

By: Shine

H.B. No. 4266

A BILL TO BE ENTITLED

AN ACT

relating to credit repair services performed by a credit services organization.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 394, Finance Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. CREDIT REPAIR ORGANIZATIONS

Sec. 394.301. DEFINITION. In this subchapter, "credit repair organization" means a credit services organization that provides, or represents that the organization can or will provide, for the payment of valuable consideration, any of the following services with respect to the extension of consumer credit by others:

(1) improving a consumer's credit history or rating;

or

(2) providing advice or assistance to a consumer with regard to Subdivision (1).

Sec. 394.302. DISCLOSURE STATEMENT. In addition to complying with the requirements of Section 393.105, before executing a contract with a consumer, or receiving valuable consideration from a consumer, a credit repair organization shall provide the consumer with a document containing:

(1) a list of the inaccurate or obsolete adverse information appearing on the consumer's credit report which the

1 credit repair organization will seek to delete or modify;

2 (2) the basis for the deletion or modification of the  
3 adverse information;

4 (3) a description of each modification sought; and

5 (4) the anticipated payment required by the consumer  
6 to achieve each account deletion or modification, if applicable.

7 Sec. 394.303. COMMUNICATIONS WITH CONSUMER REPORTING  
8 AGENCY OR DATA FURNISHER. (a) A credit repair organization or a  
9 representative of the organization may not:

10 (1) communicate with a consumer reporting agency,  
11 creditor, debt collector, or debt buyer about a consumer without  
12 the written authorization of the consumer; or

13 (2) communicate with a consumer reporting agency,  
14 creditor, debt collector, or debt buyer by impersonating a consumer  
15 and failing to identify as a credit repair organization if the  
16 credit repair organization initiates the communication.

17 (b) A credit repair organization or a representative of the  
18 organization shall provide with the first written communication to  
19 a consumer reporting agency or data furnisher sufficient  
20 information to investigate a dispute of an item related to an  
21 extension of consumer credit that is in the creditor's, debt  
22 collector's, debt buyer's, or consumer reporting agency's files,  
23 including any relevant information and copies of documents  
24 concerning the disputed item.

25 Sec. 394.304. REMOVAL OF ACCURATE INFORMATION PROHIBITED.

26 In addition to the prohibitions under Section [393.304](#), a credit  
27 repair organization or a representative of the organization may not

1 seek to remove, or advise a consumer to remove or seek to remove,  
2 adverse information from the consumer's credit report that is known  
3 to the credit repair organization, or that by the exercise of  
4 reasonable care should be known to the credit repair organization,  
5 to be accurate.

6 Sec. 394.305. ITEMIZED STATEMENT REQUIRED; PERFORMANCE OF  
7 AGREED SERVICES. (a) A credit repair organization or a  
8 representative of the organization shall provide an itemized  
9 monthly statement to the consumer showing each service performed  
10 for the consumer under the contract, including:

11 (1) each communication and credit check made on behalf  
12 of the consumer; and

13 (2) the date of each service performed.

14 (b) A credit repair organization or a representative of the  
15 organization must perform the agreed services not later than the  
16 180th day after the date the consumer signs the contract for those  
17 services.

18 Sec. 394.306. RESTRICTIONS ON CERTAIN COMMUNICATIONS. A  
19 credit repair organization or a representative of the organization  
20 may not:

21 (1) send a communication, directly or indirectly, to a  
22 person on behalf of a consumer without disclosing the sender's  
23 identity, street address, telephone number, and facsimile number,  
24 and, if applicable, the name and street address of any parent  
25 organization of the sender;

26 (2) send a written communication on behalf of a  
27 consumer to a person other than the consumer without providing a

1 copy of the communication to the consumer not later than the fifth  
2 day after the date the communication is sent; or

3 (3) send a written communication that contains  
4 personal information of a consumer without redacting the consumer's  
5 personal information to include only:

6 (A) the last four digits of the consumer's social  
7 security number, taxpayer identification number, or state  
8 identification number;

9 (B) the last four digits of the consumer's  
10 financial account number, credit card number, or debit card number;  
11 or

12 (C) the month and year of the consumer's date of  
13 birth, unless otherwise required by law.

14 Sec. 394.307. DAMAGES. (a) In addition to any damages  
15 awarded under Section 393.503, a consumer injured by a credit  
16 repair organization that violates this subchapter is entitled to  
17 recover exemplary damages.

18 (b) In addition to an award under Subsection (a), a consumer  
19 who prevails in an action under this subchapter may recover  
20 exemplary damages in an amount of not less than \$100 or more than  
21 \$1,000 in accordance with Chapter 41, Civil Practice and Remedies  
22 Code.

23 SECTION 2. Sections 394.302 and 394.305, Finance Code, as  
24 added by this Act, apply only to a contract entered into on or after  
25 the effective date of this Act. A contract entered into before the  
26 effective date of this Act is governed by the law in effect on the  
27 date the contract was entered into, and the former law is continued

1 in effect for that purpose.

2 SECTION 3. This Act takes effect September 1, 2021.