

By: Walle

H.B. No. 3353

A BILL TO BE ENTITLED

AN ACT

relating to the offense of barratry and solicitation of professional employment.

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

SECTION 1. Section 4102.151, Insurance Code, is amended to read as follows:

Sec. 4102.151. SOLICITATION PROHIBITED [~~DURING NATURAL DISASTER~~]. A license holder may not solicit or attempt to solicit a client for employment [~~during the progress of a loss-producing natural disaster occurrence~~].

SECTION 2. Section 4102.152, Insurance Code, is repealed.

SECTION 3. Section 38.12(d), Penal Code, is amended to read as follows:

(d) A person commits an offense if the person:

(1) is an attorney, chiropractor, physician, surgeon, ~~or~~ private investigator, or public insurance adjuster licensed to practice in this state, ~~or~~ any person licensed, certified, or registered by a health care regulatory agency of this state, or any vendor or agent for or representative of an insurance company authorized to engage in the business of automobile or other property and casualty insurance in this state who discusses the settlement or evaluation of a casualty claim or the casualty portion of a claim; and

(2) with the intent to obtain professional employment

1 for the person or for another, provides or knowingly permits to be
2 provided to an individual who has not sought the person's
3 employment, legal representation, advice, or care a written
4 communication or a solicitation, including a solicitation in person
5 or by telephone, that:

6 (A) concerns an action for personal injury or
7 wrongful death or otherwise relates to an accident or disaster
8 involving the person to whom the communication or solicitation is
9 provided or a relative of that person and that was provided before
10 the 31st day after the date on which the accident or disaster
11 occurred;

12 (B) concerns a specific matter and relates to legal
13 representation and the person knows or reasonably should know that
14 the person to whom the communication or solicitation is directed is
15 represented by a lawyer in the matter;

16 (C) concerns a lawsuit of any kind, including an
17 action for divorce, in which the person to whom the communication or
18 solicitation is provided is a defendant or a relative of that
19 person, unless the lawsuit in which the person is named as a
20 defendant has been on file for more than 31 days before the date on
21 which the communication or solicitation was provided;

22 (D) is provided or permitted to be provided by a
23 person who knows or reasonably should know that the injured person
24 or relative of the injured person has indicated a desire not to be
25 contacted by or receive communications or solicitations concerning
26 employment;

27 (E) involves coercion, duress, fraud, overreaching,

1 harassment, intimidation, or undue influence; or

2 (F) contains a false, fraudulent, misleading,
3 deceptive, or unfair statement or claim.

4 SECTION 4. The change in law made by this Act applies only
5 to an offense committed on or after the effective date of this Act.
6 An offense committed before the effective date of this Act is
7 governed by the law in effect at the time the offense was committed,
8 and the former law is continued in effect for that purpose. For
9 purposes of this section, an offense was committed before the
10 effective date of this Act if any element of the offense occurred
11 before that date.

12 SECTION 5. This Act takes effect September 1, 2015.