

By: Turner of Tarrant

H.B. No. 447

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain telemarketing calls by a credit access business.

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

SECTION 1. Section 304.004, Business & Commerce Code, is amended to read as follows:

Sec. 304.004. INAPPLICABILITY OF CHAPTER TO CERTAIN CALLS.

This chapter does not apply to a call made:

(1) by a consumer:

(A) as the result of a solicitation by a seller or telemarketer; or

(B) in response to general media advertising by a direct mail solicitation that clearly, conspicuously, and truthfully makes all disclosures required by federal or state law;

(2) in connection with:

(A) an established business relationship; or

(B) a business relationship that has been terminated, if the call is made before the later of:

(i) the publication date of the first Texas no-call list in which the consumer's telephone number appears; or

(ii) the first anniversary of the date of termination;

(3) between a telemarketer and a business, other than by a facsimile solicitation, unless the business has informed the

1 telemarketer that the business does not wish to receive a
2 telemarketing call from the telemarketer;

3 (4) to collect a debt; or

4 (5) by a state licensee, other than a credit access
5 business licensed under Subchapter G, Chapter 393, Finance Code,
6 if:

7 (A) the call is not made by an automated
8 telephone dialing system;

9 (B) the solicited transaction is not completed
10 until a face-to-face sales presentation by the seller occurs and
11 the consumer is not required to pay or authorize payment until after
12 the presentation; and

13 (C) the consumer has not informed the
14 telemarketer that the consumer does not wish to receive a
15 telemarketing call from the telemarketer.

16 SECTION 2. Subchapter G, Chapter 393, Finance Code, is
17 amended by adding Section 393.6245 to read as follows:

18 Sec. 393.6245. TELEMARKETING. (a) Except as provided by
19 Subsection (b), a credit access business or a representative of a
20 credit access business may not make a telemarketing call, as
21 defined by Section 304.002, Business & Commerce Code, to a consumer
22 whose name and telephone number are on the Texas no-call list
23 maintained under Subchapter B, Chapter 304, Business & Commerce
24 Code.

25 (b) A credit access business or a representative of the
26 business may make a telemarketing call to a consumer described by
27 Subsection (a) who:

1 (1) is a party to a contract with the business if the
2 call is made during the term of the contract; or

3 (2) was a party to a contract with the business if the
4 call is made before the first anniversary of the date on which the
5 contract was terminated, unless the consumer requests that the
6 business or representative stop calling the consumer.

7 SECTION 3. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2019.