

By: Representative Flaggs

To: Banking and Financial Services

HOUSE BILL NO. 824

1 AN ACT TO AMEND SECTION 81-22-3, MISSISSIPPI CODE OF 1972, TO
2 EXEMPT FROM THE MISSISSIPPI DEBT MANAGEMENT SERVICES ACT CERTAIN
3 SERVICES PROVIDED BY ATTORNEYS IN THE REGULAR COURSE OF THE
4 PRACTICE OF LAW; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 81-22-3, Mississippi Code of 1972, is
7 amended as follows:

8 81-22-3. As used in this chapter, unless the context
9 otherwise indicates, the following terms have the following
10 meanings:

11 (a) "Commissioner" means the Commissioner of Banking
12 and Consumer Finance of the State of Mississippi.

13 (b) "Debt management service" means:

14 (i) The receiving of money from a consumer for the
15 purpose of distributing one or more payments to or among one or
16 more creditors of the consumer in full or partial payment of the
17 consumer's obligation;

18 (ii) Arranging or assisting a consumer to arrange
19 for the distribution of one or more payments to or among one or
20 more creditors of the consumer in full or partial payment of the
21 consumer's obligation;

22 (iii) Exercising control, directly or indirectly,
23 or arranging for the exercise of control over funds of the
24 consumer for the purpose of distributing payments to or among one
25 or more creditors of the consumer;

26 (iv) Acting or offering to act as an intermediary
27 between a consumer and one or more creditors of the consumer for
28 the purpose of adjusting, compromising, negotiating, settling,



29 discharging or otherwise deferring, reducing or altering the terms
30 of payment of the consumer's obligation; or

31 (v) Improving or offering to improve a consumer's
32 credit record, history or rating.

33 (c) "Debt management service provider" means a person
34 that provides or offers to provide to a consumer in this state any
35 debt management services, in return for a fee or other
36 consideration. "Debt management service provider" does not
37 include:

38 (i) Those situations involving debt adjusting
39 services provided in the regular course of the practice of law by
40 attorneys duly licensed to practice law in Mississippi who are
41 active and in good standing with The Mississippi Bar, who are not
42 employed by debt management service providers, and who do not
43 provide these services in businesses that are ancillary to their
44 law practices;

45 (ii) Those situations involving credit report
46 error correction services and situations covered under paragraph
47 (b) (v) of this section when provided in the regular course of the
48 practice of law by attorneys duly licensed to practice law in
49 Mississippi who are active and in good standing with The
50 Mississippi Bar, who are not employed by debt management service
51 providers, and who do not provide these services in businesses
52 that are ancillary to their law practices;

53 (iii) Title insurers who adjust debts out of
54 escrow funds only incidentally in the regular course of their
55 principal business;

56 (iv) Judicial officers or others acting under
57 court orders;

58 (v) Those situations involving debt adjusting
59 incurred incidentally in connection with the lawful practice as a
60 certified public accountant;



61 (vi) Bona fide trade or mercantile associations in
62 the course of arranging adjustment of debts with business
63 establishments;

64 (vii) Employers who adjust debts for their
65 employees;

66 (viii) Any person who, at the request of a debtor,
67 makes a loan to the debtor, and who, at the authorization of the
68 debtor, acts as an adjuster of the debtor's debts solely in the
69 disbursement of the proceeds of the loan, without compensation
70 for the services rendered in adjusting the debts;

71 (ix) Any institution that is regulated, supervised
72 or licensed by the department or any out-of-state institution that
73 is insured by the Federal Deposit Insurance Corporation or the
74 National Credit Union Administration; or

75 (x) Attorneys duly licensed to practice law in
76 Mississippi who are active and in good standing with The
77 Mississippi Bar, who are not employed by debt management service
78 providers, and whose debt management services are provided in the
79 regular course of the practice of law and not as ancillary
80 businesses to their law practices.

81 (d) "Department" means the Department of Banking and
82 Consumer Finance of the State of Mississippi.

83 (e) "Fair share contribution" means voluntary
84 contributions paid to the licensee by the creditor for collecting
85 funds from clients pursuant to debt management services.

86 (f) "Licensee" means a person or entity who is required
87 to be licensed as a debt management service provider.

88 (g) "Person" means an individual or an organization.

89 (h) "Records" or "documents" means any item in hard
90 copy or produced in a format of storage commonly described as
91 electronic, imaged, magnetic, microphotographic or otherwise, and
92 any reproduction so made shall have the same force and effect as



93 the original thereof and be admitted in evidence equally with the
94 original.

95 (i) "Third-party payment processor" means any entity
96 that holds, or has access to, or can effectuate possession of, by
97 any means, the monies of a licensee's debtors, or distributes, or
98 is in the chain or distribution of such monies, to the creditors
99 of such debtors, pursuant to an agreement or contract with the
100 licensee. This term shall not include entities that solely
101 provide the electronic routing and settlement of financial
102 transactions and their sponsoring banks.

103 **SECTION 2.** This act shall take effect and be in force from
104 and after its passage.

