

**STATE OF MISSISSIPPI
DEPARTMENT OF BANKING AND CONSUMER FINANCE
CONSUMER FINANCE DIVISION**

MISSISSIPPI NONPROFIT DEBT MANAGEMENT SERVICES ACT

REGULATIONS



Compiled and Adopted by
Department of Banking and Consumer Finance
For licensees governed by the
Mississippi Nonprofit Debt Management Services Act

John S. Allison, Commissioner
June 1, 2005

State of Mississippi

Department of Banking and Consumer Finance Consumer Finance Division

Mississippi Nonprofit Debt Management Services Act

Regulations

Section 1. Definitions

- a. “Debtor” shall mean an individual who enters into an agreement or contract with a licensee and is at that time a Mississippi resident.
- b. “Licensee” shall mean an entity licensed pursuant to Section 81-22-5 of the Mississippi Nonprofit Debt Management Services Act.
- c. “Third-party payment processor” shall mean an entity that holds, or has access to, or can effectuate possession of, by any means, the monies of a licensee’s debtors, or distributes, or is in the chain of distribution of such monies, to the creditors of such debtors, pursuant to an agreement or contract with the licensee. This term shall not include entities that solely provide the electronic routing and settlement of financial transactions and their sponsoring banks.
- d. “Fair share contribution” shall mean voluntary contributions paid to the licensee by the creditor for collecting funds from clients pursuant to debt management plans.

Section 2. Explanatory Note

Section 81-22-7 of the Mississippi Nonprofit Debt Management Services Act requires licensees to obtain a surety bond, or in lieu of obtaining such bond, maintain cash, a certificate of deposit or government bonds, which constitute funds to be used to reimburse payments made by debtors that have not been properly distributed by the licensee to the creditors of the debtors. In the event a licensee uses a third-party payment processor to hold, or have access to, or to effectuate possession of, by any means, the monies of a licensee’s debtors, such processor shall file a surety bond with the Commissioner of the Department of Banking and Consumer Finance or maintain other assets on deposit with the Department.

If, however, a licensee elects to maintain cash, a certificate of deposit or government bonds on deposit, and utilizes the services of a third-party payment processor, there is no requirement that the third-party payment processor obtain a surety bond or maintain other assets on deposit with the Department of Banking and Consumer Finance.

Section 3. Servicing by a Third-Party Payment Processor

a. If licensee seeks to utilize a third-party payment processor, to hold, or have access to, or to effectuate possession of, by any means, the monies of another licensee's debtors in contract with the licensee for debt management services, or to distribute, or be in the chain of distribution of such monies to creditors of the licensee's debtors, the licensee shall give the Department of Banking and Consumer Finance ten (10) days written notice.

b. Such notice shall contain the name and address of the third-party payment processor, a description of the services, a copy of the agreement or contract between the licensee and the third-party payment processor and the highest daily amount of debtor funds to be held or transmitted. The third-party payment processor will be required to submit to the Department, upon request, the highest daily amount held or transmitted during the previous month.

c. Each third-party payment processor shall file with the Commissioner of the Department of Banking and Consumer Finance a surety bond, issued by a bonding company or insurance company authorized to do business in the state of Mississippi, in the principal sum of Fifty Thousand Dollars (\$50,000.00) and in an additional principal sum of Fifty Thousand Dollars (\$50,000.00) for each additional licensee it contracts with, but in no event shall the bond be required to be in excess of One Hundred Fifty Thousand Dollars (\$150,000.00). In lieu of the surety bond, a third-party payment processor may file other assets such as cash, a certificate of deposit or government bonds.

d. A licensee shall not use a third-party payment processor until the licensee receives written notice from the Department of Banking and Consumer Finance confirming that the Department has received a surety bond or other assets from the third-party payment processor.

e. Prior to performing any of its services, the third-party payment processor shall provide written authorization to the Department of Banking and Consumer Finance to examine all books, records, documents and materials, including those maintained in electronic form, as they relate to the debtors monies held by, or distributed by the third-party payment processor to the creditors of the debtors and shall have received written confirmation from the Department of Banking and Consumer Finance that the written authorization is sufficient. The cost of such examination shall be paid by the licensee.

f. All agreements or contracts between a licensee and a third-party payment processor shall provide for a thirty (30) day written notice of termination to the party against whom termination is being sought. A licensee shall immediately notify the Department of Banking and Consumer Finance, in writing, of the notice of termination.

Section 4. Verification of Payments to Creditors

Licensees that participate in fair share contributions with creditors shall maintain records that reflect client accounts were credited for the full amount of any payments due and not the net amount as a result of a fair share contribution. Such records may consist of either a copy of the client's statement from the creditor or the licensee may send a monthly or quarterly statement to clients that reflect payments remitted to creditors.