

SUBJECT: Requiring credit access telemarketers to adhere to no-call list regulations

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 5 ayes — Oliveira, Shine, Collier, Romero, Villalba

2 nays — Stickland, Workman

WITNESSES: For — Brett Merfish, Texas Appleseed; (*Registered, but did not testify*: Kathryn Freeman, Christian Life Commission; Dixie Davis, League of Women Voters of Texas; Woody Widrow, RAISE Texas; Shanna Igo, Texas Municipal League; Yannis Banks, Texas NAACP; Jennifer Allmon, The Texas Catholic Conference of Bishops; James Thurston, United Ways of Texas)

Against — None

On — (*Registered, but did not testify*: Leslie Pettijohn, Office of Consumer Credit Commissioner)

BACKGROUND: Business and Commerce Code, sec. 304.051 requires the Public Utility Commission of Texas to maintain a no-call list of each consumer in the state who has requested to be on that list or the national do-not-call registry. Sec. 304.052 prohibits telemarketers from making calls to a telephone number on the Texas no-call list.

Sec. 304.004(5) exempts state licensees in certain circumstances from adhering to no-call list telemarketing regulations.

DIGEST: HB 877 would prohibit credit access businesses from making telemarketing calls to consumers on the Texas no-call list, unless:

- the consumer had a current contract with the business; or
- the call took place less than one year after the contract had been terminated and consumer had not requested that the business stop calling.

The 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, 2017.

**SUPPORTERS  
SAY:**

HB 877 would close a loophole in current law that allows credit access businesses to use their status as state licensees to circumvent no-call list regulations. This can result in consumers receiving unsolicited telemarketing calls, which defeats the purpose of the no-call list and creates an inconvenience to people whose privacy and right to deny solicitation should be protected.

The bill would protect consumers from predatory lenders who use telemarketing to lure low-income borrowers into high-interest loans. Credit access loans in Texas can carry annual percentage rates of between 216 percent and 567 percent. Because the state has no limit on how much a person may be loaned or charged for a loan, Texans are particularly vulnerable to predatory lending.

HB 877 would not produce an unfair effect on the lending industry. The bill specifically would target credit access businesses because they lack the stringent consumer protection policies, such as lending caps and borrower requirements, to which competitors such as banks and credit unions must adhere. These competitors would not use the no-call list for telemarketing purposes, so the bill's treatment of credit access businesses would not be unfair.

The bill would not harm free market efficiency because it would not affect the ability of borrowers or lenders to access or issue payday loans in the lending market. It simply would protect consumers who had elected to be on the no-call list from intrusive and unsolicited calls.

**OPPONENTS  
SAY:**

HB 877 could create an unfair standard in the lending market by creating a requirement only for credit access businesses, while competitors of credit access businesses who were state licensees still could participate in telemarketing from the no-call list.

In its attempt to protect consumers, the bill could infringe on the free market. Borrowers who use credit access businesses may have no other option to access capital. Consumers are responsible for being aware of the policies and rates of loans they take out and should not require the government to make these decisions for them.