

By: Giddings

H.B. No. 3058

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the threat or pursuit of criminal charges against a
3 consumer in association with certain extensions of consumer credit;
4 providing a civil penalty; adding a provision subject to a criminal
5 penalty.

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

7 SECTION 1. Chapter 393, Finance Code, is amended by adding
8 Subchapter E-1 to read as follows:

9 SUBCHAPTER E-1. CRIMINAL CHARGES AGAINST CONSUMER

10 Sec. 393.421. CRIMINAL CHARGE AGAINST CONSUMER. (a) A
11 credit services organization or a representative of a credit
12 services organization may not, unless the credit services
13 organization or representative of the credit services organization
14 has extrinsic evidence sufficient to prove that the consumer has
15 committed an offense under Section 31.03, 31.04, or 32.41, Penal
16 Code:

17 (1) file a criminal complaint or threaten to file a
18 criminal complaint related to an extension of consumer credit
19 against the consumer for an offense under Section 31.03, 31.04, or
20 32.41, Penal Code; or

21 (2) refer or threaten to refer a consumer to a
22 prosecutor under Article 102.007, Code of Criminal Procedure, for
23 the collection and processing of a check or similar sight order that
24 was issued in relation to an extension of consumer credit.

1 (b) Notwithstanding the presumptions provided by Sections
2 31.06(a) and 32.41(b), Penal Code, evidence of a denied or returned
3 payment due to insufficient funds or account closure is not
4 extrinsic evidence of an offense under Section 31.03, 31.04, or
5 32.41, Penal Code.

6 (c) Extrinsic evidence of an offense under Section 31.03,
7 31.04, or 32.41, Penal Code, includes evidence that the consumer
8 was not an authorized user of the account on which the payment was
9 drawn at the time the payment was provided.

10 Sec. 393.422. CIVIL REMEDIES. (a) For a violation of this
11 subchapter against a consumer, the consumer may sue to:

12 (1) receive injunctive relief to restrain the
13 violation or to correct any negative credit issues caused by the
14 violation;

15 (2) void the contract for the debt or the debt
16 services; or

17 (3) recover actual damages sustained as a result of
18 the violation.

19 (b) A consumer who successfully maintains an action under
20 Subsection (a) is entitled to reasonable attorney's fees and court
21 costs.

22 (c) If the attorney general reasonably believes that a
23 person is violating or is about to violate this subchapter, the
24 attorney general may bring an action in the name of this state
25 against the person to restrain or enjoin the person from violating
26 this subchapter.

27 (d) A consumer who successfully maintains an action under

1 this section for violation of this subchapter is entitled to not
2 less than \$100 for each violation of this subchapter.

3 SECTION 2. This Act takes effect September 1, 2015.