

NEWS FROM SCDCA

South Carolina Department of Consumer Affairs



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DEPARTMENT OF CONSUMER AFFAIRS ANNOUNCES PASSAGE OF CONSUMER RELATED LEGISLATION

The South Carolina Department of Consumer Affairs is announcing the passage of three consumer related bills passed during the 2005 legislative session. The [Consumer Credit Counseling Act](#) provides for licensing and regulation of consumer credit counseling agencies, the [Professional Employer Organization Act](#) amends regulation of professional employer organizations; and the [Financial Literacy Instruction Act](#) contains guidelines for financial literacy programs.

Consumer Credit Counseling Act

The Credit Counseling Act will be added as Chapter 7 of the Consumer Protection Code. The Act applies to credit counselors, debt management, debt settlement plans, and credit repair plans. This legislation requires the following:

- Providers of consumer credit counseling must be licensed to do business in South Carolina if they are conducting business (soliciting SC consumers or have a location) in the state.
- Licensed applicants must apply on a form that includes statements showing financial responsibility,

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About the South Carolina Department of Consumer Affairs:

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a description of the consumer education program, a copy of the standard debt management plan, a surety bond, and a criminal background check. Licensing of consumer credit counseling will be renewed annually.

- Consumer Credit Counselors must complete at least twelve hours of continuing professional education every two years.
- The applicant must make an initial showing of financial stability and responsibility, including a surety bond and annual report of credit counseling activities within the state for the previous year.
- Consumer Credit Counselors must maintain a trust account for consumers' funds to be used for the benefit of the consumers paying into the funds.
- Owners of all organizations providing consumer credit counseling must obtain 24 hours of panel-approved continuing education each year.
- Consumer Credit Counselors must provide consumers with a financial education program to improve financial literacy. Counselors must also perform a thorough budget analysis for the individual to determine if they would benefit from participating in the plan.
- Written contracts must clearly disclose the terms of the agreement, including a reasonable estimate of all payments and fees due from the consumer. They must also include payment schedules, amount and date due of payments, as well as terms applying to late payments or defaults.
- Consumer Credit Counselors must attempt to obtain consent of all creditors, record their responses, and identify the creditors who do not participate in the plan.
- Consumers have ten days to cancel the debt management plan.
- Allowable fees charged to consumers are \$20 for initial consultation, \$30 to set up the plan, and \$25 per month to maintain the plan. Counselors may charge a reinstatement fee of up to \$25.
- Consumer Credit Counselors are prohibited from using false or misleading representations, obtaining a waiver of the consumers' rights, charging the consumer to cancel the plan, requiring the purchase of additional goods and/or services, accepting referral fees, making loans, purchasing the debt or obligation of the consumer, or compensating an employee depending on the number of consumers he or she gets to sign up for a debt management plan.

The Professional Employer Organization Act:

- Changes the name (not the definition of) "staff leasing services" to "Professional Employer Organization (PEO)," reflecting the industry-preferred designation.
- Requires eight hours of continuing professional education for key management PEO personnel.
- Clarifies existing and adds new disclosure obligations to client companies and employees.

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- Clarifies and strengthens existing provisions that workers' compensation and health insurance offered to client companies must be issued by insurers licensed in South Carolina. Licenses may not offer partially insured or self-funded benefit plans.
- All administrative hearings on PEO matters will take place at the Administrative Law Court.

The Financial Literacy Instruction Act of 2005

The Financial Literacy Instruction Act of 2005 provides for the development or adoption of curriculum for local school boards to teach financial literacy. It also gives guidelines for the establishment of a fund for contributions for financial literacy instruction. This bill states that:

- The financial literacy program will instruct students on subjects including opening a checking account and balancing a checkbook, completing a loan application, inheritances, taxes, simple contracts, and credit issues.
- A special fund may be established to receive public and private contributions to provide financial incentives to defray the costs of financial literacy training for teachers. The fund will also be used to reward students, teachers or schools who excel in financial literacy competitions, and fund activities, books, and other materials related to financial literacy education.

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