

By: Chisum

H.B. No. 2842

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the provision of false information to an independent
3 public accounting firm by a public interest entity; providing a
4 criminal penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter D, Chapter 32, Penal Code, is amended
7 by adding Section 32.52 to read as follows:

8 Sec. 32.52. PROVIDING FALSE INFORMATION TO AN INDEPENDENT
9 PUBLIC ACCOUNTANT OR ACCOUNTING FIRM. (a) In this section:

10 (1) "Financial institution" means a bank, savings
11 association, savings bank, or credit union maintaining an office,
12 branch, or agency office in this state.

13 (2) "Insurer" means a person who engages in the
14 business of insurance in this state, including:

15 (A) an insurer that is not authorized to do
16 business in this state; and

17 (B) a person described by Section 82.002(a),
18 Insurance Code.

19 (3) "Issuer" has the meaning assigned by 15 U.S.C.
20 Section 7201.

21 (4) "Public interest entity" means:

22 (A) a financial institution;

23 (B) an insurer;

24 (C) an issuer;

- 1 (D) a county hospital;
- 2 (E) a pension or retirement plan;
- 3 (F) the state or a state agency;
- 4 (G) a school district;
- 5 (H) a municipality;
- 6 (I) a county; or
- 7 (J) an institution of higher education.

8 (b) An officer or director of a public interest entity, or
9 another person designated by the officer or director to provide
10 information to an independent public accountant or accounting firm,
11 commits an offense if, for the purpose of rendering financial
12 statements of the public interest entity materially misleading, the
13 person intentionally or knowingly:

14 (1) influences, coerces, manipulates, or misleads the
15 independent public accountant or accounting firm engaged in the
16 performance of an audit of the financial statements of the public
17 interest entity and that conduct renders the financial statements
18 materially misleading; or

19 (2) communicates or causes to be communicated
20 information to the independent public accountant or accounting firm
21 that the person knew was false at the time the information was
22 communicated.

23 (c) An offense under this section is a:

24 (1) state jail felony if it is shown on the trial of
25 the offense that the violation resulted in a monetary loss of less
26 than \$10,000 or did not result in a monetary loss;

27 (2) felony of the third degree if it is shown on the

1 trial of the offense that the violation resulted in a monetary loss
2 of at least \$10,000 but less and \$100,000;

3 (3) felony of the second degree if it is shown on the
4 trial of the offense that the violation resulted in a monetary loss
5 of at least \$100,000 but less than \$1 million; or

6 (4) felony of the first degree if it is shown on the
7 trial of the offense that the violation resulted in a monetary loss
8 of at least \$1 million.

9 SECTION 2. This Act takes effect September 1, 2005.