

By: Quintanilla

H.B. No. 972

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to inclusion on certain advertising documents of the  
3 license or certificate of registration number of certain  
4 individuals regulated by this state who solicit business in  
5 consumers' homes; providing a civil penalty.

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

7 SECTION 1. Title 2, Occupations Code, is amended by adding  
8 Chapter 60 to read as follows:

9 CHAPTER 60. GENERAL LICENSING AND REGISTRATION REQUIREMENTS

10 Sec. 60.001. SOLICITATION AT CONSUMER'S HOME. (a) In this  
11 section, "solicit business" means to advertise an individual's  
12 business practice, for which the individual is required to hold a  
13 license or certificate of registration issued by a state regulatory  
14 agency, to a consumer at the consumer's home, in person, for the  
15 purpose of closing a sale or entering into a service agreement or  
16 service contract with the consumer in the home.

17 (b) A state regulatory agency that determines that the  
18 individuals licensed or registered by the agency solicit business  
19 in consumers' homes as a regular business practice shall adopt  
20 rules requiring each individual licensed or registered by the  
21 agency to prominently display the individual's license or  
22 certificate of registration number and the individual's signature  
23 on any document evidencing the sale or any service agreement or  
24 service contract that is provided by the individual to the

1 consumer.

2 (c) An individual who holds a license or certificate of  
3 registration issued by a state regulatory agency that adopts rules  
4 under Subsection (b) shall prominently display the individual's  
5 license or certificate number and the individual's signature on the  
6 document evidencing the sale or the service agreement or service  
7 contract that is provided by the individual to the consumer.

8 Sec. 60.002. EXEMPTION. This chapter does not apply to:

9 (1) an individual employed by or acting on behalf of an  
10 entity that holds a license or certificate of registration issued  
11 by the Public Utility Commission of Texas;

12 (2) an entity controlling, controlled by, or under the  
13 same common control as an entity that holds a license or certificate  
14 of registration issued by the Public Utility Commission of Texas;  
15 or

16 (3) an insurance agent licensed under Subtitle B,  
17 Title 13, Insurance Code, other than an agent licensed to solicit  
18 life, accident, and health insurance coverage who offers for sale  
19 in the consumer's home a Medicare Advantage Plan.

20 Sec. 60.003. CIVIL PENALTY. (a) An individual is liable to  
21 this state for a civil penalty of not more than \$1,000 for each  
22 violation if the individual:

23 (1) violates Section 60.001 or a rule adopted by a  
24 state regulatory agency to enforce that section;

25 (2) represents that an expired license or certificate  
26 of registration issued by a state regulatory agency is valid; or

27 (3) displays a counterfeit license or certificate of

1 registration or uses a counterfeit license or certificate number in  
2 any document provided to the public.

3 (b) The amount of the penalty shall be based on:

4 (1) the seriousness of the violation;

5 (2) the history of previous violations;

6 (3) the amount necessary to deter a future violation;

7 and

8 (4) any other matter that justice may require.

9 (c) The attorney general may sue to collect a civil penalty  
10 under this section. In the suit the attorney general may recover,  
11 on behalf of the state, the reasonable expenses incurred in  
12 obtaining the penalty, including investigation and court costs,  
13 reasonable attorney's fees, witness fees, and other expenses.

14 SECTION 2. Not later than December 1, 2009, a state  
15 regulatory agency or the governing body of a state regulatory  
16 agency, as appropriate, to which Chapter 60, Occupations Code, as  
17 added by this Act, applies shall adopt the rules necessary to  
18 implement that chapter.

19 SECTION 3. Notwithstanding Chapter 60, Occupations Code, as  
20 added by this Act, an individual subject to that chapter is not  
21 required to include the individual's license or certificate number  
22 on documents provided to the public before January 1, 2010.

23 SECTION 4. This Act takes effect September 1, 2009.