

By: Senator(s) King

To: Business and Financial
Institutions

SENATE BILL NO. 2285

1 AN ACT TO AMEND SECTION 85-9-5, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE NONPROFIT CORPORATIONS ENGAGED IN DEBT ADJUSTING
3 ACTIVITIES TO RECEIVE CONSIDERATION FOR SUCH ACTIVITIES FROM
4 DEBTORS; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 85-9-5, Mississippi Code of 1972, is
7 amended as follows:

8 85-9-5. This chapter shall have no application to:

9 (a) Those situations involving debt adjusting incurred
10 incidentally in the lawful practice of law in this state.

11 (b) Banks and fiduciaries duly authorized and admitted
12 to transact business in this state and performing credit and
13 financial adjusting service incidentally in connection with the
14 regular course of their principal business.

15 (c) Title insurers who adjust debts out of escrow funds
16 only incidentally in the regular course of their principal
17 business.

18 (d) Judicial officers or others acting under court
19 orders.

20 (e) Nonprofit religious or charitable corporations or
21 associations engaged in debt adjusting only incidentally in
22 connection with their counseling services.

23 (f) Those situations involving debt adjusting incurred
24 incidentally in connection with the lawful practice as a certified
25 public accountant.

26 (g) Bona fide trade or mercantile associations in the
27 course of arranging adjustment of debts with business
28 establishments.



29 (h) Employers who adjust debts for their employees.

30 (i) Any person who, at the request of a debtor, makes a
31 loan to the debtor, and who, at the authorization of the debtor,
32 acts as an adjuster of the debtor's debts solely in the
33 disbursement of the proceeds of the loan, without compensation for
34 the services rendered in adjusting the debts.

35 (j) (i) Nonprofit corporations engaged in debt
36 adjusting whose consideration for debt adjusting does not exceed
37 Twenty-five Dollars (\$25.00) per month per debtor. Any nonprofit
38 corporation intending to engage in debt adjusting under this
39 paragraph shall file a registration statement with the Secretary
40 of State prior to engaging in debt adjusting. Such registration
41 statement shall contain the name and address of the corporation,
42 the names and addresses of the officers and directors of the
43 corporation, the addresses where the corporation shall engage in
44 debt adjusting, and a statement under oath that all consideration
45 received for debt adjusting activities shall not exceed
46 Twenty-five Dollars (\$25.00) per month per debtor.

47 (ii) Before any nonprofit corporation may engage
48 in debt adjusting under this paragraph, the corporation shall
49 obtain a bond from one or more surety companies authorized to do
50 business in this state, which bond shall be approved by the
51 Secretary of State. The principal amount of such bond shall be
52 Fifty Thousand Dollars (\$50,000.00). Such bond shall be in favor
53 of the State of Mississippi for the benefit of any debtor or
54 creditor who makes use of the debt adjusting services of the
55 corporation and who is damaged by intentional acts or omissions of
56 any director, officer or employee of the corporation which result
57 in any misuse or misappropriation of funds of the debtor or
58 creditor. Any person claiming against the bond may maintain an
59 action against the corporation and the surety or sureties. The
60 aggregate liability of the surety shall not exceed the sum of such
61 bond. The bond may be canceled at any time by the surety giving



62 written notice to the Secretary of State of its intention to
63 cancel the bond and all liability shall terminate thirty-five (35)
64 days after the mailing of such notice except that such notice
65 shall not affect any claims arising under the bond, whether
66 presented or not, before the effective date of the cancellation
67 notice.

68 (iii) In lieu of the bond required in item (ii) of
69 this paragraph, a nonprofit corporation may be a self-insurer by
70 posting with the Secretary of State any of the following:

71 A. Cash;

72 B. Certificates of deposit from any bank or
73 banking corporation insured by the Federal Deposit Insurance
74 Corporation;

75 C. Irrevocable letters of credit from any
76 bank or banking corporation insured by the Federal Deposit
77 Insurance Corporation;

78 D. Federal treasury bills; or

79 E. Notes, securities or bonds secured by the
80 federal government or the State of Mississippi.

81 Self insurers shall post an amount equivalent to the amount
82 of the bond required in item (ii) of this paragraph.

83 **SECTION 2.** This act shall take effect and be in force from
84 and after July 1, 2002.

