

House Bill 975

STOP TEXAS'S CRIMINAL COURTS FROM BEING USED TO COLLECT PAYDAY LOANS

THE PROBLEM

- In 2015, more than **700,000 Texans** obtained loans from payday lenders.
- Payday loans often require a postdated personal check to be cashed on a future date.
- **§32.41** of the Tex. Penal Code creates presumption of fraud for returned checks *except* in the case of post-dated checks.
- Ambiguity in Ch. 393 of Tex. Fin. Code provides CABs (i.e. Credit Access Businesses) opportunity to criminalize borrowers.
- Texas Office of Consumer Credit Commissioner (OCCC) warned CABS in 2013 **not to use district attorneys “simply as a means for collecting on delinquent loans.”**¹
- Since then, in 2015 clear rules promulgated in Justice Court provide CABs a *fair* forum to collect consumer debt.
- Lack of clear rules leads to improper use of criminal justice system to collect civil debt.

SMU CONSUMER ADVOCACY CLINIC STUDY FINDS CONSUMERS AT RISK*

- **CABs in at least 9 out of the 29 counties** surveyed pursued more than \$110,000 in post-dated checks through the *criminal* justice system.
- **Consumers paid almost an additional 15% in fees as a result of wrongful prosecution through criminal courts.**
- Over a 2-year span, counties collected more than **\$14,800 from wrongful prosecution.**
- District attorney’s fees are spent at their own discretion.
- **More than 4.1 million consumers are at risk in counties engaging in this practice.**

THE SOLUTION

TEXANS NEED HOUSE BILL 975

- **Eliminates** the criminalization of consumer debt
- **Clarifies** rules to avoid abuse of the criminal justice system
- **Protects** consumers across the state from wrongful prosecution and costly fees

Counties Criminalizing Consumer Debt²

Bexar
Bowie
Collin
Ector
Lubbock
McLennan
Potter
Webb
Val Verde



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*The research study was conducted by Megan Mohler, Kristin Dickhaner, and Ashley Homafar, in the SMU Dedman School of Law Consumer Advocacy Clinic and was supervised by Professor Mary Spector, Director. For more information, contact Professor Spector at mspector@smu.edu.

¹Credit Access Business Advisory Bulletin, OCCC, <http://occc.texas.gov/sites/default/files/uploads/disclosures/b13-9-cab-criminal-charges.pdf>.

²Research is on-going. Twenty-one counties denied maintaining records or were otherwise unresponsive to our requests. These responses have not been verified nor challenged to date.