

By: Giddings

H.B. No. 975

A BILL TO BE ENTITLED

AN ACT

relating to the threat or pursuit of criminal charges against a consumer in association with certain extensions of consumer credit; providing a civil penalty.

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

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

SUBCHAPTER E-1. CRIMINAL CHARGES AGAINST CONSUMER

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

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

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

(b) Notwithstanding the presumptions provided by Sections

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

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

9 Sec. 393.422. CIVIL REMEDIES. (a) For a violation of this
10 subchapter against a consumer, the consumer may bring an action to:

11 (1) obtain injunctive relief to restrain the violation
12 or to correct any negative credit issues caused by the violation;

13 (2) void the contract for the debt or the debt
14 services; or

15 (3) recover any actual damages sustained as a result
16 of the violation.

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

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

25 (d) A consumer who successfully maintains an action under
26 this section for a violation of this subchapter is entitled to not
27 less than \$100 for each violation.

1 SECTION 2. This Act takes effect September 1, 2017.