

By: Carona

S.B. No. 533

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain practices of debt collectors and credit
3 bureaus.

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

5 SECTION 1. Section 392.202, Finance Code, is amended to
6 read as follows:

7 Sec. 392.202. CORRECTION OF THIRD-PARTY DEBT COLLECTOR'S OR
8 CREDIT BUREAU'S FILES. (a) An individual who disputes the
9 accuracy of an item that is in a third-party debt collector's or
10 credit bureau's file on the individual and that relates to a debt
11 being collected by the third-party debt collector may notify in
12 writing the third-party debt collector [~~or credit bureau~~] of the
13 inaccuracy. The third-party debt collector [~~or credit bureau~~]
14 shall make a written record of the dispute. If the third-party debt
15 collector does not report information related to the dispute to a
16 credit bureau, the third-party debt collector shall cease
17 collection efforts until an investigation of the dispute described
18 by Subsections (b)-(e) determines that the disputed item is
19 accurate. If the third-party debt collector reports information
20 related to the dispute to a credit bureau, the reporting
21 third-party debt collector shall initiate an investigation of the
22 dispute described by Subsections (b)-(e) and shall cease collection
23 efforts until the investigation determines that the disputed item
24 is accurate. This section does not affect the application of

1 Chapter 20, Business & Commerce Code, to a third-party debt
2 collector subject to that chapter [~~provide forms for the notice~~
3 ~~and, when requested, assist an individual in preparing the notice~~].

4 (b) Not later than the 30th day after the date a notice of
5 inaccuracy is received, a [~~the~~] third-party debt collector who
6 initiates an investigation [~~or credit bureau~~] shall send a written
7 statement to the individual:

8 (1) denying the inaccuracy;

9 (2) admitting the inaccuracy; or

10 (3) stating that the third-party debt collector [~~or~~
11 ~~credit bureau~~] has not had sufficient time to complete an
12 investigation of the inaccuracy.

13 (c) If the third-party debt collector [~~or credit bureau~~]
14 admits that the item is inaccurate under Subsection (b), the
15 third-party debt collector [~~or credit bureau~~] shall:

16 (1) not later than the fifth business day after the
17 date of the admission, correct the item in the relevant file; and

18 (2) immediately cease collection efforts and on
19 correction of the item send, to each person who has previously
20 received a report from the third-party debt collector [~~or credit~~
21 ~~bureau~~] containing the inaccurate information, notice of the
22 inaccuracy and a copy of an accurate report.

23 (d) If the third-party debt collector [~~or credit bureau~~]
24 states that there has not been sufficient time to complete an
25 investigation, the third-party debt collector [~~or credit bureau~~]
26 shall immediately:

27 (1) change the item in the relevant file as requested

1 by the individual;

2 (2) send to each person who previously received the
3 report containing the information a notice that is equivalent to a
4 notice under Subsection (c) and a copy of the changed report; and

5 (3) cease collection efforts [~~if the item involves a~~
6 ~~debt~~].

7 (e) On completion by the third-party debt collector [~~or~~
8 ~~credit bureau~~] of the investigation, the third-party debt collector
9 [~~or credit bureau~~] shall inform the individual of the determination
10 of whether the item is accurate or inaccurate. If the third-party
11 debt collector [~~or credit bureau~~] determines that the information
12 was accurate, the third-party debt collector [~~or credit bureau~~] may
13 again report that information and resume collection efforts.

14 SECTION 2. Subsection (a), Section 392.304, Finance Code,
15 is amended to read as follows:

16 (a) Except as otherwise provided by this section, in debt
17 collection or obtaining information concerning a consumer, a debt
18 collector may not use a fraudulent, deceptive, or misleading
19 representation that employs the following practices:

20 (1) using a name other than the:

21 (A) true business or professional name or the
22 true personal or legal name of the debt collector while engaged in
23 debt collection; or

24 (B) name appearing on the face of the credit card
25 while engaged in the collection of a credit card debt;

26 (2) failing to maintain a list of all business or
27 professional names known to be used or formerly used by persons

1 collecting consumer debts or attempting to collect consumer debts
2 for the debt collector;

3 (3) representing falsely that the debt collector has
4 information or something of value for the consumer in order to
5 solicit or discover information about the consumer;

6 (4) failing to disclose clearly in any communication
7 with the debtor the name of the person to whom the debt has been
8 assigned or is owed when making a demand for money;

9 (5) failing to disclose, except in a formal pleading
10 made in connection with a legal action:

11 (A) [~~clearly in any communication with the~~
12 ~~debtor~~] that the debt collector is attempting to collect a
13 [~~consumer~~] debt and that any information obtained will be used for
14 that purpose, if the communication is the initial written or oral
15 communication with [~~unless the communication is for the purpose of~~
16 ~~discovering the location of~~] the debtor; or

17 (B) that the communication is from a debt
18 collector, if the communication is a subsequent written or oral
19 communication with the debtor;

20 (6) using a written communication that fails to
21 indicate clearly the name of the debt collector and the debt
22 collector's street address or post office box and telephone number
23 if the written notice refers to a delinquent consumer debt;

24 (7) using a written communication that demands a
25 response to a place other than the debt collector's or creditor's
26 street address or post office box;

27 (8) misrepresenting the character, extent, or amount

1 of a consumer debt, or misrepresenting the consumer debt's status
2 in a judicial or governmental proceeding;

3 (9) representing falsely that a debt collector is
4 vouched for, bonded by, or affiliated with, or is an
5 instrumentality, agent, or official of, this state or an agency of
6 federal, state, or local government;

7 (10) using, distributing, or selling a written
8 communication that simulates or is represented falsely to be a
9 document authorized, issued, or approved by a court, an official, a
10 governmental agency, or any other governmental authority or that
11 creates a false impression about the communication's source,
12 authorization, or approval;

13 (11) using a seal, insignia, or design that simulates
14 that of a governmental agency;

15 (12) representing that a consumer debt may be
16 increased by the addition of attorney's fees, investigation fees,
17 service fees, or other charges if a written contract or statute does
18 not authorize the additional fees or charges;

19 (13) representing that a consumer debt will definitely
20 be increased by the addition of attorney's fees, investigation
21 fees, service fees, or other charges if the award of the fees or
22 charges is subject to judicial discretion;

23 (14) representing falsely the status or nature of the
24 services rendered by the debt collector or the debt collector's
25 business;

26 (15) using a written communication that violates the
27 United States postal laws and regulations;

1 (16) using a communication that purports to be from an
2 attorney or law firm if it is not;

3 (17) representing that a consumer debt is being
4 collected by an attorney if it is not; or

5 (18) representing that a consumer debt is being
6 collected by an independent, bona fide organization engaged in the
7 business of collecting past due accounts when the debt is being
8 collected by a subterfuge organization under the control and
9 direction of the person who is owed the debt.

10 SECTION 3. Subsection (d), Section 20.06, Business &
11 Commerce Code, is amended to read as follows:

12 (d) If disputed information is found to be inaccurate or
13 cannot be verified after a reinvestigation under Subsection (a),
14 the consumer reporting agency, unless otherwise directed by the
15 consumer, shall promptly delete the information from the consumer's
16 file, revise the consumer file, and provide the revised consumer
17 report to the consumer and~~[, on the request of the consumer,]~~ to
18 each person who requested the consumer report within the preceding
19 six months. The consumer reporting agency may not report the
20 inaccurate or unverified information in subsequent reports.

21 SECTION 4. This Act takes effect September 1, 2003.