

CHAPTER 7
NONPROFIT CONSUMER CREDIT COUNSELING AGENCIES

- § 7101. Short Title.
- § 7102. Definitions.
- § 7103. Prohibition Against Credit Counseling.
- § 7104. Organization of Agency.
- § 7105. Number of Members.
- § 7106. Notice of Intention.
- § 7107. Bond.
- § 7108. Books and Records.
- § 7109. Powers of Agencies.
- § 7110. Separate Accounts.
- § 7111. Fees.
- § 7112. Violations.
- § 7113. Credit Counseling Under this Chapter Not Practice of Law.

§ 7101. Short Title.

This Chapter shall be known and may be cited as *Uniform Consumer Credit Code-Nonprofit Consumer Credit Counseling Agencies*.

§ 7102. Definitions.

(1) *Credit counseling* means providing specialized personal and group counseling services to individuals of the general public who are suffering or who may suffer economic hardship because of the extension of credit; acting as agents for such individuals in seeking to resolve their economic difficulties; or receiving from such individuals money or other things of value for disbursement to one or more of their creditors.

(2) *Credit counseling* does not include:

(a) providing counseling services by employers to their employees without charges;

(b) providing counseling services by organizations not organized for profit and organized principally for purposes other than providing such counseling services, without charge or at a nominal charge;

(c) providing counseling services and the disbursement of proceeds of credit transactions on behalf of actual or potential debtors by persons who regularly act as creditors and who offer such services or disburse such proceeds without direct

14 GCA UNIFORM CONSUMER CREDIT CODE
CH. 7 NONPROFIT CONSUMER CREDIT COUNSELING AGENCIES

compensation therefor and in furtherance of their credit business;

(d) activities of title insurers and abstract companies in doing an escrow business;

(e) the business of advising, counseling or directing persons in their investments and in the organization and management of their affairs or the business of managing income or property, by their full-time employees or under an exclusive contract, the primary purpose of which is not the liquidation of existing indebtedness.

(3) *Agency* means a nonprofit consumer credit counseling agency organized under this Chapter.

§ 7103. Prohibition Against Credit Counseling.

No person shall engage in or hold himself out to engage in the business of credit counseling other than:

(1) agencies as authorized by this Chapter;

(2) attorneys-at-law rendering services in the course of their practice;

(3) judicial officers or others acting pursuant to court order or direction;

(4) duly constituted nonprofit legal aid or assistance bureaus; or

(5) persons substantially financed by governmental grants or appropriations but only to the extent of the terms of such grants or appropriations.

CROSS-REFERENCES: For the latest law on who may and may not practice law, and what that constitutes, see 7 GCA Chapter 9A.

§ 7104. Organization of Agency.

(1) An agency shall be organized in the manner provided for the organization of nonprofit, nonstock corporations under the Civil Code of Guam.

(2) An agency shall have all the powers, rights and privileges of a corporation, under the statute under which it is organized, except as the provisions of the statute are inconsistent with this Chapter.

(3) An agency shall not be conducted or operated for profit and no part of its net earnings or other assets shall inure to the benefit of any member or other person except to the extent necessary and appropriate to

14 GCA UNIFORM CONSUMER CREDIT CODE
CH. 7 NONPROFIT CONSUMER CREDIT COUNSELING AGENCIES

the accomplishment of its purposes under this Chapter.

(4) The certificate of incorporation of every corporation formed pursuant to the provisions of this Chapter shall have endorsed thereon or annexed thereto the approval of the Chairman of the Judicial Council of Guam. [Added by P.L. 9-253, approved September 4, 1968, effective June 30, 1969.]

§ 7105. Number of Members.

An agency shall have at least ten (10) members.

§ 7106. Notice of Intention.

An agency, before engaging in credit counseling, shall give notice to the Administrator of its intention to do so. The notice shall state:

- (1) name of the agency;
- (2) name in which business is transacted if different from (1);
- (3) address of principal office and all other offices;
- (4) names and addresses of all officers and directors.

§ 7107. Bond.

The agency shall file with the Administrator a bond to be approved by it, in which the agency shall be the obligor, in the sum of Five Thousand Dollars (\$5,000.00), with one or more sureties, whose liability as sureties need not exceed that sum in the aggregate. The bonds shall run to the Territory for the use of the Territory and of any person or persons who may have a course of action against the obligor in the bond under the provisions of this Chapter, and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Chapter and will pay to any such person or persons any and all moneys that may become due or owing to such person or persons from the obligor under and by virtue of the provisions of this Chapter.

§ 7108. Books and Records.

Each agency engaged in credit counseling shall preserve its books, accounts and records for at least two (2) years after making the final entry on any transaction recorded therein.

§ 7109. Powers of Agencies.

An agency shall have the powers and privileges:

14 GCA UNIFORM CONSUMER CREDIT CODE
CH. 7 NONPROFIT CONSUMER CREDIT COUNSELING AGENCIES

(1) to provide specialized credit counseling service to individuals of the general public in the area of consumer credit;

(2) to handle moneys or other property as agent or act as trustee in relation to the care, custody or management of such moneys or property for individual debtors being counseled;

(3) to act as trustees or other statutory agent or representative in bankruptcy or state wage earner, garnishment or similar proceedings, and to receive and distribute moneys or other property to be paid or distributed in the proceedings;

(4) to charge reasonable fees in accordance with this Chapter for services rendered or to be rendered to individual debtors, including, but not limited to, meetings or communications with debtors' creditors or employers, appearances before judicial or other official bodies and receipt, care and distribution of debtors' income and other assets;

(5) to accept such assignments of wages of a debtor as are authorized or permitted under the laws of this Territory;

(6) to publicize its services to the public;

(7) to conduct group counseling services and educational programs with or without charge on matters involving consumer credit;

(8) to disseminate information relating to consumer credit; and

(9) to solicit and accept contributions.

§ 7110. Separate Accounts.

An agency shall not commingle moneys or property received by it from debtors with the agency's own moneys or property. An agency shall maintain a separate account in which all moneys received from or held for debtors for the benefit of creditors shall be deposited and in which all such moneys shall remain until disbursements are made to the debtor or on his behalf, including the agency's fee.

§ 7111. Fees.

A schedule of fees to be charged by an agency shall be submitted to the Administrator. The schedule of fees may not be inconsistent with or inappropriate to the character and function of the agency as a nonprofit agency hereunder.

14 GCA UNIFORM CONSUMER CREDIT CODE
CH. 7 NONPROFIT CONSUMER CREDIT COUNSELING AGENCIES

§ 7112. Violations.

Any person who willfully violates any provision of this Chapter is guilty of a misdemeanor.

§ 7113. Credit Counseling Under This Chapter Not Practice of Law.

Credit counseling by an agency in accordance with the provisions of this Chapter shall not constitute practice, appearance or advice as an attorney-at-law or as an attorney and counselor-at-law, the practice of law or the rendering of legal services.

CROSS-REFERENCES: For the latest law on what is and what is not the practice of law, and who may practice law, see 7 GCA Chapter 9A.
