

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6935

BILL NUMBER: SB 328

NOTE PREPARED: Jan 3, 2013

BILL AMENDED:

SUBJECT: Nonprofit Debt Management Companies.

FIRST AUTHOR: Sen. Kruse

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: The bill defines "bona fide nonprofit organization" (bona fide nonprofit) for purposes of the statute governing licensed debt management companies (licensees). It requires the Department of Financial Institutions (DFI) to: (1) adopt separate rules for the licensure and regulation of bona fide nonprofits under the statute; and (2) consider certain factors in adopting the rules. It prohibits the DFI from requiring a bona fide nonprofit that maintains a bond with the Executive Office for United States Trustees (EOUST) to execute a bond under the statute. For a bona fide nonprofit that does not maintain a bond with the EOUST, provides that the DFI must: (1) consider the financial ability of the bona fide nonprofit to execute the bond required under the statute; and (2) base the amount of the bond on the bona fide nonprofit's revenue and capital.

The bill removes provisions allowing licensees to charge a close-out fee upon termination of a debt management agreement (agreement) with a debtor. It changes the time frames in which a licensee must do the following: (1) Notify a debtor of a creditor's decision to reject or withdraw from a debt management plan (plan); (2) Notify all creditors in a plan about a cancellation by the debtor of the agreement; (3) Upon termination of an agreement, return to the debtor any money held in trust for the debtor. It changes the time after which an agreement is considered canceled by a debtor for nonpayment from 60 days to 90 days after the date a payment is due and not paid. It provides that a bona fide nonprofit is not required to prepare a written budget analysis before entering into an agreement with a debtor if certain conditions are met. It provides that a licensee may charge a debtor the authorized set-up fee before a payment has been made to a creditor under the debtor's plan.

The bill provides that a bona fide nonprofit may charge and adjust a monthly service fee in a manner that does not comply with the limitations set forth in the statute if the fee as charged or adjusted complies with any fee

limitations that the bona fide nonprofit must comply with to maintain its accreditation or its membership in a nationally recognized nonprofit credit counseling organization.

The bill provides that the prohibition against a licensee's soliciting or accepting a voluntary contribution from a debtor does not apply to a bona fide nonprofit.

Effective Date: Upon passage; July 1, 2013.

Explanation of State Expenditures: The Department of Financial Institutions would incur some administrative expenses relating to the provisions requiring separate rules regarding licensing of a bona fide nonprofit debt management company. The DFI's current level of resources should be sufficient to implement these administrative requirements.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Financial Institutions.

Local Agencies Affected:

Information Sources:

Fiscal Analyst: Randhir Jha, 232-9556.