

## BILL ANALYSIS

Senate Research Center  
78R8268 DWS-F

C.S.S.B. 533  
By: Carona  
Business & Commerce  
3/26/2003  
Committee Report (Substituted)

### DIGEST AND PURPOSE

Currently, Chapter 20 of the Business & Commerce Code regulates credit bureaus and Chapter 392 of the Finance Code regulates both debt collectors and credit bureaus, which can cause confusion in enforcement and clarity of parties' responsibilities in a dispute. As proposed, C.S.S.B. 533 deletes all references to credit bureaus from Chapter 392 of the Finance Code. C.S.S.B. 533 also requires a debt collector to make a written record of a dispute. The bill also requires the third-party debt collector cease collection efforts until the disputed item is determined, by an investigation, to be accurate. Additionally, the bill requires a debt collector to inform a consumer during an initial conversation that information obtained will be used to collect a debt and in subsequent communication to state that the communication is from a debt collector.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 392.202, Finance Code, as follows:

Sec. 392.202. CORRECTION OF THIRD-PARTY DEBT COLLECTOR'S OR CREDIT BUREAU'S FILES. (a) Authorizes an individual to notify the third-party debt collector in writing about a disputed item in a third-party debt collector's or credit bureau's file that relates to a debt being collected by the third-party debt collector. Deletes text referring to the credit bureau as an alternative recipient for the written notification of the alleged inaccuracy. Requires the third-party debt collector to make a written record of the dispute. Requires the third-party debt collector that does not inform the credit bureau of information related to the dispute to cease collection efforts until an investigation of the dispute, described by Subsections (b) - (e), determines that the disputed item is accurate. Requires the reporting third-party debt collector to initiate an investigation of the dispute, described by Subsections (b) - (e), and cease collection efforts until the investigation determines that the disputed item is accurate. Provides that this section does not affect the application of Chapter 20, Business and Commerce Code (Regulation of Consumer Credit Reporting Agencies), to a third-party debt collector subject to that chapter. Deletes text requiring the third-party debt collector or credit bureau to provide forms for and assistance with the notice.

(b) Requires a third-party debt collector initiating an investigation to send a written statement to the individual not later than the 30th day after the date the inaccuracy is received. Makes conforming changes.

(c) Requires the third-party debt collector, if it admits the item is inaccurate under Subsection (b), to correct the item within five days and to immediately cease collection efforts. Deletes text requiring the third-party debt collector to send an accurate report to all previous recipients of the inaccurate report. Makes conforming changes.

(d) Requires the third-party debt collector to change the item as requested and cease collection efforts, deletes specification of the item involving debt, if the

third-party debt collector contends that there has not been sufficient time to conduct and investigation. Makes conforming changes.

(e) Makes conforming changes.

SECTION 2. Amends Section 392.304(a), Finance Code, to prohibit, unless in a formal pleading in connection with a legal action, the third-party debt collector from failing to disclose that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, if it is the initial communication with the debtor, or that the communication is from a debt collector if it is subsequent to written or oral communication.

SECTION 3. Effective date: September 1, 2003.

### **SUMMARY OF COMMITTEE CHANGES**

Differs from the original in SECTION 1 by requiring a third-party debt-collector that does not report information related to a dispute to a credit bureau cease collection efforts until an investigation of the dispute, described by Subsections (b) - (e), determines that the disputed item is accurate. Differs from the original in SECTION 1 by requiring the reporting third-party debt collector to initiate an investigation of the dispute, described by Subsections (b) - (e), and cease collection efforts until the investigation determines that the disputed item is accurate. Differs from original in SECTION 1 by providing that Section 392.202, Finance Code (Correction of Third-Party Debt Collector's or Credit Bureau's Files), does not affect the application of Chapter 20, Business and Commerce Code (Regulation of Consumer Credit Reporting Agencies), to a third-party debt collector subject to that chapter.