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TRYGGINGAMÁLARÁÐUNEYTIÐ

Ministry of Social Affairs and Social Security

The Ombudsman for Debtors Act No. 100/2010

Article 1

The Office of the Ombudsman for Debtors is a government agency headed by the Ombudsman for Debtors. The Agency, which operates under the auspices of the Minister of Social Affairs and Social Security, shall guard the interests and rights of debtors as further provided for in law.

The function of the Ombudsman for Debtors is to:

- a. render assistance free of charge to individuals who have serious payment difficulties in order to obtain a comprehensive overview of their finances and to seek solutions;
- b. provide intermediation regarding interactions and negotiations with creditors with the debtor's interests as a guiding principle;
- c. provide its assistance in attempts to negotiate for debt mitigation;
- d. prepare special income criteria and provide for regular updates;
- e. receive communications and suggestions from debtors regarding flaws in lending industry practices and to forward them to the relevant surveillance authority,
- f. protect the interests of debtors and to render them assistance as appropriate,
- g. offer comprehensive advice and education regarding home finances.

Article 2

The Minister appoints the Ombudsman for Debtors, who is the head of the Agency and is professionally, financially and administratively responsible for running the Agency, for a term of five years. The Ombudsman shall have a university degree and command extensive knowledge and experience in issues within the Agency's area of work.

The Official Remuneration Council (Kjararáð) will determine the salary and terms of employment of the Ombudsman for Debtors.

The Ombudsman for Debtors shall manage the Agency and be responsible for its running and for the recruitment of other personnel. The Ombudsman for Debtors may make a service agreement with outside parties regarding the processing of cases for the Agency. In the case of the processing of personal information, that processing must meet the requirements of Article 8 and, as the case may be, Article 9 of Act No. 77/2000, on the Protection of Privacy and the Processing of Personal Data. The Ombudsman for Debtors and the processing party shall also make a processing agreement in accordance with Article 13 of the same Act.

The Minister may issue regulations about service agreements with outside parties for the processing of cases for the Agency containing, amongst other things, provisions about projects and payment amounts.

The decisions of the Ombudsman for Debtors cannot be appealed to a higher level of government unless otherwise provided for in law.

The Minister can, through regulations, issue further rules regarding the organisation and operations of the Office of the Ombudsman for Debtors.

Article 3

The Ombudsman for Debtors may demand that the government provides all the information that the Ombudsman finds necessary in order to be able to perform his statutory functions, even though the law prescribes the obligation of professional secrecy for the relevant government authority. By the same token, businesses and associations are required to provide the Ombudsman for Debtors with all the information that the Agency finds necessary in order for the Agency to be able to perform its functions. The Agency does however not have the right to demand information involving state security or foreign affairs that must be treated as confidential according to law except with the permission of the minister concerned.

Gathering of information by the Ombudsman for Debtors is subject to the condition that it is necessary and in accordance with the acceptance by the debtor for the processing and that the provisions of Article 21 of Act No. 77/2000, on the Protection of Privacy and the Processing of Personal Data, which concerns the responsible party's duty to inform, in this case the Ombudsman for Debtors, when information is acquired from other than the registered person, i.e. the debtor.

Article 4

The Ombudsman for Debtors and the Agency's staff may not divulge information on issues they become aware of in the course of their work and which is confidential. This obligation of professional secrecy remains in effect even after termination of employment.

Article 5

Credit institutions, *cf.* Article 4 of Act No. 161/2002, on Financial Undertakings, the Housing Financing Fund and pension funds shall bear the cost of operating the Ombudsman for Debtors by paying a special charge. The charge goes directly to the Ombudsman for Debtors and will be collected by the Agency.

The charge shall be levied no later than 15 January each year and the Ombudsman for Debtors shall explain this levy in a letter to those parties who are liable to pay the charge. The charge shall be paid in advance every four months in three equal instalments. It shall be paid as follows: the due date for the first four months shall be 1 February and final due date for payment is 15 February; the due date for the second four months shall be 1 May and the final due date for payment is 15 May; and the due date for the final four months shall be 1 September and the final due date for payment is 15 September.

If the charge is paid after the final due date then default interest is calculated from the due date.

Should a credit institution commence activities once the assessment has been performed, the levying of the charge shall be based on the next due date following the beginning of the operation of the credit institution.

Prior to 1 June of each year, the Ombudsman for Debtors shall make a draft budget for the Office's operations in the following calendar year. The draft budget shall be sent for the mandatory opinions of the parties liable for the charge under paragraph 1 who must return their written mandatory opinions within one month. Having received the mandatory opinions, the Ombudsman for Debtors shall make a budget and submit it to the Minister for approval. The mandatory opinions shall be sent to the Minister with the budget. If the Minister approves the budget without alterations, the levying of the charge shall be based on that budget. If the Minister thinks that levying of the charge should be altered from what it was in the budget, those parties who are liable to pay the charge and the Ombudsman for Debtors shall submit their mandatory opinions about the Minister's proposals within two weeks. Once this period has passed, the Minister shall make a decision regarding the levying of the charge. The basic assumption shall be that the parties who are liable to pay the charge shall do so in proportion to the scope of their lending operations.

If there is an operating surplus from the activities of the Ombudsman for Debtors, it should be used toward the next year's charge in proportion to the levied charge. If there is an operating loss, then it should be taken into account for the next year's levying of charges.

The Minister shall issue regulations with further instructions regarding the payment of the supervisory fee.

Article 6

The Ombudsman for Debtors shall give an annual report to the Minister about the Agency's activities. The information presented in the report must be in a summarised form so that individual parties cannot be identified. The report shall be made public.

Article 7

This Act enters into force on 1 August 2010. However, temporary Provision II shall enter into effect immediately.

Temporary provisions

I

At the time of the entry into force of this Act, the employees of the Family Finances Advisory Office shall be offered employment with the Office for the Ombudsman for Debtors. The employees' legal protection regarding working for the Ombudsman for Debtors is subject to the provisions of the Government Employees Act No. 70/1996, as amended. Article 7 of Act No. 70/1996 does not apply regarding the allocation of jobs according to this provision.

II

The Minister of Social Affairs and Social Security shall immediately appoint a three member working group that shall prepare for the entry into force of this Act, including the offering of new jobs with the Office of the Ombudsman for Debtors to the employees of the Family Finances Advisory Office, from 1 August 2010, *cf.* temporary provision I. The working group shall, following the appointment of the Ombudsman for Debtors, act in an advisory capacity to the Agency regarding the activities of the Agency during its first year of operations.

III

The calculations of the cost and expenses and the payment of the cost of operating the Office of the Ombudsman for Debtors for the remaining part of 2010 when this Act enters into force, shall be arranged in the same manner as provided for in Article 5, however with the provision that it is based on the draft budget which the working group, pursuant to temporary provision II, prepares as soon as possible after the Act has been passed. The levying of the charge shall be performed as quickly as possible after that.

The provisions of Article 5 of this Act regarding the payment of costs and expenses for the operation of the Office of the Ombudsman for Debtors shall be reviewed within three years from the entry into force of this Act.

*[This translation is published for information only.
The original Icelandic text is published in the Law Gazette.
In case of a possible discrepancy, the original Icelandic text applies.]*