

## Policy Advisory

### Relating to the Effective Date of SB 1112

The Office of the Consumer Credit Commissioner is charged with implementing Senate Bill 1112, a newly enacted subchapter to Chapter 394 of the Texas Finance Code. This new subchapter relates the regulation of debt management services. The agency has completed an initial review in order to identify or determine: (1) the purpose and scope of SB1112, (2) the persons and activities governed by it, (3) the duties and prohibitions it imposes upon persons and activities governed, and (4) the duties it imposes on the agency. This review is the precursor to the development of rules and regulations to implement the statute; however, this review raised certain questions and concerns regarding application and enforcement of SB 1112. Some of those questions and concerns give rise to the issuance of this policy advisory to inform consumers and industry of the views of the agency with regard to the implementation of SB 1112.

SB 1112 relies upon registration as the primary means of oversight, and as a condition for enforcement of many of the duties and prohibitions imposed by the statute. SB 1112 provides for an effective date of September 1, 2005, although it does not require registration until January 1, 2006. For this reason the agency will not attempt to enforce the provisions of SB 1112 for actions that are either directly or indirectly related to registration until providers are required to register with the agency on January 1, 2006. The agency views the time frame from September 1, 2005 to January 1, 2006 as a necessary period to promulgate rules, regulations and establish registration procedures prior to the January 1, 2006 implementation date.

The agency is also aware that there are some questions about how a person would know with certainty if its business or activities are subject to SB 1112 until the time when the agency and the Finance Commission have promulgated rules, regulations, application forms and instructions to implement the registration process. Although the agency anticipates issuing this guidance quickly, the lack of certainty has created legal questions. The agency does not intend to enforce the provisions of SB 1112 against any provider with respect to activities or transactions undertaken with Texas consumers prior to January 1, 2006.

The agency trusts that this advisory will address many of the questions that have concerned the businesses and professions that have contacted the agency regarding these and related matters. The anticipated regulations should provide further advice and guidance on other areas of concern or uncertainty.