

By: Giddings, Gonzalez Toureilles, et al.

H.B. No. 628

A BILL TO BE ENTITLED

1 AN ACT

2 relating to debt collection after a consumer has filed a report with  
3 a law enforcement agency.

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

5 SECTION 1. Section 392.303, Finance Code, is amended by  
6 amending Subsection (a) and adding Subsection (c) to read as  
7 follows:

8 (a) In debt collection, a debt collector may not use unfair  
9 or unconscionable means that employ the following practices:

10 (1) seeking or obtaining a written statement or  
11 acknowledgment in any form that specifies that a consumer's  
12 obligation is one incurred for necessities of life if the  
13 obligation was not incurred for those necessities; ~~or~~

14 (2) collecting or attempting to collect interest or a  
15 charge, fee, or expense incidental to the obligation unless the  
16 interest or incidental charge, fee, or expense is expressly  
17 authorized by the agreement creating the obligation or legally  
18 chargeable to the consumer; or

19 (3) collecting or attempting to collect an obligation  
20 under a check, draft, debit payment, or credit card payment, if:

21 (A) the check or draft was dishonored or the  
22 debit payment or credit card payment was refused because the check  
23 or draft was not drawn or the payment was not made by a person  
24 authorized to use the applicable account;

1           (B) the debt collector has received written  
2 notice from a person authorized to use the account that the check,  
3 draft, or payment was unauthorized; and

4           (C) the person authorized to use the account has  
5 filed a report concerning the unauthorized check, draft, or payment  
6 with a law enforcement agency, as defined by Article 59.01, Code of  
7 Criminal Procedure, and has provided the debt collector with a copy  
8 of the report.

9           (c) Subsection (a)(3) does not prohibit a debt collector  
10 from collecting or attempting to collect an obligation under a  
11 check, draft, debit payment, or credit card payment if the debt  
12 collector has credible evidence, including a document, video  
13 recording, or witness statement, that the report filed with a law  
14 enforcement agency, as required by Subsection (a)(3)(C), is  
15 fraudulent and that the check, draft, or payment was authorized.

16           SECTION 2. This Act takes effect September 1, 2005.