

1-1 By: Giddings, et al. (Senate Sponsor - Ellis) H.B. No. 628  
1-2 (In the Senate - Received from the House April 29, 2005;  
1-3 May 2, 2005, read first time and referred to Committee on Business  
1-4 and Commerce; May 18, 2005, reported favorably by the following  
1-5 vote: Yeas 6, Nays 0; May 18, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to debt collection after a consumer has filed a report with  
1-9 a law enforcement agency.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 392.303, Finance Code, is amended by  
1-12 amending Subsection (a) and adding Subsection (c) to read as  
1-13 follows:

1-14 (a) In debt collection, a debt collector may not use unfair  
1-15 or unconscionable means that employ the following practices:

1-16 (1) seeking or obtaining a written statement or  
1-17 acknowledgment in any form that specifies that a consumer's  
1-18 obligation is one incurred for necessities of life if the  
1-19 obligation was not incurred for those necessities; ~~[or]~~

1-20 (2) collecting or attempting to collect interest or a  
1-21 charge, fee, or expense incidental to the obligation unless the  
1-22 interest or incidental charge, fee, or expense is expressly  
1-23 authorized by the agreement creating the obligation or legally  
1-24 chargeable to the consumer; or

1-25 (3) collecting or attempting to collect an obligation  
1-26 under a check, draft, debit payment, or credit card payment, if:

1-27 (A) the check or draft was dishonored or the  
1-28 debit payment or credit card payment was refused because the check  
1-29 or draft was not drawn or the payment was not made by a person  
1-30 authorized to use the applicable account;

1-31 (B) the debt collector has received written  
1-32 notice from a person authorized to use the account that the check,  
1-33 draft, or payment was unauthorized; and

1-34 (C) the person authorized to use the account has  
1-35 filed a report concerning the unauthorized check, draft, or payment  
1-36 with a law enforcement agency, as defined by Article 59.01, Code of  
1-37 Criminal Procedure, and has provided the debt collector with a copy  
1-38 of the report.

1-39 (c) Subsection (a)(3) does not prohibit a debt collector  
1-40 from collecting or attempting to collect an obligation under a  
1-41 check, draft, debit payment, or credit card payment if the debt  
1-42 collector has credible evidence, including a document, video  
1-43 recording, or witness statement, that the report filed with a law  
1-44 enforcement agency, as required by Subsection (a)(3)(C), is  
1-45 fraudulent and that the check, draft, or payment was authorized.

1-46 SECTION 2. This Act takes effect September 1, 2005.

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