BILL ANALYSIS

BACKGROUND AND PURPOSE

Currently, Texas law allows debt collection agencies to repeatedly contact a person in whose name a debt has been incurred. However, the law does not appropriately address the situation of a debt that was created in the course of identity theft. Thus, debt-collectors may vigorously pursue a person--who has been a victim of identity theft--for a debt that that person never actually owed.

C.S.H.B. 628 provides to the debt collection after a consumer has filed a report with a law enforcement agency.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 628 amends, Section 392.303, Finance Code, as follows:

The substitute provides that debt-collectors may not use unfair or unconscionable means to collect if a consumer's check, draft, debit payment or credit card payment was dishonored or refused for unauthorized use, the debt collector has received written notice from a consumer acknowledging the unauthorized transaction, and the consumer has filed a report of unauthorized transaction with a law enforcement agency and distributed a copy of the report to the debt collector.

The substitute allows debt collectors to collect if the debt collector has credible evidence that the report filed with law enforcement agency is fraudulent and an authorized transaction occurred.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 628 modifies the original by adding language that requires debt collectors to receive a copy of a report filed with a law enforcement agency.

The substitute modifies the original by adding language that allows a debt collector to collect an obligation if the debt collector has credible evidence that the report filed with the law enforcement agency is fraudulent and the payment was authorized.