

## **BILL ANALYSIS**

H.B. 1854  
By: Giddings  
Business & Industry  
Committee Report (Amended)

### **BACKGROUND AND PURPOSE**

Currently, a debt collector attempting to collect on a bad check is not required to provide an image of the dishonored check. When the person is contacted whose name is printed on the check, he or she ought to have access to at least a copy of the dishonored check so that he or she may confirm whether or not the check was actually written by him or her, or by someone else acting fraudulently.

### **RULEMAKING AUTHORITY**

It is the opinion of the Committee on Business & Industry that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

This bill calls for a debt collector who contacts a consumer about a consumer's debt, resulting from the consumer's alleged issuance of a dishonored check, to provide to that consumer, upon request and within 10 days, at least a photocopy of the dishonored check, or "substitute check," involved in the transaction.

The bill provides that a debt collector who fails to provide a copy of a check or "substitute check," as required by this legislation, is liable to the State for a civil penalty of up to \$1,000 for each violation. The Attorney General may sue to collect the penalty and is entitled to recovery of expenses incurred in the process of doing so.

### **EFFECTIVE DATE**

September 1, 2005.

### **EXPLANATION OF COMMITTEE AMENDMENT**

On Page 2, Line 1, Committee Amendment No. 1 places the burden upon the consumer to specifically ask for an image of the dishonored check.

Then, on Page 2, Lines 1, 2 and 3, the Committee Amendment strikes "at the time of initial contact" and replaces it with "not later than the 10th day after the date of request."

Then, on Page 2, Line 7, the Committee Amendment removes "each day the failure continues" and replaces it with "each violation."