

1-1 By: Carona S.B. No. 533  
1-2 (In the Senate - Filed February 17, 2003; February 24, 2003,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 March 27, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; March 27, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 533 By: Fraser

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to certain practices of debt collectors and credit  
1-11 bureaus.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 392.202, Finance Code, is amended to  
1-14 read as follows:

1-15 Sec. 392.202. CORRECTION OF THIRD-PARTY DEBT COLLECTOR'S OR  
1-16 CREDIT BUREAU'S FILES. (a) An individual who disputes the  
1-17 accuracy of an item that is in a third-party debt collector's or  
1-18 credit bureau's file on the individual and that relates to a debt  
1-19 being collected by the third-party debt collector may notify in  
1-20 writing the third-party debt collector [~~or credit bureau~~] of the  
1-21 inaccuracy. The third-party debt collector [~~or credit bureau~~]  
1-22 shall make a written record of the dispute. If the third-party debt  
1-23 collector does not report information related to the dispute to a  
1-24 credit bureau, the third-party debt collector shall cease  
1-25 collection efforts until an investigation of the dispute described  
1-26 by Subsections (b)-(e) determines that the disputed item is  
1-27 accurate. If the third-party debt collector reports information  
1-28 related to the dispute to a credit bureau, the reporting  
1-29 third-party debt collector shall initiate an investigation of the  
1-30 dispute described by Subsections (b)-(e) and shall cease collection  
1-31 efforts until the investigation determines that the disputed item  
1-32 is accurate. This section does not affect the application of  
1-33 Chapter 20, Business & Commerce Code, to a third-party debt  
1-34 collector subject to that chapter [~~provide forms for the notice~~  
1-35 and, when requested, assist an individual in preparing the notice].

1-36 (b) Not later than the 30th day after the date a notice of  
1-37 inaccuracy is received, a [~~the~~] third-party debt collector who  
1-38 initiates an investigation [~~or credit bureau~~] shall send a written  
1-39 statement to the individual:

1-40 (1) denying the inaccuracy;  
1-41 (2) admitting the inaccuracy; or  
1-42 (3) stating that the third-party debt collector [~~or~~  
1-43 credit bureau] has not had sufficient time to complete an  
1-44 investigation of the inaccuracy.

1-45 (c) If the third-party debt collector [~~or credit bureau~~]  
1-46 admits that the item is inaccurate under Subsection (b), the  
1-47 third-party debt collector [~~or credit bureau~~] shall:

1-48 (1) not later than the fifth business day after the  
1-49 date of the admission, correct the item in the relevant file; and

1-50 (2) immediately cease collection efforts [~~on~~  
1-51 correction of the item send to each person who has previously  
1-52 received a report from the third-party debt collector or credit  
1-53 bureau containing the inaccurate information notice of the  
1-54 inaccuracy and a copy of an accurate report].

1-55 (d) If the third-party debt collector [~~or credit bureau~~]  
1-56 states that there has not been sufficient time to complete an  
1-57 investigation, the third-party debt collector [~~or credit bureau~~]  
1-58 shall immediately:

1-59 (1) change the item in the relevant file as requested  
1-60 by the individual; and

1-61 (2) [~~send to each person who previously received the~~  
1-62 report containing the information a notice that is equivalent to a  
1-63 notice under Subsection (c) and a copy of the changed report; and

2-1                    [~~3~~] cease collection efforts [~~if the item involves a~~  
2-2 ~~debt~~].

2-3                    (e) On completion by the third-party debt collector [~~or~~  
2-4 ~~credit bureau~~] of the investigation, the third-party debt collector  
2-5 [~~or credit bureau~~] shall inform the individual of the determination  
2-6 of whether the item is accurate or inaccurate. If the third-party  
2-7 debt collector [~~or credit bureau~~] determines that the information  
2-8 was accurate, the third-party debt collector [~~or credit bureau~~] may  
2-9 again report that information and resume collection efforts.

2-10                    SECTION 2. Subsection (a), Section 392.304, Finance Code,  
2-11 is amended to read as follows:

2-12                    (a) Except as otherwise provided by this section, in debt  
2-13 collection or obtaining information concerning a consumer, a debt  
2-14 collector may not use a fraudulent, deceptive, or misleading  
2-15 representation that employs the following practices:

2-16                    (1) using a name other than the:

2-17                    (A) true business or professional name or the  
2-18 true personal or legal name of the debt collector while engaged in  
2-19 debt collection; or

2-20                    (B) name appearing on the face of the credit card  
2-21 while engaged in the collection of a credit card debt;

2-22                    (2) failing to maintain a list of all business or  
2-23 professional names known to be used or formerly used by persons  
2-24 collecting consumer debts or attempting to collect consumer debts  
2-25 for the debt collector;

2-26                    (3) representing falsely that the debt collector has  
2-27 information or something of value for the consumer in order to  
2-28 solicit or discover information about the consumer;

2-29                    (4) failing to disclose clearly in any communication  
2-30 with the debtor the name of the person to whom the debt has been  
2-31 assigned or is owed when making a demand for money;

2-32                    (5) failing to disclose, except in a formal pleading  
2-33 made in connection with a legal action:

2-34                    (A) [~~clearly in any communication with the~~  
2-35 ~~debtor~~] that the debt collector is attempting to collect a  
2-36 [~~consumer~~] debt and that any information obtained will be used for  
2-37 that purpose, if the communication is the initial written or oral  
2-38 communication with [unless the communication is for the purpose of  
2-39 discovering the location of] the debtor; or

2-40                    (B) that the communication is from a debt  
2-41 collector, if the communication is a subsequent written or oral  
2-42 communication with the debtor;

2-43                    (6) using a written communication that fails to  
2-44 indicate clearly the name of the debt collector and the debt  
2-45 collector's street address or post office box and telephone number  
2-46 if the written notice refers to a delinquent consumer debt;

2-47                    (7) using a written communication that demands a  
2-48 response to a place other than the debt collector's or creditor's  
2-49 street address or post office box;

2-50                    (8) misrepresenting the character, extent, or amount  
2-51 of a consumer debt, or misrepresenting the consumer debt's status  
2-52 in a judicial or governmental proceeding;

2-53                    (9) representing falsely that a debt collector is  
2-54 vouched for, bonded by, or affiliated with, or is an  
2-55 instrumentality, agent, or official of, this state or an agency of  
2-56 federal, state, or local government;

2-57                    (10) using, distributing, or selling a written  
2-58 communication that simulates or is represented falsely to be a  
2-59 document authorized, issued, or approved by a court, an official, a  
2-60 governmental agency, or any other governmental authority or that  
2-61 creates a false impression about the communication's source,  
2-62 authorization, or approval;

2-63                    (11) using a seal, insignia, or design that simulates  
2-64 that of a governmental agency;

2-65                    (12) representing that a consumer debt may be  
2-66 increased by the addition of attorney's fees, investigation fees,  
2-67 service fees, or other charges if a written contract or statute does  
2-68 not authorize the additional fees or charges;

2-69                    (13) representing that a consumer debt will definitely

3-1 be increased by the addition of attorney's fees, investigation  
3-2 fees, service fees, or other charges if the award of the fees or  
3-3 charges is subject to judicial discretion;

3-4 (14) representing falsely the status or nature of the  
3-5 services rendered by the debt collector or the debt collector's  
3-6 business;

3-7 (15) using a written communication that violates the  
3-8 United States postal laws and regulations;

3-9 (16) using a communication that purports to be from an  
3-10 attorney or law firm if it is not;

3-11 (17) representing that a consumer debt is being  
3-12 collected by an attorney if it is not; or

3-13 (18) representing that a consumer debt is being  
3-14 collected by an independent, bona fide organization engaged in the  
3-15 business of collecting past due accounts when the debt is being  
3-16 collected by a subterfuge organization under the control and  
3-17 direction of the person who is owed the debt.

3-18 SECTION 3. This Act takes effect September 1, 2003.

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