SENATE BILL NO. 2285

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

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

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

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

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

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

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

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

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

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

(g) Bona fide trade or mercantile associations in the course of arranging adjustment of debts with business establishments.
(h) Employers who adjust debts for their employees.

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

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

(ii) Before any nonprofit corporation may engage in debt adjusting under this paragraph, the corporation shall obtain a bond from one or more surety companies authorized to do business in this state, which bond shall be approved by the Secretary of State. The principal amount of such bond shall be Fifty Thousand Dollars ($50,000.00). Such bond shall be in favor of the State of Mississippi for the benefit of any debtor or creditor who makes use of the debt adjusting services of the corporation and who is damaged by intentional acts or omissions of any director, officer or employee of the corporation which result in any misuse or misappropriation of funds of the debtor or creditor. Any person claiming against the bond may maintain an action against the corporation and the surety or sureties. The aggregate liability of the surety shall not exceed the sum of such bond. The bond may be canceled at any time by the surety giving
written notice to the Secretary of State of its intention to
cancel the bond and all liability shall terminate thirty-five (35)
days after the mailing of such notice except that such notice
shall not affect any claims arising under the bond, whether
presented or not, before the effective date of the cancellation
notice.

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

A. Cash;
B. Certificates of deposit from any bank or
banking corporation insured by the Federal Deposit Insurance
Corporation;
C. Irrevocable letters of credit from any
bank or banking corporation insured by the Federal Deposit
Insurance Corporation;
D. Federal treasury bills; or
E. Notes, securities or bonds secured by the
federal government or the State of Mississippi.

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

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