

By: Giddings, Gonzalez Toureilles

H.B. No. 628

Substitute the following for H.B. No. 628:

By: Solomons

C.S.H.B. No. 628

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

(A) the check or draft was dishonored or the debit payment or credit card payment was refused because the check or draft was not drawn or the payment was not made by a person 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.