

533A.2 Licenses required — exceptions.

1. A person shall not engage in the business of debt management in this state without a license as provided for in this chapter unless exempt under subsection 2. A person engages in the business of debt management in this state if the person solicits on behalf of the person or another person to provide, or enters into a contract with one or more debtors to provide, debt management to a debtor who resides in this state.

2. The following persons, including employees of such persons, shall not be required to be licensed or to otherwise comply with the provisions of this chapter:

a. A licensed attorney admitted to practice in this state acting solely as an incident to the practice of law.

b. Banks, federally chartered savings and loan associations, credit unions, mortgage bankers and mortgage brokers licensed or registered under chapter 535B, insurance companies and similar fiduciaries, regulated loan companies licensed under chapter 536, and industrial loan companies licensed under chapter 536A, authorized and admitted to transact business in this state and performing credit and financial adjusting in the regular course of their principal business, or while performing an escrow function.

c. Abstract companies, while performing an escrow function.

d. Employees of licensees under this chapter, while performing services for the employee's licensed employer.

e. Judicial officers or others acting under court orders.

f. Nonprofit religious, fraternal, or cooperative organizations offering to debtors gratuitous debt-management service.

g. Those persons whose principal business is the origination of first mortgage loans on real estate for their own portfolios or for sale to institutional investors.

h. A person licensed under chapter 533C, including that person's authorized delegates as defined in section 533C.102, or a person exempt from licensing under section 533C.103, when engaging in money transmission or currency exchange as defined in section 533C.102.

3. The application for a license shall be in the form prescribed by the superintendent. If the applicant is not a natural person, a copy of the legal documents creating the applicant shall be filed with the application. The application shall contain all of the following:

a. The name of the applicant.

b. If the applicant is not a natural person, the type of business entity of the applicant and the date the entity was organized.

c. If the applicant is a foreign corporation, both of the following:

(1) An irrevocable consent, duly acknowledged, that suits and actions may be commenced against the licensee in the courts of this state by service of process performed as provided in section 617.3 or as provided in the Iowa rules of civil procedure.

(2) Proof of authorization to do business in this state.

d. The address where the business is to be conducted, including information as to any branch office of the applicant.

e. The name and resident address of the applicant's owner or partners, or, if a corporation, association, or agency, of the members, shareholders, directors, trustees, principal officers, managers, and agents.

f. The name, physical address, and telephone number of the licensee's agent for service of process.

g. Other pertinent information as the superintendent may require, including a credit report.

4. Each application shall be accompanied by a bond to be approved by the superintendent in favor of the people of the state of Iowa in the penal sum of twenty-five thousand dollars for each office, and conditioned that the obligor will not violate any law pertaining to such business and upon the faithful accounting of all moneys collected upon accounts entrusted to such person engaged in debt management, and their employees and agents for the purpose of indemnifying debtors for loss resulting from conduct prohibited by this chapter. The aggregate liability of the surety to all debtors doing business with the office for which the bond is filed shall, in no event, exceed the penal sum of such bond. The surety on the bond shall have the right to cancel such bond upon giving thirty days' notice to the superintendent

and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation. A person shall not engage in the business of debt management until a good and sufficient bond is filed in accordance with the provisions of this chapter.

5. Each applicant shall furnish with the application a description of its proposed debt management program, a copy of the disclosures it will be providing debtors pursuant to section 533A.8, subsection 3, and a copy of the contract the applicant proposes to use between the applicant and the debtor pursuant to section 533A.8, subsection 4.

6. At the time of making the application the applicant shall pay to the superintendent the sum of two hundred fifty dollars as a license fee for each of the applicant's offices and an investigation fee in the sum of one hundred dollars. A separate application shall be made for each office maintained by the applicant.

[C71, 73, 75, 77, 79, 81, §533A.2]

85 Acts, ch 158, §1; 2006 Acts, ch 1042, §2; 2007 Acts, ch 126, §92; 2008 Acts, ch 1160, §9; 2009 Acts, ch 34, §2 - 4; 2009 Acts, ch 179, §41; 2012 Acts, ch 1017, §131

Referred to in §533C.103

[T] Subsection 2, paragraph b amended