

## BILL ANALYSIS

Senate Research Center  
79R8043 HLT-D

H.B. 1854  
Giddings (Ellis)  
Business & Commerce  
5/20/2005  
As Filed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, a debt collector attempting to collect on a bad check is not required to provide an image of the dishonored check. When the person whose name is printed on the check is contacted by the debt collector, he or she ought to have access to at least a copy of the dishonored check in order to confirm whether the check was actually written by him or her, or by someone else acting fraudulently.

H.B. 1854 requires that a debt collector who contacts a consumer regarding a consumer debt which is the result from the issuance of a dishonored check will be required to provide to the consumer, at the time of the initial contact, a copy of the check or substitute check involved in the transaction.

### 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 Title 5, Finance Code, by adding Chapter 397, as follows:

#### CHAPTER 397. DUTY OF DEBT COLLECTOR TO PROVIDE COPY OF DISHONORED CHECK

Sec. 397.001. DEFINITIONS. Defines "consumer," "consumer debt," "debt collection," "debt collector," and "substitute check."

Sec. 397.002. DUTY TO PROVIDE COPY OF DISHONORED CHECK. Requires a debt collector who contacts a consumer about a consumer debt resulting from the consumer's alleged issuance of a dishonored check to provide to the consumer, at the time of the initial contact, a photocopy of the check or substitute check involved in the transaction.

Sec. 397.003. CIVIL PENALTY. Provides that a debt collector who fails to provide a copy of a check or substitute check as required by Section 397.002 is liable to the state for a civil penalty of up to \$1,000 for each day the failure continues. Authorizes the attorney general to sue to collect the penalty.

Sec. 397.004. RECOVERY OF EXPENSES. Authorizes the attorney general to recover reasonable expenses incurred in obtaining a civil penalty under Section 397.003, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.