty of Commission to
 - Conduct continuous examination of the law and the judicial decisions construing it
 - Discover defects and anachronisms
 - Prepare and submit to legislature bills to:
 - Remedy defects
 - Reconcile conflicting provisions
 - Clarify confusing language and excise redundancies

NJ Law Revision Commission

- Carry on continuous revision of statutes to maintain in
 - Revised
 - Consolidated and
 - Simplified form

NJ Law Revision Commission

- Receive and consider suggestions and recommendations from:
 - American Law Institute
 - Uniform Law Commission
 - Other learned bodies
 - Judges
 - Public officials
 - Bar associations
 - Attorneys
 - Members of the public

NJ Law Revision Commission

- Work of the NJLRC varies
 - Generally civil, but some criminal law projects
 - Size of projects: single word or phrase
(subpoena power of Commissioner of Department of Community Affairs, penalty for failure to comply: \$100,000 vs. \$100)
to entire title (Title 39; Landlord-Tenant)
 - Duration: 1-2 months to 1-2 years or more

NJ Law Revision Commission

- Frequent sources of projects:
 - ULC (2011 – 11)
 - Case law in which court calls issue to attention of legislature (2011 – 9)
 - Ambiguity,
 - “Legislature may wish to revisit”, etc.
 - Staff and members of public (2011 – 8)
 - Including judges and attorneys

NJLRC Work In 2011

- Commission projects for 2011 (FRR, TR, WIP)
- Final Reports and Recommendations (11):
 - Books and Records (Minutes Inspections)
 - Door to Door Sales
 - Effect of Abstentions
 - Elective Spousal Share
 - Flag Salute
 - Payment of Tax Pending Appeal

NJLRC Work In 2011

- Final Reports and Recommendations (cont'd):
 - Pejorative Terms
 - Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act
 - Uniform Limited Liability Company Act
 - Uniform Partition of Heirs Property Act
 - Uniform Real Property Transfer on Death Act

NJLRC Work In 2011

- Tentative Reports (9):
 - Causes of Action (Title 2A)
 - General Repealer
 - Landlord Tenant
 - New Jersey Debt-Management Services Act
 - UCC Article 9

NJLRC Work In 2011

- Tentative Reports (cont'd):
 - Uniform Emergency Volunteer Health Practitioners Act
 - Uniform Military and Overseas Voters Act
 - Uninsured Motorists
 - Workers Compensation Claims

NJLRC Work In 2011

- Works in Progress (8):
 - Collateral Consequences of Criminal Convictions
 - Equine Activities Liability Act
 - Physical Force In Relation to Sexual Contact
 - Recording Mortgage Assignments
 - Attorney Fees In Special Civil Part Actions
 - Title 39-Driving While Intoxicated
 - Uniform Collaborative Law Rules/Act
 - Uniform Principal and Income Act

NJLRC Projects Enacted In 2011

- Married Women's Property (L.2011, c.115)
 - Recommended repeal of statutes enacted in mid-19th and early-20th century allowing married women to own, control and dispose of property
- New Jersey Trade Secrets Act (L. 2011,c. 161)
 - Uniform Act adapted to reflect NJ common law re: trade secrets
- Title Recordation (L.2011, c.217)
 - Electronic recording – balances need to use new technology with recognition that mandating immediate implementation inappropriate

NJLRC - NJOLS

- Speed
 - LRC turn-around time varies by project
 - OLS pressure of Legislator wanting to drop in bill
- Input
 - LRC seeks as much comment as can be obtained
 - OLS is required to treat requests for assistance by Legislators or others as confidential
 - No information may be given to the public or any person other than the person who made the initial request (unless requestor consents or subject matter is made public) [*N.J.S. 52:11-70*]

What Has The NJ Process Been On UDMSA?

- What lead NJ to consider this project?
- Why didn't NJ simply adopt the uniform act?
- What changes were ultimately made to the uniform act?

UDMSA

- UDMSA first brought to attention of NJLRC by Staff 11/2009
- Staff recommended consideration this project:
 - Current law more than 30 years old (1979)
 - Concerns expressed by Department of Banking and Insurance re: potentially inadequate protection to consumers under current law
- Commission authorized Staff to proceed

NJLRC Approach To ULC Acts

- What is the problem to be solved?
- Does the problem exist in NJ?
 - Already addressed by statute?
 - Relevant here?
- Does the uniform act adequately address the problem?
- Is modification appropriate to tailor act to NJ or is nationwide uniformity critical?

Initial Outreach

- Initial outreach:
 - DOBI
 - Legal Services of New Jersey
 - NJ Housing Mortgage & Finance Association
 - Division of Consumer Affairs
 - Judiciary, Advisory Committee on Professional Ethics
 - Business entities referred by DOBI contacts

UDMSA NJDMSA

- January 2010 – Draft Tentative Report – Limited modifications to UDMSA:
 - Elimination of unnecessarily defined terms (later modified)
 - Early comments
 - Unfunded mandate requiring more work of DOBI
 - Fingerprinting of non-profit board members a deterrent
 - Cost of compliance with insurance and bonding requirements will be passed on to consumers
 - Early comments on fees (fee cap encourages large volume, low service)

UDMSA ↔ NJDMSA

- Changes in 2010 - Commission recognition that actions of other states have not been uniform – substance important, uniformity less so:
 - From registration to licensing to reflect NJ practice
 - Authorizes participation of for-profit entities
 - Real estate mortgages excluded
 - No distinction made between secured and unsecured debt (later changed)
 - Independent certification requirement removed (later changed)

UDMSA NJDMSA

- Changes in 2010 (cont'd):
 - Annual reports required (current NJ law)
 - Modified requirement for audited financial statements (only when required by IRS)
 - Clarified licensing/registration in another state not guaranteed to be accepted in NJ
 - Permitted “A” rating for bonding company or otherwise authorized by DOBI
 - Commissioner not automatically required to raise fees
- Commission requested Staff survey other states re: fees

UDMSA ↔ NJDMSA

- While project underway - Fall 2010:
 - Legal Services recommends: Illinois fee cap and consumer protective provisions
 - Federal Trade Commission change to Telemarketing Sales Rule – impact on DMSA

UDMSA NJDMSA

- Fall 2010 (cont'd):
 - Informal input from AG's office re: "attorney model"
 - Discourages attorney exemption
 - Eliminates other exempt categories (CPAs, financial planners, providers "who have no reason to know" individual receiving services is a NJ resident)
 - Recommends limitation on implying a government affiliation

UDMSA ↔ NJDMSA

- Fall 2010 (cont'd):
 - DOBI:
 - Project could enhance consumer protection in NJ
 - Demand for services has grown exponentially, but pool of providers has remained static
 - Commenters (consumer protection, bankruptcy attorneys): for-profit entities already operating in NJ, completely unregulated

UDMSA ↔ NJDMSA

- September 2010 A1949 introduced in NJ Legislature
 - Similar to UDMSA, not identical
 - NJLRC contact with sponsor
- December 2010:
 - Testimony before Assembly committee
 - Bill A1949 held for redrafting to address commenter concerns

UDMSA ↔ NJDMSA

- January 2011:
 - NJLRC Staff asked to work with sponsor Staff to prepare draft of revised bill
 - Commission directs work on NJLRC project to resume

Why Not UDMSA?

- FTC Rule already in effect – changes required to address
- NJ one of few states (8) prohibiting for profit operation – real concerns re: consumer protection
- Inadequate consumer protection offered by UDMSA
- fees, mandatory information for consumers

Why Not UDMSA?

- Goals
 - Layer in protections
 - Incorporate the “best of the best”
 - Broaden applicability of the FTC Rule change
 - Fees: align the interests of the consumer and the provider

DMSA Input Sought

- Staff outreach outside of NJ:
 - Consumer Union:
 - Inherently flawed business model
 - Layering of protection found in draft would be good protection if NJ already allowed for-profits
 - Theoretically beneficial, but don't expose 100% of consumers to a business model appropriate for maybe 3% of them
 - Incentive to put consumers in a plan they can't comply with – FTC Rule does not protect against this

DMSA Input Sought

- Staff outreach outside of NJ:
 - Maine:
 - Bureau of Consumer Credit Protection
 - “Regulate the act, not the actor”
 - Maine 15% fee cap based on amount of debt at time of settlement, not time of agreement
 - Already had bad-actor companies before law changed
 - Law affords protection to consumers through bond, insurance
 - Maine doesn’t regret opening door to law-abiding for-profits

DMSA Input Sought

- Staff outreach outside of NJ:
 - Illinois:
 - Department of Financial and Professional Regulation
 - Increasing use of the “attorney model”
 - Pursuing bad actors – “whack-a-mole”
 - 2 separate statutes
 - Consumer protection fund – restitution when no other recourse (funds derived from fines on unlicensed entities)
 - Enforcement undertaken by DOBI and AG
 - No licensed for-profits there as of August 2011



Voices Heard



- Commenters (formal and informal) included:
 - Office of the Attorney General, New Jersey Department of Banking and Insurance,
 - New Jersey Housing Mortgage & Finance Association, Advisory Committee on Professional Ethics,
 - American Credit Alliance, Inc., Consumer Credit and Budget Counseling, NovaDebt/Garden State Consumer Credit Counseling, Inc.,





Voices Heard

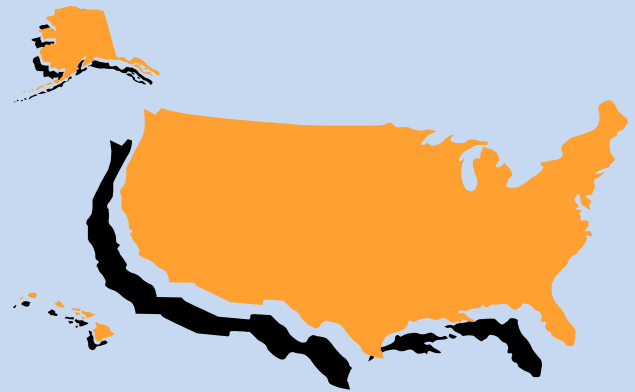


- Commenters (formal and informal) included:
 - CareOne Services, Inc., Debt Management Credit Counseling Corp., Freedom Financial Network, LLC,
 - American Fair Credit Counsel
(formerly The Association of Settlement Companies)
 - Bankruptcy attorneys, including Ronald I. LeVine, Esq.
 - Consumer protection groups, including: Legal Services of New Jersey, New Jersey Citizen Action, Center for Responsible Lending



UDMSA In Other States

- Enacted in 7 states:
 - Colorado (2008)
 - Delaware (2007)
 - Nevada (effective 2010)
 - North Dakota (2011)
 - Rhode Island (2007)
 - Tennessee (effective 2010)
 - Utah (2007)



UDMSA In Other States

- Enacted in United States Virgin Islands (2010)



- Introduced in fifteen other states between 2009 and 2011

NJDMSA – Last Round of Changes

- Hot-button issues:



- For-profit participation (are there consumers who are best served by for-profit entities using a principal-reduction model?)
- Fees
- Success rates of various debt-reduction alternatives (debt management, debt settlement, bankruptcy)

NJDMSA – Final Version

- “Spouse” replaced with “spouse, domestic partner or partner in a civil union”
- Confidential personal identifiers may not be included in reports prepared for submission to State
- Credit counseling defined (drafting oversight)
- Certain ULC 2011 changes incorporated (re: lead generators, etc.)

NJDMSA – Final Version

- Attorneys, CPAs and financial planners not exempt
- Act applies to financial planners
- Act applies to attorneys and CPAs who engage in a business which regularly provides debt-management services or the purpose of which is to provide debt-management services (federal Fair Debt Collection Practices Act)

NJDMSA – Final Version

- Provider may not provide services to NJ consumer unless licensed and compliant
- Act applicable to providers based in NJ or having an office here EXCEPT when services provided to non-NJ resident, provider may comply with law of another state if inconsistent with NJ law (IL)
- NJ law will apply if no other state law applicable to transaction

NJDMSA – Final Version

- Failure to comply with applicable state law – NJ remedial provisions may apply
- Provider not deemed to have an office in state merely because an employee resides here (telecommuters)
- May not provide services to manage or settle secured debt
- Report consolidates/combines sections of UDMSA (Application for licensure – includes Sections 5, 6, 7 and 11 in UDMSA)

NJDMSA – Final Version

- Company providing a bond must have “A” rating or approval of the Commissioner
- Since provider subject to penalties for failure to comply with terms outlined to consumer, must submit to State information regarding manner in which they will determine suitability of consumer for participation in principal-reduction model

NJDMSA – Final Version

- Two-year license cycle
- More detailed provisions re: fingerprints and criminal history record checks
- No temporary license on initial application, but acceptable on renewal
- More extensive disclosures required before providing debt-management services (Sec. 10(b), (d) and (e))

NJDMSA – Final Version

- FTC changes to TSR incorporated and applied to all entities engaging in debt settlement
- Husband and wife or others sharing same household and debts shall not be charged more than one fee (Maine)
- Fee for debt settlement limited to percentage of savings (align interests) *[see comments]*

Comments On Fees



- For-profit commenters
 - Debt-settlement more labor-intensive than debt-management
 - Debt-management plan, once established, a turn-key operation
 - Most expensive part of settlement process - negotiation

Comments On Fees

- For-profit commenters (cont'd)
 - Debt-settlement entities require unique systems, well-trained negotiators, and ongoing support to the consumer
 - Debt-settlement providers use experience with creditors (which deal with delinquent debtors differently and have different business cycles) and pit one against the other

Comments On Fees



- For-profit commenters (cont'd)
 - Some support a fee model in which the provider receives a percentage of the consumer's savings
 - No two consumers are exactly alike
 - No fee caps or other limits needed - FTC Rule change prohibits “advance fees” and that offers adequate protection for consumers

Comments On Fees

- For-profit commenters (cont'd)
 - Not-for-profit entities say that they are not paid adequately for their work but management at some is paid salaries in the mid-six-figures
[news article found at NorthJersey.com 3/27/11 (of 44 non-profits federally authorized to provide bankruptcy counseling to NJ residents, 12 pay top executives more than \$300,000)]



Comments On Fees

- Not-for-profit commenters:
 - Debt-settlement is not more labor intensive than the debt-management services
 - Debt-settlement entities claim that costs for providing services are very high, but it is their marketing and advertising costs that are high
 - Debt-settlement entities do not disburse monies monthly for each consumer, as debt-management entities do

Comments On Fees

- Legal Services of New Jersey and other consumer-protection groups
 - No action should be taken on this project at this time
 - Consumers are better off negotiating directly with creditors than hiring a debt-settlement provider
 - Consumers are better off declaring bankruptcy than hiring a debt-settlement provider

Comments On Fees

- Legal Services of New Jersey and other consumer-protection groups (cont'd)
 - When consumers withhold payments to accumulate funds to make lump-sum offers pursuant to a debt-settlement plan - default penalty rates and subject to more vigorous collection efforts;

Comments On Fees

- Legal Services of New Jersey and other consumer-protection groups (cont'd)
 - At debt-settlement fee rates of 25-50%, the debtors incurred considerably more in total costs than debtors negotiating on their own;
 - Even with a 15% back-end fee, the consumer does not come out ahead

NJDMSA – Final Version

- Staff’s understanding of FTC “advance fee ban”
 - Agreement reached to settle \$10,000 debt for \$6,000
 - Provider charges 21% of the enrolled debt - entitled to fee of \$2,100
 - Consumer pays \$8,100 (not including accretion)
 - If settlement paid over six months, consumer will pay
 - First month - \$1,000 to the creditor and \$2,100 to the provider
 - Following months - only the creditor

NJDMSA – Final Version

- Commission draft limits fee to 30% of savings (not enrolled debt – 21% of enrolled debt roughly equal 42% of savings)
- Controls timing of fee payments
 - lump sum settlement, lump sum fee payment
 - settlement paid monthly, provider gets proportional share of fee each month

NJDMSA – Final Version

- DOBI can modify fees, but only after analysis to ascertain fees/charges not:
 - Excessive
 - Inadequate
 - Unfairly discriminatory
- DOBI analysis to include:
 - State of competition in NJ
 - Affordability of services to NJ consumers
 - Experiences of other states re: fees/charges

NJDMSA – Final Version

- Annual report required to contain information pertaining to activities in NJ and NJ residents (NJ and MD law):
 - Financial statement
 - List of all counselors
 - Number of individuals for whom services provided
 - Number of individuals who signed new agreements
 - Highest number of individuals for whom provider provided services each month

NJDMSA – Final Version

- Annual report requirements (cont'd)
 - Amounts paid by individual to provider in total and per month indicating
 - Payments disbursed to creditors
 - Payments for provider services
 - Percentage of individuals who received a consumer education program and subsequently executed an agreement

NJDMSA – Final Version

- Annual report requirements (cont'd)
 - For each individual enrolled in a plan (with no confidential personal identifiers):
 - Number and amount of each debt enrolled
 - Actual settlement amount of each debt settled and date of settlement
 - Number of individuals who successfully completed a plan
 - Number of individuals who ceased participating in a plan without successfully completing

NJDMSA – Final Version

- Clarification that void agreement may not be enforced by anyone nor give rise to claim against individual (IL)
- List of prohibited acts and practices modified slightly based on comments and on IL law re: requesting or obtaining a waiver of any protection provided by the act

NJDMSA – Final Version

- Partial indemnification provision
 - Drafted in response to Commission request: consequences for bad outcomes of the type described by commenters throughout process
 - Staff approach: disincentives for engaging in inappropriate enrollment of individuals in principal-reduction model

NJDMSA – Final Version

- Partial indemnification provision (cont'd)
 - Provider subject to consequences if (3 factors)
 - (1) Individual provides accurate financial information to enable provider to conduct financial analysis (Sec. 10)
 - (2) Provider enrolls individual in principal-reduction model and individual
 - Meets means test for Ch. 7 bankruptcy or
 - Is not an appropriate candidate for debt-reduction according to providers Sec. 10 analysis; AND

NJDMSA – Final Version

- Partial indemnification provision (cont'd)
 - (3) Individual fails to complete plan and is sued by creditor(s) or fails and subsequently completes a Ch. 7 bankruptcy
 - Provider also subject to consequences if execution of plan in which individual is enrolled differs materially from disclosures required by Sec. 10 and Sec. 12

NJDMSA – Final Version

- Partial indemnification – consequences – provider liable for
 - Legal fees associated with Ch. 7
 - Amount equal to all fees paid by individual to provider pursuant to plan; and
 - Any legal fees associated with suits for balances owed brought by any creditor of the individual that was included in plan

NJDMSA – Final Version

- Advertising and marketing (IL)
 - Provider shall not:
 - Represent any results or outcomes unless substantiation is provided at time representation is made
 - Make unfair or deceptive representation or omission of material fact

NJDMSA – Final Version

- Advertising and marketing (IL) (cont'd)
 - Provider offering principal-reduction model must disclose in all advertising:
 - The services are not right for everyone
 - A fee will be charged for the services
 - Failure to pay bills in timely manner will result in increased balances and fees and may harm credit rating
 - Not all creditors will agree to a settlement
 - Creditors may pursue collection, including lawsuits

NJDMSA – Final Version

- Powers of administrator – include:
 - Modification of dollar amounts on own initiative or application of provider(s)
 - Notification of licensed providers re: changes in dollar amounts and making that information available to public

NJDMSA – Final Version

- Remedies section sets out powers of administrator including:
 - Authorizing action by administrator and AG
 - Describing penalty amounts to be deposited in Consumer Protection Fund

NJDMSA – Final Version

- Private enforcement provisions expand on UDMSA language - treble damages in expanded category of cases including:
 - Cases in which provider fails to comply with prerequisites for providing services
 - Provider fails to comply with requirements for form and contents of agreement
 - Engages in acts and practices prohibited by Sec. 18(a), (b), and (c)

NJDMSA – Final Version

- Debt-Management Consumer Protection Fund (based on IL law)
 - Applied to restitution ordered by administrator or AG
 - Restitution shall not exceed amount lost by consumer (not attorney fees or other fees)
 - Unlicensed provider liable to administrator in amount equal to greater of (1) \$1,000 or (2) four times amount of consumer debt enrolled

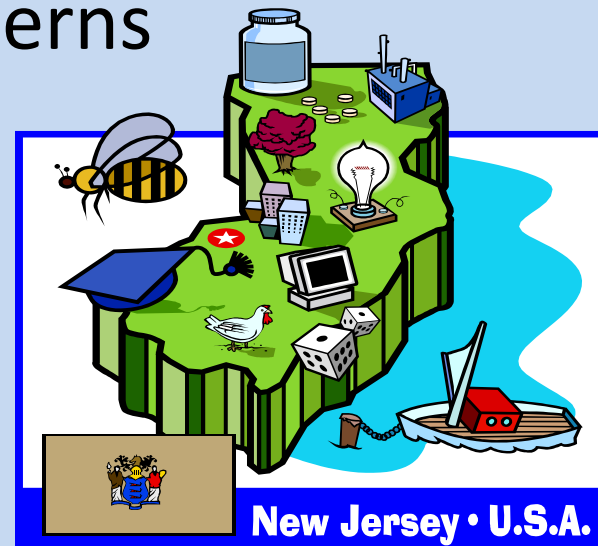


NJDMSA – Final Version

- Sunset provision – 5 years
 - Not less than one year before sunset, administrator to submit information from annual reports to legislature
 - Legislature to consider information to determine whether for-profit providers will be permitted to continue principal-reduction debt-management activities

Current Status in New Jersey

- NJDMSA released as Final Report and Recommendation in March 2012
- A601 introduced in new session – identical, or nearly so, to A1949 before any redrafting to address commenter concerns



What role did commenters play in the NJ DMSA process?

- How important is the role played by commenters?
- How much influence did commenters have on the process in NJ?
- What helps and hurts a commenter participating in the process?

Commenters



- Don't hesitate to contact us
 - Often
 - With details
 - Important educational role
- Don't hesitate to pass along our materials to anyone who might wish to participate
 - All versions of ongoing project materials available on our website

Commenters

- The NJLRC does not have a horse in the race – only role is to try to improve the law – you can help
 - Materials in appropriate format – length, etc.
 - Be clear and accurate – you are our resource
 - If submitting in response to a request
 - Follow any guidelines - “only these two issues”
 - Can you share information
 - Educational vs. Adversarial




Commenters



- Be civil
 - Polite, respectful of the body and other commenters
- Persuasiveness presupposes credibility ⁽⁵⁾
 - Credibility springs from clarity and accuracy
 - Credibility, clarity and accuracy take time
 - Focus on strongest arguments, omit others
 - Omit irrelevant details to avoid distraction
 - Acknowledge problem facts or issues, make your best argument to minimize impact/relevance

Commenters

- Be accurate – DON'T 
 - Smear
 - Shade too drastically
 - Use unsupported/unsupportable numbers
 - Contradict things you said in other forums – address and explain –not safe to assume your audience will not know about it



References

- (1) National Conference of State Legislatures, *2012 Legislative Session Calendar*,
www.ncsl.org/legislatures-elections/legislatures/2012-legislative-session-calendar.aspx
- (2) *Id.*
- (3) *Id.*
- (4) *Id.*
- (5) Jim Mosley, *An Appellate Judge's Tips for Writing Persuasive Briefs*, 04-30-2012,
www.lawjobs.com/newsandviews/LawArticleFriendly.jsp?id=1202550599536&slreturn=1

State Legislators Update

Laura C. Tharney, Esq.

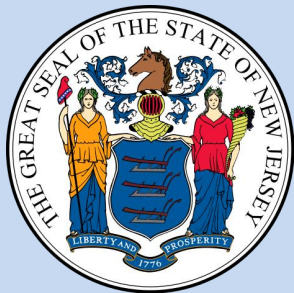
Deputy Director

New Jersey Law Revision Commission

153 Halsey Street, 7th Floor

Box 47016

Newark, NJ 07102



Office - (973) 648-4575

Email - lct@njlrc.org

Website - www.njlrc.org

