

## **BILL ANALYSIS**

Senate Research Center  
80R6382 DWS-F

S.B. 884  
By: Eltife  
Business & Commerce  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2005, the 79th Legislature enacted changes to Chapter 394, Finance Code, regulating consumer debt management services. This was intended to provide a substantial level of protection for consumers seeking assistance in managing their debts. Key provisions included registration of service providers of debt management, establishment of fair and reasonable fees, required written agreements, requiring trust accounts and other financial management safeguards, and prohibitions against deceptive advertising. This allowed only tax-exempt 501(c)(3) organizations to provide debt management services to consumers in this state. Recently, the Internal Revenue Service (IRS) and the Federal Trade Commission have questioned the debt management service activities of tax-exempt organizations and the IRS has determined that the activity of many of these organizations does not meet the charitable or educational purpose upon which their tax-exempt status is based.

As proposed, S.B. 884 removes the requirement that a provider of debt management services be organized as a nonprofit tax-exempt organization, but maintains regulation of entities that seek to provide such services.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 394.204(c), Finance Code, to require certain additional information to be included in an application for an initial registration regarding consumer debt management services (application). Includes that the requirement under this subsection that a detailed description of the ownership interest of certain persons in a for-profit affiliate or subsidiary of the applicant or in any other for-profit business entity that provides services to the applicant or to a consumer in relation to the applicant's debt management business be included in an application only applies if an applicant is a nonprofit or tax exempt organization. Makes nonsubstantive changes.

SECTION 2. Amends Section 394.205(b), Finance Code, to include that the provision requiring the report that is required to be filed with the consumer credit commissioner (commissioner) at each renewal of the provider's registration disclose in detail and under appropriate headings the assets and liabilities of the provider at the beginning and end of the period only applies if the provider is a nonprofit or tax exempt organization. Includes that the provision requiring such a report to disclose in detail and under appropriate headings the total number of debt management plans the provider has initiated during that year only applies to those plans initiated on behalf of consumers in this state.

SECTION 3. Amends Sections 394.208(a) and (d), Finance Code, as follows:

(a) Deletes the provision that the provider of a debt management service be a nonprofit organization exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986, in order for such a provider to be exempt from the prohibition to enroll a consumer in a debt management plan. Makes conforming changes.

(d) Makes a conforming change.

SECTION 4. Amends Section 394.210, Finance Code, by adding Subsection (f), to authorize the commissioner to establish maximum fair and reasonable fees under this section (Permitted Fees).

SECTION 5. Effective date: September 1, 2007.