

1-1 By: Carona S.B. No. 1244
1-2 (In the Senate - Filed March 2, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 23, 2009, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 23, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the regulation of investigations companies and the
1-9 performance of investigative services.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 1702.104, Occupations Code, is amended
1-12 to read as follows:

1-13 Sec. 1702.104. INVESTIGATIONS COMPANY. (a) A person acts
1-14 as an investigations company for the purposes of this chapter if the
1-15 person:

1-16 (1) engages in the business of obtaining or
1-17 furnishing, or accepts employment to obtain or furnish, information
1-18 related to:

1-19 (A) crime or wrongs done or threatened against a
1-20 person, state, or the United States;

1-21 (B) the identity, habits, business, occupation,
1-22 knowledge, efficiency, loyalty, movement, location, affiliations,
1-23 associations, transactions, acts, reputation, or character of a
1-24 person;

1-25 (C) the location, disposition, or recovery of
1-26 lost or stolen property; or

1-27 (D) the cause or responsibility for a fire,
1-28 libel, loss, accident, damage, or injury to a person or to property;

1-29 (2) engages in the business of securing, or accepts
1-30 employment to secure, evidence for use before a court, board,
1-31 officer, or investigating committee;

1-32 (3) engages in the business of securing, or accepts
1-33 employment to secure, the electronic tracking of the location of an
1-34 individual or motor vehicle other than for criminal justice
1-35 purposes by or on behalf of a governmental entity; or

1-36 (4) engages in the business of protecting, or accepts
1-37 employment to protect, an individual from bodily harm through the
1-38 use of a personal protection officer.

1-39 (b) For purposes of Subsection (a)(1), obtaining or
1-40 furnishing information includes information obtained or furnished
1-41 through the review and analysis of, and the investigation into the
1-42 content of, computer-based data not available to the public. The
1-43 repair or maintenance of a computer does not constitute an
1-44 investigation for purposes of this section and does not require
1-45 licensing under this chapter if:

1-46 (1) the review or analysis of computer-based data is
1-47 performed only to diagnose a computer or software problem;

1-48 (2) there is no intent to obtain or furnish
1-49 information described by Subsection (a)(1); and

1-50 (3) the discovery of any information described by
1-51 Subsection (a)(1) is inadvertent.

1-52 SECTION 2. Subsection (b), Section 1702.324, Occupations
1-53 Code, is amended to read as follows:

1-54 (b) This chapter does not apply to:

1-55 (1) a manufacturer or a manufacturer's authorized
1-56 distributor while selling equipment intended for resale;

1-57 (2) a person engaged exclusively in the business of
1-58 obtaining and providing information to:

1-59 (A) determine creditworthiness;

1-60 (B) collect debts; or

1-61 (C) ascertain the reliability of information
1-62 provided by an applicant for property, life, or disability
1-63 insurance or an indemnity or surety bond;

1-64 (3) a person engaged exclusively in the business of

2-1 repossessing property that is secured by a mortgage or other
2-2 security interest;

2-3 (4) a person who is engaged in the business of
2-4 psychological testing or other testing and interviewing services,
2-5 including services to determine attitudes, honesty, intelligence,
2-6 personality, and skills, for preemployment purposes;

2-7 (5) a person who:
2-8 (A) is engaged in obtaining information that is a
2-9 public record under Chapter 552, Government Code, regardless of
2-10 whether the person receives compensation;

2-11 (B) is not a full-time employee, as defined by
2-12 Section 61.001, Labor Code, of a person licensed under this
2-13 chapter; and

2-14 (C) does not perform any other act that requires
2-15 a license under this chapter;

2-16 (6) a licensed engineer practicing engineering or
2-17 directly supervising engineering practice under Chapter 1001,
2-18 including forensic analysis, burglar alarm system engineering, and
2-19 necessary data collection;

2-20 (7) an employee of a cattle association who inspects
2-21 livestock brands under the authority granted to the cattle
2-22 association by the Grain Inspection, Packers and Stockyards
2-23 Administration of the United States Department of Agriculture;

2-24 (8) a landman performing activities in the course and
2-25 scope of the landman's business;

2-26 (9) an attorney while engaged in the practice of law;

2-27 (10) a person who obtains a document for use in
2-28 litigation under an authorization or subpoena issued for a written
2-29 or oral deposition;

2-30 (11) an admitted insurer, insurance adjuster, agent,
2-31 or insurance broker licensed by the state, performing duties in
2-32 connection with insurance transacted by that person;

2-33 (12) a person who on the person's own property or on
2-34 property owned or managed by the person's employer:

2-35 (A) installs, changes, or repairs a mechanical
2-36 security device;

2-37 (B) repairs an electronic security device; or

2-38 (C) cuts or makes a key for a security device;

2-39 (13) security personnel, including security contract
2-40 personnel, working at a commercial nuclear power plant licensed by
2-41 the United States Nuclear Regulatory Commission;

2-42 (14) a person or firm licensed as an accountant or
2-43 accounting firm under Chapter 901, an owner of an accounting firm,
2-44 or an employee of an accountant or accounting firm while performing
2-45 services regulated under Chapter 901; ~~or~~

2-46 (15) a retailer, wholesaler, or other person who sells
2-47 mechanical security devices, including locks and deadbolts, but who
2-48 does not:

2-49 (A) service mechanical security devices for the
2-50 public outside of the person's premises; or

2-51 (B) claim to act as a locksmith; or

2-52 (16) an employee while performing investigative
2-53 services that would otherwise be subject to this chapter for an
2-54 entity regulated by the:

2-55 (A) Texas Department of Insurance;

2-56 (B) Office of Thrift Supervision;

2-57 (C) Securities and Exchange Commission;

2-58 (D) Federal Deposit Insurance Corporation;

2-59 (E) National Association of Securities Dealers;

2-60 or

2-61 (F) Financial Industry Regulatory Authority.

2-62 SECTION 3. This Act takes effect immediately if it receives
2-63 a vote of two-thirds of all the members elected to each house, as
2-64 provided by Section 39, Article III, Texas Constitution. If this
2-65 Act does not receive the vote necessary for immediate effect, this
2-66 Act takes effect September 1, 2009.

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