

BILL ANALYSIS

Senate Research Center
80R11427 DWS-F

C.S.S.B. 884
By: Eltife
Business & Commerce
3/21/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2005, the 79th Legislature enacted changes to Chapter 394, Finance Code, regulating consumer debt management services. The changes were 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.

C.S.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 that certain additional information be included in an application for an initial registration regarding consumer debt management services (application), including 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 require that each provider in a report required to be filed with the consumer credit 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 if the provider is a nonprofit or tax exempt organization. Requires 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 on behalf of consumers in this state.

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

(a) Deletes existing text requiring 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 Finance Commission of Texas to establish maximum fair and reasonable fees under this section (Permitted Fees).

SECTION 5. Effective date: September 1, 2007.