

By: Chisum

H.B. No. 2842

Substitute the following for H.B. No. 2842:

By: Miller

C.S.H.B. No. 2842

A BILL TO BE ENTITLED

AN ACT

1
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 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;

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

19 (C) a person who self-insures and provides health
20 care benefits or workers' compensation benefits to the person's
21 employees.

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

24 (4) "Public interest entity" means:

- 1 (A) a financial institution;
- 2 (B) an insurer;
- 3 (C) an issuer;
- 4 (D) a county hospital;
- 5 (E) a pension plan;
- 6 (F) a school district; or
- 7 (G) a municipality.

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 accounting firm, commits an
11 offense if the person:

12 (1) takes any action to fraudulently influence,
13 coerce, manipulate, or mislead the accounting firm engaged in the
14 performance of an audit of the financial statements of the public
15 interest entity for the purpose of rendering the financial
16 statements materially misleading;

17 (2) fraudulently communicates or causes to be
18 communicated information to the accounting firm that the person
19 knew or should have known was false at the time the information was
20 communicated; or

21 (3) fraudulently fails to promptly notify the
22 accounting firm and provide the correct information if the person
23 learns that information that was correct at the time the
24 information was communicated to the accounting firm is no longer
25 correct.

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

27 (1) state jail felony if it is shown on the trial of

1 the offense that the violation resulted in a monetary loss of less
2 than \$10,000 or did not result in a monetary loss;

3 (2) felony of the third degree if it is shown on the
4 trial of the offense that the violation resulted in a monetary loss
5 of at least \$10,000 but less than \$100,000;

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

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

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