

By: Geren, et al.

H.B. No. 1706

Substitute the following for H.B. No. 1706:

By: Jones

C.S.H.B. No. 1706

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the licensing and regulation of identity recovery  
3 service contract providers and the inclusion of identity recovery  
4 service agreements in certain service contracts and vehicle  
5 protection products; providing penalties.

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

7 SECTION 1. Section 348.001, Finance Code, is amended by  
8 adding Subdivision (8-a) to read as follows:

9 (8-a) "Service contract" includes an identity  
10 recovery service contract as defined by Section 1306.003,  
11 Occupations Code.

12 SECTION 2. Section 1304.003(b), Occupations Code, is  
13 amended to read as follows:

14 (b) A service contract may also provide for:

15 (1) incidental payment or indemnity under limited  
16 circumstances, including towing, rental, and emergency road  
17 service; ~~or~~

18 (2) the repair or replacement of a product for damage  
19 resulting from a power surge or for accidental damage incurred in  
20 handling the product; or

21 (3) identity recovery, as defined by Section 1306.002,  
22 if the service contract is financed under Chapter 348, Finance  
23 Code.

24 SECTION 3. Title 8, Occupations Code, is amended by adding

1 Chapter 1306 to read as follows:

2 CHAPTER 1306. IDENTITY RECOVERY SERVICE CONTRACT PROVIDERS AND  
3 ADMINISTRATORS

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 1306.001. SHORT TITLE. This chapter may be cited as  
6 the Identity Recovery Service Contract Regulatory Act.

7 Sec. 1306.002. DEFINITIONS. In this chapter:

8 (1) "Administrator" means a person, other than the  
9 provider of the identity recovery service contract or an employee  
10 of the provider, who is responsible for the third-party  
11 administration of an identity recovery service contract.

12 (2) "Commission" means the Texas Commission of  
13 Licensing and Regulation.

14 (3) "Consumer" means an individual who purchases an  
15 identity recovery service contract.

16 (4) "Department" means the Texas Department of  
17 Licensing and Regulation.

18 (5) "Executive director" means the executive director  
19 of the department.

20 (6) "Identity recovery" means a process, through a  
21 limited power of attorney and the assistance of an identity  
22 recovery expert, that returns the identity of an identity theft  
23 victim to pre-identity theft event status.

24 (7) "Identity recovery service contract holder" means  
25 a person who purchases or otherwise holds an identity recovery  
26 service contract.

27 (8) "Person" means an individual or an association,

1 company, corporation, partnership, or other group.

2 (9) "Provider" means a person who is contractually  
3 obligated to an identity recovery service contract holder under the  
4 terms of an identity recovery service contract.

5 (10) "Reimbursement insurance policy" means a policy  
6 of insurance issued to a provider to:

7 (A) reimburse the provider under an identity  
8 recovery service contract the provider issued or sold; or

9 (B) pay on behalf of the provider all covered  
10 contractual obligations that are incurred by the provider under an  
11 identity recovery service contract the provider issued or sold and  
12 that the provider does not perform.

13 Sec. 1306.003. IDENTITY RECOVERY SERVICE CONTRACT. In this  
14 chapter, "identity recovery service contract" means an agreement:

15 (1) to provide identity recovery;

16 (2) that is entered into for a separately stated  
17 consideration and for a specified term; and

18 (3) that is financed through a retail installment  
19 contract under Chapter 348, Finance Code.

20 Sec. 1306.004. CONTROLLING PERSON. (a) In this chapter,  
21 "controlling person" means an individual who:

22 (1) possesses direct or indirect control of at least  
23 25 percent of the voting securities of a corporation;

24 (2) possesses the authority to set policy and direct  
25 the management of a business entity;

26 (3) is the president, the secretary, or a director of a  
27 corporation; or

1           (4) is a general partner of a partnership.

2           (b) An individual who is a controlling person of a  
3 corporation or other business entity that is the general partner of  
4 a limited partnership is a controlling person of the limited  
5 partnership.

6           Sec. 1306.005. EXEMPTIONS. This chapter does not apply to:

7           (1) an identity recovery service contract sold or  
8 offered for sale to a person who is not a consumer; or

9           (2) an identity recovery service contract sold by a  
10 motor vehicle dealer on a motor vehicle sold by that dealer, if the  
11 dealer:

12                   (A) is the provider;

13                   (B) is licensed as a motor vehicle dealer under  
14 Chapter 2301; and

15                   (C) covers its obligations under the identity  
16 recovery service contract with a reimbursement insurance policy.

17           Sec. 1306.006. EXEMPTIONS FROM CERTAIN OTHER LAWS.

18 Marketing, selling, offering for sale, issuing, making, proposing  
19 to make, and administering an identity recovery service contract  
20 are exempt from the Insurance Code and other laws of this state  
21 regulating the business of insurance.

22           Sec. 1306.007. PURCHASE REQUIREMENT PROHIBITED. A person  
23 regulated by Chapter 2301 may not require the purchase of an  
24 identity recovery service contract as a condition of a loan or the  
25 sale of a vehicle.

26           Sec. 1306.008. GENERAL INVESTIGATIVE POWER OF EXECUTIVE  
27 DIRECTOR. (a) The executive director may investigate a provider,

1 administrator, or other person as necessary to enforce this chapter  
2 and protect identity recovery service contract holders in this  
3 state.

4 (b) On request of the executive director, a provider shall  
5 make the records required by Section 1306.105 available to the  
6 executive director as necessary to enable the executive director to  
7 reasonably determine compliance with this chapter.

8 [Sections 1306.009-1306.050 reserved for expansion]

9 SUBCHAPTER B. REGISTRATION REQUIREMENTS

10 Sec. 1306.051. REGISTRATION REQUIRED; EXEMPTION FROM OTHER  
11 LICENSING REQUIREMENTS. (a) A person may not operate as a provider  
12 or administrator of identity recovery service contracts sold in  
13 this state unless the person is registered with the department.

14 (b) Except for the registration requirement of this  
15 subchapter, a provider, identity recovery service contract seller,  
16 administrator, or other person who markets, sells, or offers to  
17 sell identity recovery service contracts is exempt from any  
18 licensing requirement of this state that relates to an activity  
19 regulated under this chapter.

20 (c) If a person registered under Chapter 1304 registers  
21 under Chapter 1306, the financial security used to comply with  
22 Section 1304.151 fulfills the requirements of Section 1306.101.

23 Sec. 1306.052. APPLICATION FOR REGISTRATION OR RENEWAL;  
24 GENERAL REQUIREMENTS. (a) An applicant for registration or  
25 registration renewal must submit an application to the executive  
26 director.

27 (b) The application must:

1           (1) be in the form prescribed by the executive  
2 director; and

3           (2) include evidence satisfactory to the executive  
4 director of compliance with the applicable financial security  
5 requirements prescribed by Section 1306.101, if the application is  
6 for a provider registration or renewal.

7           (c) The department may refuse to issue or renew a  
8 registration if the applicant or a controlling person of the  
9 applicant has violated this chapter or a rule adopted or order  
10 issued by the commission or executive director.

11           (d) A person who makes a false statement in an application  
12 or in any document provided with an application is subject to  
13 disciplinary action under Subchapter D, including denial of the  
14 application or suspension or revocation of a registration.

15           Sec. 1306.053. ADDITIONAL REGISTRATION AND RENEWAL  
16 REQUIREMENTS FOR PROVIDERS. (a) In addition to the requirements of  
17 Section 1306.052, an applicant for issuance or renewal of a  
18 provider registration must file with the application:

19           (1) the reimbursement insurance policy required by  
20 Section 1306.102, if the provider is using a reimbursement  
21 insurance policy; and

22           (2) a biographical affidavit, in a form prescribed by  
23 the executive director, for each controlling person of the  
24 provider.

25           (b) The executive director may not issue or renew a  
26 registration to a provider unless the provider provides evidence to  
27 the executive director that:

1           (1) each controlling person of the provider is  
2 trustworthy and can competently manage the affairs of the provider  
3 in compliance with this chapter; and

4           (2) the provider can meet the provider's obligations  
5 under identity recovery service contracts and this chapter.

6           Sec. 1306.054. FEES. (a) As prescribed by this section, a  
7 provider must pay annual registration and renewal fees and  
8 quarterly fees based on the number of identity recovery service  
9 contracts sold or issued and in force in this state. As prescribed  
10 by this section, an administrator must pay annual registration and  
11 renewal fees.

12           (b) To register or renew a registration, a provider or  
13 administrator must pay the appropriate fee. The commission shall  
14 set by rule the amounts of the registration and renewal fees  
15 required to cover the costs of administering this chapter.

16           (c) Not later than the 30th day after the date each calendar  
17 quarter ends, a provider must report to the department the number of  
18 identity recovery service contracts sold or issued to consumers in  
19 this state during the calendar quarter and submit to the department  
20 a fee equal to \$1 for each of those contracts.

21           (d) The information concerning the number of identity  
22 recovery service contracts sold or issued by a provider that is  
23 submitted under Subsection (c):

24           (1) is a trade secret to which Section 552.110,  
25 Government Code, applies; and

26           (2) may be used only by the executive director and the  
27 department for the purposes of this section.

1       (e) The commission shall adopt rules to implement this  
2 section.

3       Sec. 1306.055. RENEWAL. The commission shall adopt rules  
4 regarding the renewal of a registration issued under this chapter.

5       [Sections 1306.056-1306.100 reserved for expansion]

6       SUBCHAPTER C. PRACTICE BY IDENTITY RECOVERY SERVICE CONTRACT

7               PROVIDERS AND ADMINISTRATORS

8       Sec. 1306.101. FINANCIAL SECURITY REQUIREMENTS. (a) To  
9 ensure the faithful performance of a provider's obligations to its  
10 identity recovery service contract holders, each provider must:

11               (1) insure the provider's identity recovery service  
12 contracts under a reimbursement insurance policy issued by an  
13 insurer authorized to transact insurance in this state or by a  
14 surplus lines insurer eligible to place coverage in this state  
15 under Chapter 981, Insurance Code;

16               (2) maintain a funded reserve account covering the  
17 provider's obligations under its identity recovery service  
18 contracts that are issued and outstanding in this state and place in  
19 trust with the executive director a financial security deposit  
20 consisting of:

21                       (A) a surety bond issued by an authorized surety;  
22                       (B) securities of the type eligible for deposit  
23 by an authorized insurer in this state;

24                       (C) a statutory deposit of cash or cash  
25 equivalents;

26                       (D) a letter of credit issued by a qualified  
27 financial institution; or



1                   (E) another form of security prescribed by rules  
2 adopted by the commission; or

3                   (3) maintain, or have a parent company that maintains,  
4 a net worth or stockholders' equity of at least \$100 million.

5           (b) If the provider ensures its obligations under  
6 Subsection (a)(2), the amount maintained in the reserve account may  
7 not be less than an amount equal to 40 percent of the gross  
8 consideration the provider received from consumers from the sale of  
9 all identity recovery service contracts issued and outstanding in  
10 this state, minus any claims paid. The executive director may  
11 review and examine the reserve account. The amount of the security  
12 deposit may not be less than the greater of:

13                   (1) \$25,000; or

14                   (2) an amount equal to five percent of the gross  
15 consideration the provider received from consumers from the sale of  
16 all identity recovery service contracts issued and outstanding in  
17 this state, minus any claims paid.

18           (c) If the provider ensures its obligations under  
19 Subsection (a)(3), the provider must give to the executive director  
20 on request:

21                   (1) a copy of the provider's or the provider's parent  
22 company's most recent Form 10-K or Form 20-F filed with the  
23 Securities and Exchange Commission within the preceding calendar  
24 year; or

25                   (2) if the provider or the provider's parent company  
26 does not file with the Securities and Exchange Commission, a copy of  
27 the provider's or the provider's parent company's audited financial

1 statements showing a net worth of the provider or its parent company  
2 of at least \$100 million.

3 (d) If the provider's parent company's Form 10-K, Form 20-F,  
4 or audited financial statements are filed to show that the provider  
5 meets the financial security requirement, the parent company shall  
6 agree to guarantee the obligations of the provider relating to  
7 identity recovery service contracts sold by the provider in this  
8 state.

9 (e) The executive director may not require a provider to  
10 meet any additional financial security requirement.

11 Sec. 1306.102. REIMBURSEMENT INSURANCE POLICY. (a) A  
12 reimbursement insurance policy that a provider uses to comply with  
13 Sections 1306.053 and 1306.101(a)(1) must state that:

14 (1) the insurer that issued the policy shall:

15 (A) reimburse or pay on behalf of the provider  
16 any covered amount the provider is legally obligated to pay; or

17 (B) provide the service that the provider is  
18 legally obligated to perform according to the provider's  
19 contractual obligations under the insured identity recovery  
20 service contract;

21 (2) if the covered service is not provided to an  
22 identity recovery service contract holder before the 61st day after  
23 the date of proof of loss, the insurer shall pay the covered amount  
24 directly to the identity recovery service contract holder or  
25 provide the required service; and

26 (3) if a refund is not paid to the identity recovery  
27 service contract holder or credited to the identity recovery

1 service contract holder's account as required by Section 1306.108,  
2 the insurer, after receiving written notice, shall pay the refund  
3 amount directly to the identity recovery service contract holder.

4 (b) For a reimbursement insurance policy to comply with  
5 Section 1306.101(a)(1), the insurer issuing the policy must:

6 (1) maintain surplus as to policyholders and paid-in  
7 capital of at least \$15 million and annually file with the executive  
8 director copies of the insurer's audited financial statements,  
9 National Association of Insurance Commissioners annual statement,  
10 and actuarial certification if the certification is required and  
11 filed in the insurer's state of domicile; or

12 (2) maintain surplus as to policyholders and paid-in  
13 capital of at least \$10 million but not more than \$15 million,  
14 demonstrate to the satisfaction of the executive director that the  
15 insurer maintains a ratio of net written premiums, wherever  
16 written, to surplus as to policyholders and paid-in capital of not  
17 more than three to one, and annually file with the executive  
18 director copies of the insurer's audited financial statements,  
19 National Association of Insurance Commissioners annual statement,  
20 and actuarial certification if the certification is required and  
21 filed in the insurer's state of domicile.

22 (c) The insurer may not cancel the reimbursement insurance  
23 policy until the insurer delivers to the provider and the executive  
24 director a written notice of cancellation that complies with the  
25 notice requirements prescribed by Subchapters B and C, Chapter 551,  
26 Insurance Code, for cancellation of an insurance policy under those  
27 subchapters. Cancellation of the policy does not affect the

1 insurer's liability for an identity recovery service contract  
2 issued by the provider and insured under the policy before the  
3 effective date of the cancellation.

4 (d) If the insurer or provider cancels the reimbursement  
5 insurance policy, the provider named on the policy may not issue a  
6 new identity recovery service contract after the effective date of  
7 the cancellation unless:

8 (1) the provider files with the executive director a  
9 copy of a new policy that meets the requirements of this section and  
10 that provides coverage after that date; or

11 (2) the provider complies with other financial  
12 security requirements provided by Section 1306.101(a).

13 (e) A provider is considered the agent of an insurer that  
14 issues a reimbursement insurance policy for purposes of obligating  
15 the insurer to the identity recovery service contract holder in  
16 accordance with the identity recovery service contract and this  
17 chapter. The insurer issuing the reimbursement insurance policy is  
18 considered to have received the premium for the policy on the date  
19 the identity recovery service contract holder pays the purchase  
20 price of the identity recovery service contract.

21 (f) This chapter does not prevent or limit the right of the  
22 insurer to seek indemnification or subrogation against a provider  
23 for any amount the insurer pays or is obligated to pay to an  
24 identity recovery service contract holder on behalf of the  
25 provider.

26 (g) In this section, "net written premiums" means the sum of  
27 direct written premiums and assumed reinsurance premiums, minus

1 ceded reinsurance premiums.

2 Sec. 1306.103. APPOINTMENT AND RESPONSIBILITIES OF  
3 ADMINISTRATOR. (a) A provider may appoint an administrator  
4 registered under this chapter to be responsible for:

5 (1) all or any part of the administration or sale of  
6 identity recovery service contracts; and

7 (2) compliance with this chapter, except for Section  
8 1306.101.

9 (b) The appointment of an administrator under this section  
10 does not affect a provider's responsibility to comply with this  
11 chapter.

12 Sec. 1306.104. PROVIDER REQUIREMENTS. A provider may not  
13 sell, offer for sale, or issue an identity recovery service  
14 contract in this state unless the provider gives the identity  
15 recovery service contract holder:

16 (1) a receipt for, or other written evidence of, the  
17 purchase of the contract; and

18 (2) a copy of the contract within a reasonable period  
19 after the date of purchase.

20 Sec. 1306.105. PROVIDER RECORDS. (a) A provider shall  
21 maintain accurate accounts, books, and other records regarding  
22 transactions regulated under this chapter. The provider's records  
23 must include:

24 (1) a copy of each unique form of identity recovery  
25 service contract sold;

26 (2) the name and address of each identity recovery  
27 service contract holder who provided the holder's name and address;

1           (3) a list of each location at which the provider's  
2 identity recovery service contracts are marketed, sold, or offered  
3 for sale; and

4           (4) written claims files that contain at least the  
5 date and a description of each claim related to the identity  
6 recovery service contracts.

7           (b) The records required by this section may be maintained  
8 in an electronic medium or through other recordkeeping technology.  
9 If a record is not in a hard copy, the provider must be able to  
10 reformat the record into a legible hard copy at the request of the  
11 executive director.

12           (c) Except as provided by Subsection (d), a provider shall  
13 retain the records required by this section until at least the first  
14 anniversary of the expiration date of the specified period of  
15 coverage under the identity recovery service contract.

16           (d) A provider that discontinues business in this state  
17 shall retain its records until the provider furnishes the executive  
18 director with proof satisfactory to the executive director that the  
19 provider has discharged all obligations to identity recovery  
20 service contract holders in this state.

21           (e) An administrator appointed to maintain the provider's  
22 records is responsible for compliance with this section to the same  
23 extent as the provider.

24           Sec. 1306.106. FORM OF IDENTITY RECOVERY SERVICE CONTRACT  
25 AND REQUIRED DISCLOSURES. (a) An identity recovery service  
26 contract marketed, sold, offered for sale, issued, made, proposed  
27 to be made, or administered in this state must:

- 1           (1) be written, printed, or typed in clear,  
2 understandable language that is easy to read;
- 3           (2) state the name and address of the provider;
- 4           (3) state the purchase price of the contract and the  
5 terms under which the contract is sold;
- 6           (4) state the terms and restrictions governing  
7 cancellation of the contract by the provider or the identity  
8 recovery service contract holder before the expiration date of the  
9 contract;
- 10          (5) identify:
- 11           (A) any administrator;
- 12           (B) the contract seller; and
- 13           (C) the identity recovery service contract  
14 holder, if the identity recovery service contract holder provides  
15 the holder's name;
- 16          (6) state the amount of any deductible;
- 17          (7) specify the services to be provided under the  
18 contract and any limitation, exception, or exclusion;
- 19          (8) specify any restriction governing the  
20 transferability of the contract; and
- 21          (9) state the duties of the identity recovery service  
22 contract holder, including any duty to protect against any further  
23 damage and any requirement to follow the instructions in the  
24 identity recovery service contract.
- 25          (b) The identity of a person described by Subsection (a)(5)  
26 is not required to be preprinted on the identity recovery service  
27 contract and may be added to the contract at the time of sale.

1       (c) The purchase price is not required to be preprinted on  
2 the identity recovery service contract and may be negotiated with  
3 the identity recovery service contract holder at the time of sale.

4       (d) An identity recovery service contract insured under a  
5 reimbursement insurance policy under Section 1306.102 must:

6           (1) state the name and address of the insurer;

7           (2) state that the identity recovery service contract  
8 holder may apply for reimbursement directly to the insurer if:

9                   (A) a covered service is not provided to the  
10 identity recovery service contract holder by the provider before  
11 the 61st day after the date of proof of loss; or

12                   (B) a refund or credit is not paid before the 46th  
13 day after the date on which the contract is returned to the provider  
14 under Section 1306.107; and

15           (3) contain a statement substantially similar to the  
16 following: "Obligations of the provider under this identity  
17 recovery service contract are insured under an identity recovery  
18 service contract reimbursement insurance policy."

19       (e) An identity recovery service contract that is not  
20 insured under a reimbursement insurance policy must contain a  
21 statement substantially similar to the following: "Obligations of  
22 the provider under this identity recovery service contract are  
23 backed by the full faith and credit of the provider."

24       Sec. 1306.107. RETURNING AN IDENTITY RECOVERY SERVICE  
25 CONTRACT. An identity recovery service contract must require the  
26 provider to allow the identity recovery service contract holder to  
27 return the contract to the provider not later than:



1           (1) the 20th day after the date the contract is mailed  
2 to the identity recovery service contract holder; or

3           (2) the 10th day after the date of delivery, if the  
4 contract is delivered to the identity recovery service contract  
5 holder at the time of sale.

6           Sec. 1306.108. VOIDING AN IDENTITY RECOVERY SERVICE  
7 CONTRACT. (a) If an identity recovery service contract holder  
8 returns an identity recovery service contract in accordance with  
9 Section 1306.107 and a claim has not been made under the contract  
10 before the contract is returned, the contract is void.

11           (b) An identity recovery service contract holder may void  
12 the identity recovery service contract at a later time as provided  
13 by the contract.

14           (c) If an identity recovery service contract is voided under  
15 Subsection (a), the provider shall refund to the identity recovery  
16 service contract holder or credit to the account of the identity  
17 recovery service contract holder the full purchase price of the  
18 contract. If the provider does not pay the refund or credit the  
19 identity recovery service contract holder's account before the 46th  
20 day after the date the contract is returned to the provider, the  
21 provider is liable to the identity recovery service contract holder  
22 for a penalty each month an amount remains outstanding. The monthly  
23 penalty may not exceed 10 percent of the amount outstanding.

24           (d) The right to void an identity recovery service contract  
25 is not transferable.

26           Sec. 1306.109. CANCELING AN IDENTITY RECOVERY SERVICE  
27 CONTRACT. (a) A provider may cancel an identity recovery service

1 contract by mailing a written notice of cancellation to the  
2 identity recovery service contract holder at the identity recovery  
3 service contract holder's last known address according to the  
4 records of the provider. The provider must mail the notice before  
5 the fifth day preceding the effective date of the cancellation. The  
6 notice must state the effective date of the cancellation and the  
7 reason for the cancellation.

8 (b) The provider is not required to provide prior notice of  
9 cancellation if the identity recovery service contract is canceled  
10 because of:

- 11 (1) nonpayment of the consideration for the contract;  
12 (2) a material misrepresentation by the identity  
13 recovery service contract holder to the provider; or  
14 (3) a substantial breach of a duty by the identity  
15 recovery service contract holder.

16 Sec. 1306.110. LIMITATIONS ON PROVIDER NAME. (a) A  
17 provider may not use a name that:

18 (1) includes "insurance," "casualty," "surety," or  
19 "mutual" or any other word descriptive of the insurance, casualty,  
20 or surety business; or

21 (2) is deceptively similar to the name or description  
22 of an insurance or surety corporation or to the name of any other  
23 provider.

24 (b) A provider may include in its name "guaranty" or a  
25 similar word.

26 (c) This section does not apply to a provider that, before  
27 September 1, 2009, included a word prohibited under this section in

1 its name. A provider described by this subsection must include in  
2 each identity recovery service contract a statement substantially  
3 similar to the following: "This agreement is not an insurance  
4 contract."

5 Sec. 1306.111. MISLEADING STATEMENTS PROHIBITED. A  
6 provider or the provider's representative may not, in the  
7 provider's identity recovery service contracts or literature:

8 (1) make, permit, or cause to be made any false or  
9 misleading statement; or

10 (2) deliberately omit a material statement if the  
11 omission would be considered misleading.

12 [Sections 1306.112-1306.150 reserved for expansion]

13 SUBCHAPTER D. DISCIPLINARY ACTION

14 Sec. 1306.151. DISCIPLINARY ACTION. On a finding that a  
15 ground for disciplinary action exists under this chapter, the  
16 commission may impose an administrative sanction, including an  
17 administrative penalty as provided by Subchapter F, Chapter 51.

18 Sec. 1306.152. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The  
19 executive director may institute an action under Section 51.352 for  
20 injunctive relief to restrain a violation or a threatened violation  
21 of this chapter or an order issued or rule adopted under this  
22 chapter.

23 (b) In addition to the injunctive relief provided by  
24 Subsection (a), the executive director may institute an action for  
25 a civil penalty as provided by Section 51.352. The amount of a  
26 civil penalty assessed under this section may not exceed:

27 (1) \$2,500 for each violation; or

1           (2) \$50,000 in the aggregate for all violations of a  
2 similar nature.

3           Sec. 1306.153. MULTIPLE VIOLATIONS. For purposes of this  
4 subchapter, violations are of a similar nature if the violations  
5 consist of the same or a similar course of conduct, action, or  
6 practice, regardless of the number of times the conduct, act, or  
7 practice occurred.

8           Sec. 1306.154. ADMINISTRATIVE PROCEDURE. Sections 51.305,  
9 51.310, and 51.354 apply to disciplinary action taken under this  
10 chapter.

11           SECTION 4. Section 2306.003, Occupations Code, is amended  
12 by adding Subsection (c) to read as follows:

13           (c) A vehicle protection product may also include identity  
14 recovery, as defined by Section 1306.002, if the vehicle protection  
15 product is financed under Chapter 348, Finance Code.

16           SECTION 5. (a) The change in law made by this Act applies to  
17 an identity recovery service contract entered into on or after  
18 January 1, 2010. An identity recovery service contract entered  
19 into before January 1, 2010, is covered by the law in effect on the  
20 date the contract was entered into, and the former law is continued  
21 in effect for that purpose.

22           (b) Not later than November 1, 2009, the Texas Commission of  
23 Licensing and Regulation shall adopt rules to implement Chapter  
24 1306, Occupations Code, as added by this Act.

25           SECTION 6. (a) Except as provided by Subsection (b) of this  
26 section, this Act takes effect September 1, 2009.

27           (b) Section 1306.051 and Subchapter D, Chapter 1306,

C.S.H.B. No. 1706

1 Occupations Code, as added by this Act, take effect January 1, 2010.