

By: Flynn

H.B. No. 80

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of credit reporting bureaus; providing penalties.

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

SECTION 1. Subtitle E, Title 3, Finance Code, is amended by adding Chapter 158 to read as follows:

CHAPTER 158. CREDIT REPORTING BUREAUS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 158.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the banking commissioner of Texas.

(2) "Credit reporting bureau" means a person who engages in the practice of assembling or reporting credit information about individuals for the purpose of furnishing the information to a third party.

(3) "Department" means the Texas Department of Banking.

(4) "Principal," in connection with management of a license holder or applicant, means a person who performs executive functions or otherwise controls the executive affairs of a license holder, including an owner, officer, director, partner, trustee, or manager of the license holder.

[Sections 158.002-158.100 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT AND COMMISSION

1       Sec. 158.101. ADMINISTRATION. The department shall  
2 administer this chapter.

3       Sec. 158.102. RULES. (a) The Finance Commission of Texas  
4 may:

5           (1) adopt rules necessary to enforce and administer  
6 this chapter, including rules relating to an application for a  
7 license; and

8           (2) adopt rules to accomplish the purposes of Chapter  
9 20, Business & Commerce Code, and any other law applicable to a  
10 credit reporting bureau, including rules reasonable or necessary  
11 to:

12                   (A) implement and clarify Chapter 20, Business &  
13 Commerce Code; and

14                   (B) defray the cost of enforcing Chapter 20,  
15 Business & Commerce Code, and any other law applicable to a credit  
16 reporting bureau.

17       (b) In adopting rules under this section, the Finance  
18 Commission of Texas shall consider the necessity to:

19           (1) promote a stable consumer reporting environment;  
20 and

21           (2) provide adequate protection to consumers and their  
22 personal identifying information.

23       [Sections 158.103-158.200 reserved for expansion]

24       SUBCHAPTER C. APPLICATION FOR AND ISSUANCE OF LICENSE

25       Sec. 158.201. LICENSE REQUIREMENT. A credit reporting  
26 bureau may not engage in the practice of assembling or reporting  
27 credit information about individuals in this state for the purpose

1 of furnishing the information to a third party, as a service or for  
2 consideration, unless the credit reporting bureau holds a license  
3 issued under this chapter.

4 Sec. 158.202. APPLICATION. (a) An application for a  
5 license must be in writing, sworn to, and filed with the  
6 commissioner in the form the commissioner prescribes.

7 (b) The application must:

8 (1) state the full legal name, federal taxpayer  
9 identification number or social security number, and business  
10 address of:

11 (A) the applicant;

12 (B) each individual who is a principal of the  
13 applicant; and

14 (C) each individual who is a principal of any  
15 person that is a principal of the applicant; and

16 (2) disclose any other information that may be  
17 required by rule or reasonably requested by the commissioner.

18 Sec. 158.203. ACCOMPANYING FEE, STATEMENTS, AND BOND. An  
19 application for a license must be accompanied by:

20 (1) a nonrefundable application fee in an amount  
21 established by rule that is sufficient to administer this chapter;

22 (2) audited financial statements of the applicant that  
23 are reasonably satisfactory to the commissioner;

24 (3) the location of the home office of the applicant  
25 and of the main office of the applicant in this state; and

26 (4) a surety bond in the amount of \$100,000 that is:

27 (A) in a form satisfactory to the commissioner;

1 and

2 (B) issued by a bonding company or insurance  
3 company authorized to do business in this state.

4 Sec. 158.204. ISSUANCE OF LICENSE. On the filing of an  
5 application that meets the requirements of Sections 158.202 and  
6 158.203, the commissioner shall issue a license to the applicant if  
7 the commissioner:

8 (1) approves the documents; and

9 (2) finds that the bond is in the prescribed amount.

10 Sec. 158.205. DENIAL OF LICENSE; HEARING. (a) A hearing  
11 must be held before a license may be denied.

12 (b) The commissioner shall give the applicant notice of the  
13 hearing.

14 [Sections 158.206-158.300 reserved for expansion]

15 SUBCHAPTER D. REQUIREMENTS TO MAINTAIN LICENSE

16 Sec. 158.301. INSUFFICIENT BOND. (a) If the commissioner  
17 at any time reasonably determines that the bond required by this  
18 chapter is insecure or deficient in amount, the commissioner by  
19 written order may require the license holder to file a new or  
20 supplemental bond to secure compliance with this chapter.

21 (b) The license holder shall comply with the order not later  
22 than the 30th day after the date on which the order is served.

23 Sec. 158.302. ANNUAL LICENSE FEE. (a) Not later than June  
24 30 of each year, a license holder shall pay to the commissioner a  
25 license renewal fee in an amount established by rule.

26 (b) The fee required by Section 158.203(1) satisfies the  
27 license fee requirement for the first license year or part of that

1 year.

2 Sec. 158.303. REVOCATION OF LICENSE. (a) The commissioner  
3 may revoke a license:

4 (1) on a ground on which the commissioner may refuse to  
5 grant a license; or

6 (2) for a violation of this chapter.

7 (b) The commissioner may investigate the business and  
8 records of a license holder if the commissioner has reasonable  
9 cause to believe that grounds for revocation exist.

10 Sec. 158.304. HEARING ON LICENSE REVOCATION. (a) The  
11 commissioner shall give a license holder an opportunity for a  
12 hearing before a license may be revoked.

13 (b) The commissioner shall give the license holder notice of  
14 the hearing.

15 [Sections 158.305-158.400 reserved for expansion]

16 SUBCHAPTER E. CRIMINAL PENALTIES AND CIVIL REMEDIES

17 Sec. 158.401. CRIMINAL PENALTY. (a) A person commits an  
18 offense if the person intentionally:

19 (1) makes an untrue statement of a material fact in an  
20 application or report required to be filed with the commissioner  
21 under this chapter; or

22 (2) violates Section 158.201.

23 (b) An offense under this section is a third degree felony.

24 Sec. 158.402. ADMINISTRATIVE PENALTY. (a) The  
25 commissioner may impose an administrative penalty on a person in an  
26 amount specified by the commissioner if, after notice and hearing,  
27 the commissioner finds the person has violated:

- 1           (1) this chapter;  
2           (2) a rule adopted under this chapter; or  
3           (3) an order of the commissioner issued under this  
4 chapter.

5           (b) The amount of the penalty may not exceed:

- 6           (1) \$1,000 for each violation; or  
7           (2) \$1,000 for each day the violation continues.

8           (c) In determining the amount of an administrative penalty,  
9 the commissioner shall consider:

- 10           (1) the seriousness of the violation, including the  
11 nature, circumstances, extent, and gravity of the prohibited act;  
12           (2) the extent of actual or potential harm to a person;  
13           (3) the history of violations;  
14           (4) the amount necessary to deter future violations;  
15           (5) efforts to correct the violation; and  
16           (6) any other matter that justice may require.

17           Sec. 158.403. SUIT BY ATTORNEY GENERAL. The attorney  
18 general may sue on behalf of claimants on the bond required by  
19 Section 158.203(4) in a district court in Travis County, either in  
20 one action or successive actions.

21           SECTION 2. This Act takes effect September 1, 2009.