

By: Giddings

H.B. No. 1854

A BILL TO BE ENTITLED

AN ACT

relating to requiring debt collectors to provide a copy of a dishonored check to certain consumers; providing a civil penalty.

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

SECTION 1. Title 5, Finance Code, is amended by adding Chapter 397 to read as follows:

CHAPTER 397. DUTY OF DEBT COLLECTOR TO PROVIDE COPY
OF DISHONORED CHECK

Sec. 397.001. DEFINITIONS. In this chapter:

(1) "Consumer" means an individual who has a consumer debt.

(2) "Consumer debt" means an obligation, or an alleged obligation, primarily for personal, family, or household purposes and arising from a transaction or alleged transaction.

(3) "Debt collection" means an action, conduct, or practice in collecting, or in soliciting for collection, consumer debts that are due or alleged to be due a creditor.

(4) "Debt collector" means a person who directly or indirectly engages in debt collection.

(5) "Substitute check" has the meaning assigned by 12 U.S.C. Section 5002.

Sec. 397.002. DUTY TO PROVIDE COPY OF DISHONORED CHECK. A debt collector who contacts a consumer about a consumer debt resulting from the consumer's alleged issuance of a dishonored

1 check shall provide to the consumer, at the time of the initial
2 contact, a photocopy of the check or substitute check involved in
3 the transaction.

4 Sec. 397.003. CIVIL PENALTY. A debt collector who fails to
5 provide a copy of a check or substitute check as required by Section
6 397.002 is liable to the state for a civil penalty of up to \$1,000
7 for each day the failure continues. The attorney general may sue to
8 collect the penalty.

9 Sec. 397.004. RECOVERY OF EXPENSES. The attorney general
10 may recover reasonable expenses incurred in obtaining a civil
11 penalty under Section 397.003, including court costs, reasonable
12 attorney's fees, investigative costs, witness fees, and deposition
13 expenses.

14 SECTION 2. This Act applies only to an action by a debt
15 collector to collect a consumer debt incurred on or after September
16 1, 2005. An action by a debt collector to collect a consumer debt
17 incurred before September 1, 2005, is covered by the law as it
18 existed immediately before the effective date of this Act, and the
19 former law is continued in effect for that purpose.

20 SECTION 3. This Act takes effect September 1, 2005.

COMMITTEE AMENDMENT NO. 1

Amend H.B. 1854 as follows:

(1) On page 2, line 1, between "shall" and "provide", insert ", on the consumer's request,".

(2) On page 2, lines 1 and 2, strike ", at the time of the initial contact,".

(3) On page 2, line 3, between "transaction" and the period, insert "not later than the 10th day after the date of the request".

(4) On page 2, line 7, strike "each day the failure continues" and substitute "each violation".

Taylor