

By: Representatives Zuber, Sykes

To: Banking and Financial Services

HOUSE BILL NO. 792

1 AN ACT TO AMEND SECTION 81-22-3, MISSISSIPPI CODE OF 1972, TO  
2 EXCLUDE CERTAIN FOR-PROFIT DEBT MANAGEMENT SERVICE PROVIDERS FROM  
3 THE DEFINITION OF "DEBT MANAGEMENT SERVICE PROVIDER" UNDER THE  
4 MISSISSIPPI DEBT MANAGEMENT SERVICES ACT; AND FOR RELATED  
5 PURPOSES.

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

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

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

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

14 (b) "Debt management service" means:

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



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

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

27                   (iv) Acting or offering to act as an intermediary  
28 between a consumer and one or more creditors of the consumer for  
29 the purpose of adjusting, compromising, negotiating, settling,  
30 discharging or otherwise deferring, reducing or altering the terms  
31 of payment of the consumer's obligation; or

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

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

39                   (i) Those situations involving debt adjusting  
40 incurred incidentally in the lawful practice of law in this state;

41                   (ii) Those situations involving credit report  
42 error correction services and situations covered under paragraph



43 (b) (v) of this section when performed in the lawful practice of  
44 law in this state;

45 (iii) Title insurers who adjust debts out of  
46 escrow funds only incidentally in the regular course of their  
47 principal business;

48 (iv) Judicial officers or others acting under  
49 court orders;

50 (v) Those situations involving debt adjusting  
51 incurred incidentally in connection with the lawful practice as a  
52 certified public accountant;

53 (vi) Bona fide trade or mercantile associations in  
54 the course of arranging adjustment of debts with business  
55 establishments;

56 (vii) Employers who adjust debts for their  
57 employees;

58 (viii) Any person who, at the request of a debtor,  
59 makes a loan to the debtor, and who, at the authorization of the  
60 debtor, acts as an adjuster of the debtor's debts solely in the  
61 disbursement of the proceeds of the loan, without compensation  
62 for the services rendered in adjusting the debts;

63 (ix) Any institution that is regulated, supervised  
64 or licensed by the department or any out-of-state institution that  
65 is insured by the Federal Deposit Insurance Corporation or the  
66 National Credit Union Administration; \* \* \*



67 (x) Licensed attorneys engaged in the lawful  
68 practice of law \* \* \*; or

69 (xi) For-profit debt management service providers  
70 who do not receive or hold consumer funds, who do not receive a  
71 fee until a settlement is approved by the consumer and who are  
72 regulated by the Federal Trade Commission.

73 (d) "Department" means the Department of Banking and  
74 Consumer Finance of the State of Mississippi.

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

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

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

81 (h) "Records" or "documents" means any item in hard  
82 copy or produced in a format of storage commonly described as  
83 electronic, imaged, magnetic, microphotographic or otherwise, and  
84 any reproduction so made shall have the same force and effect as  
85 the original thereof and be admitted in evidence equally with the  
86 original.

87 (i) "Third-party payment processor" means any entity  
88 that holds, or has access to, or can effectuate possession of, by  
89 any means, the monies of a licensee's debtors, or distributes, or  
90 is in the chain or distribution of such monies, to the creditors  
91 of such debtors, pursuant to an agreement or contract with the



92 licensee. This term shall not include entities that solely  
93 provide the electronic routing and settlement of financial  
94 transactions and their sponsoring banks.

95       **SECTION 2.** This act shall take effect and be in force from  
96 and after July 1, 2018.

