

Debt Management Advisory Bulletin: Fee Limitations for Debt Management Services

This bulletin summarizes limitations on fees for debt management services. These limitations are located in Sections 394.210 and 394.2101 of the Texas Finance Code, as well as the Federal Trade Commission's Telemarketing Sales Rule, 16 C.F.R. § 310.4(a)(5).

This bulletin includes a flow chart with a series of questions that are relevant in determining which fee structure a provider should use. This bulletin also includes a table listing authorized fees and limitations.

This bulletin is just a summary. Debt management providers should carefully review Chapter 394 of the Finance Code, as well as the Telemarketing Sales Rule, to ensure that they are in compliance. Providers are responsible for ensuring that they comply with all applicable laws, not just the laws described in this bulletin.

Terminology Used in This Bulletin:

- **Debt management services:** Under Section 394.202, a “debt management service” generally includes any service where a provider, on a consumer’s behalf, seeks repayment to creditors on terms more favorable than the original terms of a debt. This term encompasses services that may have other labels in the industry (such as “debt settlement” or “debt negotiation”). Labels used by the parties do not govern whether a service is a debt management service.
- **Nonprofit organization:** Under the Federal Trade Commission Act, 15 U.S.C. §§ 44, 45(a)(2), the FTC’s authority applies to companies that carry on business for profit. In certain cases, the FTC has found that businesses labeled as “nonprofit” actually operate for profit. Providers should consult an attorney if they have questions about their nonprofit status.
- **Interstate telemarketing and unsecured debt:** The FTC’s Telemarketing Sales Rule generally applies to for-profit providers that use interstate telemarketing to alter terms of debt with unsecured creditors or debt collectors. Providers should review the definitions of “debt relief service” and “telemarketing” in the Telemarketing Sales Rule, 16 C.F.R. § 310.2(o), (gg).
- **Fee structures:** Section 394.210 of the Finance Code contains three different fee structures for debt management services. This bulletin refers to these fee structures as “Fee structure 1,” “Fee structure 2,” and “Fee structure 3.” A provider may use only one fee structure, and may not charge any fees except for specifically authorized fees.
 - **Fee structure 1:** This fee structure is contained in Section 394.210(f) and (n), and is typically appropriate for nonprofit providers that help consumers settle debt for amounts that include the full principal (typically called “debt management”).
 - **Fee structure 2:** This fee structure is contained in Section 394.210(g), (h), (i), and (n), and may be appropriate for certain nonprofit providers that settle debt for less than full principal.
 - **Fee structure 3:** This fee structure is contained in Section 394.210(j) and (n), and is typically appropriate for for-profit providers that help consumers settle debts for less than full principal (typically called “debt settlement”).

Flow Chart for Authorized Debt Management Fees

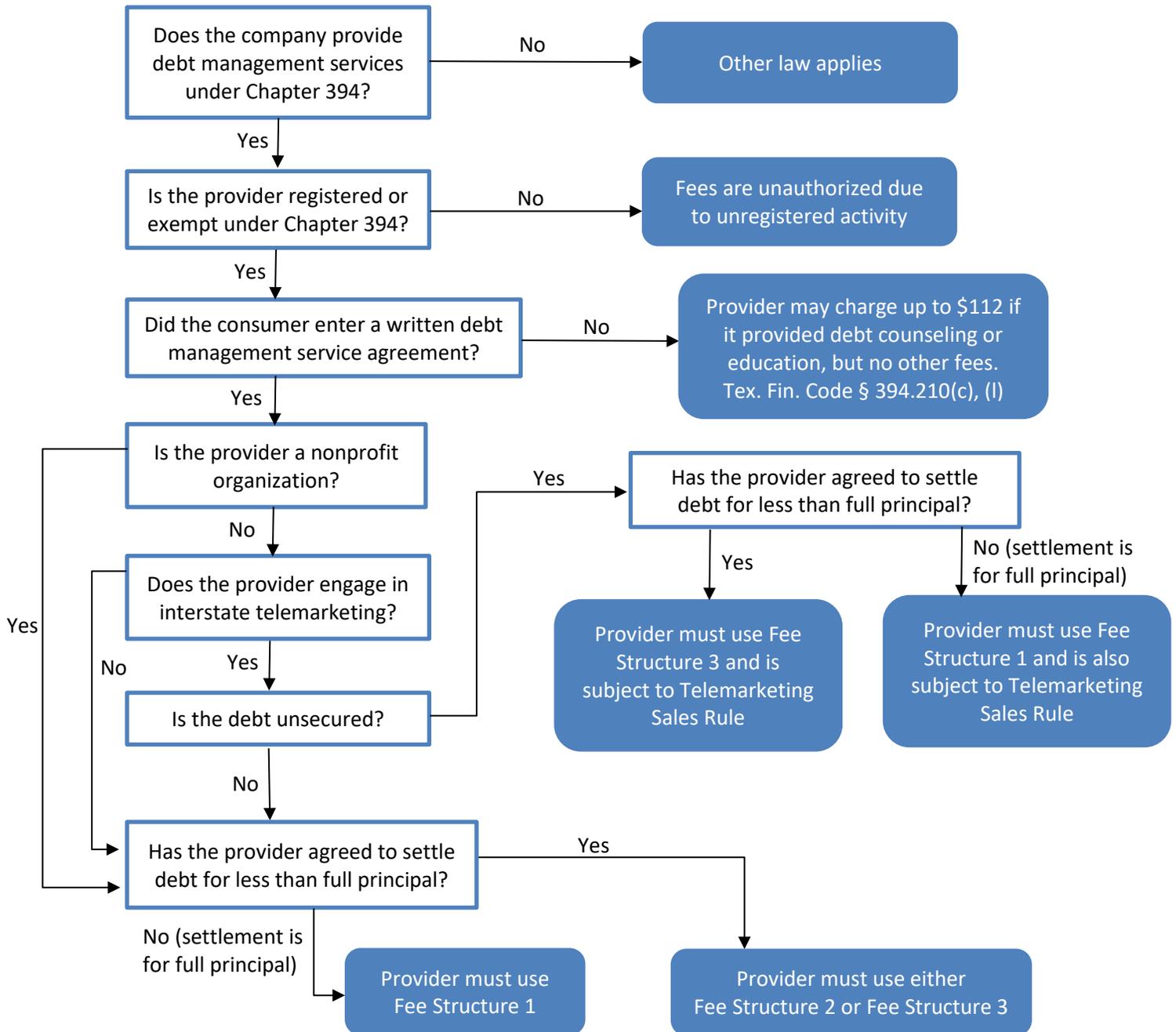


Chart of Authorized Debt Management Fees

Fee Structure & Citation	Authorized Fees (amounts effective through 6/30/2022)	Limitations
Fee Structure 1 Tex. Fin. Code § 394.210(f), (n)	Account setup fee, up to \$115 (394.210(f)(1)) Monthly service fee, lesser of \$12 per account or \$58 (394.210(f)(2)) Dishonored payment fee, up to \$29 (394.210(n))	No other fees may be charged. (394.210(a))
Fee Structure 2 Tex. Fin. Code § 394.210(g), (h), (i), (n)	Account setup fee, up to \$462 (394.210(g)(1)) Monthly service fee, lesser of \$12 per account or \$58 (394.210(g)(2)) One of the following two fees: <ul style="list-style-type: none"> • Flat fee assessed in equal monthly payments (394.210(g)(3)(A), (i)) - or - • Settlement fees, charged only as debts are settled, up to 30% of excess of outstanding debt amount over amount paid (394.210(g)(3)(B), (h)) Dishonored payment fee, up to \$29 (394.210(n))	No other fees may be charged. (394.210(a)) If provider charges flat fee, then total fees may not exceed 17% of principal amount of debt. (394.210(g)(3)(A)) If provider charges settlement fees, then total fees may not exceed 20% of the principal amount of debt. (394.210(h)) Portion of account setup fee is subject to refunding upon cancellation. (394.2095)
Fee Structure 3 Tex. Fin. Code § 394.210(j), (n) FTC Telemarketing Sales Rule, 16 C.F.R. § 310.4(a)(5)	Reasonable settlement fees (394.210(j)) Dishonored payment fee, up to \$29 (394.210(n))	No other fees may be charged. (394.210(a)) Fee may not be charged or received until at least one settlement agreement is reached with a creditor and at least one payment has been made toward settlement agreement. (394.210(j), 310.4(a)(5)(i)(A)-(B)) Fee must bear same proportional relationship for each debt, or must be percentage of amount saved from settlement. (394.210(j), 310.4(a)(5)(C))