

By: West, Estes

S.B. No. 674

A BILL TO BE ENTITLED

AN ACT

relating to limiting the use of customers' social security numbers by persons; providing a civil penalty.

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

SECTION 1. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.62 to read as follows:

Sec. 35.62. PROHIBITED ACTS WITH RESPECT TO USE OF CUSTOMERS' SOCIAL SECURITY NUMBERS. (a) In this section:

(1) "Customer" means an individual who has established or is attempting to establish an account with a person.

(2) "Financial institution" means:

(A) a bank, savings association, savings bank, or credit union maintaining an office, branch, or agency office in this state; and

(B) a financial institution as defined by 15 U.S.C. Sections 6801-6809.

(b) A person may not request a customer's social security number, or another number that includes four or more consecutive digits of a customer's social security number, as an identifier unless the number is needed to complete a credit check that is required to provide a service or product requested by the customer.

(c) A person that requests a customer's number to complete a credit check, as provided in Subsection (b), shall:

(1) destroy each record of the number by shredding,

1 erasing, or other means after the credit check is completed; or

2 (2) maintain the number:

3 (A) for the sole purpose of allowing authorized
4 employees to use the number to collect a debt or to protect against
5 fraud or unauthorized transactions; and

6 (B) in a database or other location that ensures
7 the security and confidentiality of the number and protects against
8 unauthorized access to, or use of, the number.

9 (d) When a customer's number is no longer maintained by the
10 person as required by Subsection (c)(2), the person shall destroy
11 each record of the number by shredding, erasing, or other means.

12 (e) A person may not request an existing customer's social
13 security number, or another number that includes four or more
14 consecutive digits of an existing customer's social security
15 number, to verify the customer's relationship with the person.

16 (f) This section does not apply to:

17 (1) a financial institution, mortgage lender, or
18 mortgage broker;

19 (2) a covered entity as defined by Section 601.001 or
20 602.001, Insurance Code;

21 (3) a governmental entity; or

22 (4) a person who is required to maintain and
23 disseminate a privacy policy under the Health Insurance Portability
24 and Accountability Act of 1996 (Pub. L. No. 104-191).

25 (g) A person that violates this section is liable to the
26 state for a civil penalty of \$1,000 for each violation. The
27 attorney general or the prosecuting attorney in the county in which

1 the violation occurs may bring suit to recover the civil penalty
2 imposed under this section. The attorney general may bring an
3 action in the name of the state to restrain or enjoin a business
4 from violating this section.

5 SECTION 2. (a) The Office of Consumer Credit Commissioner,
6 with the assistance of the attorney general, shall conduct a study
7 to develop and evaluate proposals to limit the use of social
8 security numbers by businesses in this state.

9 (b) In conducting the study, the consumer credit
10 commissioner shall receive input from credit reporting agencies,
11 businesses, and consumer groups.

12 (c) The consumer credit commissioner shall evaluate
13 whether, when a business contacts a credit reporting agency for a
14 credit check of a customer, the business and credit reporting
15 agency should create a unique code that:

16 (1) would allow the business to retrieve the social
17 security number of the customer for collection purposes; and

18 (2) permit the business to delete the social security
19 number of the customer from the records of the business.

20 (d) The consumer credit commissioner shall determine the
21 date on which the system described by Subsection (c) of this section
22 could be implemented and the feasibility of monitoring compliance
23 with the system.

24 (e) Not later than July 1, 2006, the consumer credit
25 commissioner shall submit a report to the legislature regarding the
26 results of the study conducted under this section.

27 (f) This section expires September 1, 2006.

1 SECTION 3. This Act takes effect September 1, 2005.

COMMITTEE AMENDMENT NO. 1

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Amend S.B. 674 to read as follows:

On page 2, line 21 delete "or".

On page 2, line 24 delete the "." and replace with "; or".

On page 2 add to subsection (f) paragraphs (5) and (6) between lines 24 and 25 as follows:

"(5) a regulated utility subject to the jurisdiction of the Public Utility Commission of Texas, whose use of such information includes, but is not limited to, providing and coordinating customer data for purposes of administration of the Low-Income Discount Administrator (LIDA) Program or the Low Income Energy Assistance Program (LIHEAP), or

"(6) An electric utility or retail provider as defined by Section 31.002, Utilities Code."

On page 2, line 25, strike "(g)" and substitute in lieu thereof "(h)".

Zedler