

By: Walle

H.B. No. 874

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.

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 31.06(a) and 32.41(b), Penal Code, evidence of a denied or returned

1 payment due to insufficient funds or account closure is not  
2 extrinsic evidence of an offense under Section 31.03, 31.04, or  
3 32.41, Penal Code.

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

8 SECTION 2. This Act takes effect September 1, 2019.