c Pr9 Ontario Association of Not-For-Profit Credit Counselling Services Act, 1997

Ontario

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An Act respecting the
Ontario Association of Not-For-Profit
Credit Counselling Services

Assented to July 21, 1997

The Ontario Association of Credit Counselling Services has applied for special legislation to change its name to Ontario Association of Not-For-Profit Credit Counselling Services, to enable it to govern its members in accordance with its by-laws and to enable it to grant its members the right to the exclusive use of the designation "Accredited Not-For-Profit Credit Counselling Agency".

It is appropriate to grant the application.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "Association" means the Association that is continued under section 2.

2. (1) The Ontario Association of Credit Counselling Services is continued as a corporation without share capital under the name "Ontario Association of Not-For-Profit Credit Counselling Services".

(2) The agencies registered as members of the Ontario Association of Credit Counselling Services on the day this Act comes into force and such other agencies as later become members of the Association constitute the corporation.

3. The members of the board of directors of the Ontario Association of Credit Counselling Services and the officers of the Ontario Association of Credit Counselling Services in office immediately before this Act comes into force are continued in office until their successors are elected or appointed under this Act.

4. (1) The affairs of the Association shall be managed by a board of directors.

(2) The size and composition of the board shall be as set out in the by-laws of the Association.

(3) The members of the Association shall, at the annual general meeting, elect the members of the board for such terms of office as are set out in the by-laws of the Association.

(4) The Association may by by-law divide the membership of the Association into regions for the purpose of holding local meetings, organizing local activities and electing one or more members of the board.

(5) At any meeting of the board, a majority of the members of the board constitutes a quorum.
Vacancies

(6) In case of the death, resignation or incapacity of any member of the board, the board shall fill the vacancy for the balance of the term in the manner provided by the by-laws of the Association and, for the purpose of this subsection, the board may by by-law provide that a member’s absence from a specified number of meetings of the board be treated as his or her incapacity.

Membership

5. The Association shall grant membership in the Association to any credit counselling agency which applies, in accordance with the by-laws, if the agency,

(a) is not-for-profit;
(b) espouses the objects of the Association as set out in section 3; and
(c) satisfies the qualifications and conditions for membership set out in the by-laws.

Register

6. (1) The executive director of the Association shall keep a register in which shall be entered the names of all members of the Association in good standing, their class of membership and such other information as may be determined by the board.

(2) The register shall be open to examination by the public at the office of the Association during normal office hours.

Privileges of membership

(3) Only those agencies whose names appear in the register are entitled to the privileges of membership in the Association.

By-laws

7. (1) The board may pass by-laws regarding such matters as are necessary to conduct the business and carry out the objects of the Association.

(2) Without restricting the generality of subsection (1), the board may pass by-laws,

(a) establishing classes of membership in the Association and prescribing the qualifications for and conditions of membership in the various classes of membership;
(b) providing for the continuing training of counselling employees of members of the Association;
(c) regulating and governing the conduct of members of the Association by prescribing a code of ethics, rules of professional conduct and standards of practice;
(d) prescribing rules respecting the holding of funds in trust for clients;
(e) providing for suspension, expulsion or other penalty for contravening the code of ethics or for professional misconduct, incapacity or incompetence;
(f) prescribing fees payable to the Association.

Designation

8. (1) Every member of the Association that satisfies the qualifications and conditions for membership in the accredited class of membership may use the designation “Accredited Not-for-Profit Credit Counselling Agency”.

(2) Any person in Ontario who is not a member of the Association as described in subsection (1) is guilty of an offence if they take or use the designation “Accredited Not-for-Profit Credit Counselling Agency”.

(3) Any person in Ontario who is not a member of the Association is guilty of an offence if they imply, suggest or hold out that they are a member of the Association.

Offence

9. (1) An agency that has been refused membership or that has been subjected to a disciplinary sanction under the by-laws of the Association may appeal the refusal or sanction to the Divisional Court.

Appeal regarding membership or sanctions

(2) Upon the request of an agency desiring to appeal to the Divisional Court and upon payment of a reasonable fee, the executive director of the Association shall give the agency a certified copy of the record of the proceeding that resulted in the refusal to grant membership or the imposition of a sanction, including certified copies of the documents received in evidence at the proceeding.

Grounds for appeal

(3) An appeal under this section may be made on questions of law or fact or both.

Powers of court

(4) The court may affirm or rescind the decision being appealed, may substitute its opinion for that of the board of directors of the Association, may refer the matter back to the board for rehearing in whole or in part or may direct the board to take such action as the court considers appropriate.

Evidence

10. (1) A copy of the register, certified by the executive director of the Association as a true copy, shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of an agency’s membership and class of membership in the Association.

(2) A certified document purporting to be signed by the executive director is proof, in the absence of evidence to the contrary, that such person is the executive director, without proof of the person’s signature or the person being in fact the executive director.

(3) The absence of the name of any agency from a copy of the register certified by the executive director as a true copy is proof, in the absence of evidence to the contrary, that
the agency is not registered as a member of the Association.

11. This Act does not affect or interfere with the right of any individual or agency that is not a member of the Association to engage in the practice of credit counselling.

12. Any surplus derived from carrying on the affairs and business of the Association shall be applied solely in promoting and carrying out its objects and shall not be divided among its members.

13. This Act comes into force on the day it receives Royal Assent.

14. The short title of this Act is the Ontario Association of Not-For-Profit Credit Counselling Services Act, 1997.