

- SUBJECT:** Prohibiting certain telemarketing calls by credit access businesses
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 6 ayes — Oliveira, Simmons, Collier, Fletcher, Romero, Villalba
1 nay — Rinaldi
- WITNESSES:** For — Joe Sanchez, AARP; Rob Kohler, Christian Life Commission, Baptist General Convention of Texas; Jim Hornsby, Churches Touches Lives for Christ; Judy Morales, City Council District 2; Michael Bergman, Family Promise, East Bell County; Rucker Preston, Helping Hands Ministry of Belton; Ann Baddour, Texas Appleseed; Daniel Ramos; Janice Rivera; (*Registered, but did not testify*: Lori Henning, Texas Association of Goodwills; Shanna Igo, Texas Municipal League; Jennifer Allmon, the Texas Catholic Conference of Bishops; Susan Hoff, United Way Metropolitan Dallas; Katherine Von Haefen, United Way of Greater Houston; Casey Smith, United Ways of Texas)
- Against — (*Registered, but did not testify*: Deborah Reyes, Advance America; Adam Burklund, Consumer Service Alliance of Texas; Cathy Dewitt, Texas Association of Business)
- On — (*Registered, but did not testify*: Leslie Pettijohn, Office of Consumer Credit Commissioner)
- BACKGROUND:** Business and Commerce Code, ch. 304 is the Texas Telemarketing Disclosure and Privacy Act, under which telemarketers are prohibited from calling individuals on the Texas no-call list.
- According to sec. 304.004, the act does not apply to certain telemarketing calls, such as those made in connection with an established business relationship. The act also does not apply to telemarketing calls made by a state licensee under certain circumstances.
- Under Finance Code, ch. 393, “credit access business” means a credit

services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan.

DIGEST: CSHB 411 would specify that the Texas Telemarketing Disclosure and Privacy Act applied to a credit access business licensed under Finance Code, ch. 393, subch. G.

The bill would prohibit a credit access business or its representatives from making a telemarketing call, as defined by the act, to a consumer, regardless of whether the consumer was listed on the Texas no-call list maintained under Business and Commerce Code, ch. 304, subch. B.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: CSHB 411 would protect vulnerable consumers from predatory lending practices often used by credit access businesses, including certain payday lenders. The bill would prohibit credit access businesses from calling individuals with whom they did not have an established business relationship. Many people who receive these calls are in need of money and do not understand the consequences of receiving a high-interest or auto title loan. The high interest rates and fees make these loans difficult to pay back, and many individuals find themselves in a never-ending cycle of debt after they receive one. People are especially vulnerable over the phone because they cannot see the fine print of the loan they are receiving and can be confused easily by the terms of the loan.

The bill would not burden the credit access businesses because they still could call current clients and could advertise for new clients through a number of tactics, including sending advertisements through the mail.

OPPONENTS SAY: CSHB 411 would make it unclear whether credit access businesses ever could make telemarketing calls to people with whom they had an established business relationship. The bill also would not provide a

specific timeframe to determine when a business relationship ceased to exist. This could cause confusion for credit access businesses because it would not be clear whether such a business could make a telemarketing call to a client. Credit access businesses provide an important service to individuals who are in need of money, and they have a right to solicit their services, especially to those who have used their services in the past.

Additionally, the bill would prohibit credit access businesses from making telemarketing calls to individuals who were not listed on the Texas no-call list. Generally, individuals who do not wish to receive calls from businesses must inform those businesses of that. The bill would place an unreasonable limitation on credit access businesses that did not apply to other businesses, further burdening a highly regulated and much maligned industry.