

By: Chisum

H.B. No. 3424

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain requirements for businesses required to obtain
3 a registration certificate or license from the secretary of state
4 or another licensing authority.

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

6 SECTION 1. Subchapter B, Chapter 405, Government Code, is
7 amended by adding Section 405.022 to read as follows:

8 Sec. 405.022. CONSUMER PROTECTION DUTIES. (a) In this
9 section:

10 (1) "business" means a person or business entity that
11 executes contracts with consumers for services to be performed by
12 the person or business entity and is required to obtain a
13 registration certificate from the secretary of state or a license
14 pursuant to Section 7.19, Chapter 62, Acts of the 76th Legislature,
15 Regular Session, 1999, as amended; and

16 (2) "contract" means a written agreement between the
17 consumer and the business in which the business agrees to provide a
18 service to the consumer and which outlines the duties and
19 responsibilities of the business and the consumer.

20 (b) A business may not impose a contract fee or other charge
21 on a consumer in excess of the amount authorized under state laws or
22 regulations for the type of transactions conducted by the business.

23 (c) A business must provide adequate notice to consumers
24 regarding:

1 (1) contract terms and the rights of the consumer to
2 cancel or renew the contract; and

3 (2) other duties, rights, and responsibilities of both
4 parties under the contract.

5 (d) A business must maintain adequate net assets for the
6 types of transactions conducted by the business.

7 (e) Before issuing or renewing a registration certificate
8 or license to a business that is otherwise qualified to be issued a
9 registration certificate or license, the secretary of state or
10 licensing authority, as applicable, shall determine whether any
11 consumer complaints regarding the business have been received by
12 the attorney general or other state agency with regulatory
13 authority over the business. If the secretary of state or licensing
14 authority determines that more than five consumer complaints
15 against the business have been received, the secretary of state or
16 licensing authority shall review the business practices of the
17 business before issuing the registration certificate or license.
18 In determining whether to issue the registration certificate or
19 license, the secretary of state or licensing authority may review:

20 (1) the amount of contract fees or other charges
21 imposed on the consumer by the business;

22 (2) the adequacy of notice provided to the consumer
23 regarding contract terms and the rights of the consumer to cancel or
24 renew the contract;

25 (3) the adequacy of notice provided to the consumer
26 regarding other duties, rights, and responsibilities of both
27 parties under the contract;

1 (4) the adequacy of the net assets of the business; and
2 (5) any other unfair, deceptive, or fraudulent
3 practices alleged in the consumer complaints.

4 (e) A business that is subject to review under this section
5 shall provide to the secretary of state or licensing authority:

6 (1) a schedule of the standard contract fees and other
7 charges imposed on consumers for the type of transactions conducted
8 by the business;

9 (2) the language included in any standard notice
10 provided to the consumer regarding contract terms and the rights of
11 the consumer to cancel or renew the contract;

12 (3) the language included in any standard notice
13 provided to the consumer regarding other duties, rights, and
14 responsibilities of both parties under the contract; and

15 (4) other information requested by the secretary of
16 state or licensing authority that is necessary for completing the
17 review.

18 (f) The secretary of state or licensing authority may
19 request the assistance of the attorney general or other appropriate
20 state agency in conducting the review.

21 (g) If, after conducting the review, the secretary of state
22 or licensing authority determines that the business has violated
23 state laws or regulations governing the types of transactions
24 conducted by the business, the secretary of state or licensing
25 authority shall not issue a registration certificate or license to
26 the business.

27 (h) The secretary of state or licensing authority may

1 publish information on state laws and regulations that establish
2 limits on contract fees or other charges associated with
3 transactions conducted by businesses required to obtain a
4 registration certificate or license.

5 (i) The secretary of state or licensing authority may
6 develop a schedule of recommended limits on contract fees and
7 recommended notice provisions that should be included in contracts
8 for businesses required to obtain a registration certificate or
9 license.

10 (j) The secretary of state or licensing authority may adopt
11 rules necessary to enforce this section.

12 SECTION 2. This Act takes effect September 1, 2007.