

## **BILL ANALYSIS**

C.S.H.B. 3453  
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Pensions, Investments & Financial Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Office of Consumer Credit Commissioner is authorized to conduct examinations and investigations of property tax lenders. Such audits can uncover sensitive business and financial information that should remain confidential. Currently, the information yielded from an examination is deemed confidential and may not be disclosed outside of certain exceptions. Office investigations also address sensitive information that warrants an equal amount of protection.

Similarly, the office reviews the amount of a documentary fee relating to a motor vehicle retail installment contract and sensitive financial information used to support the fee is included in that review.

C.S.H.B. 3453 seeks to ensure that the confidentiality provisions apply not only to licensees but also unlicensed persons subject to investigations and that certain information relating to a motor vehicle seller's documentary fee is confidential.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3453 amends Finance Code provisions establishing the confidentiality of information or material obtained or compiled by the consumer credit commissioner in relation to an investigation of a license holder or registrant to also include such information obtained from an investigation, as well as information from an examination or investigation of an applicant or other person.

C.S.H.B. 3453 authorizes the commissioner, in order to ensure consistent enforcement of law and minimization of regulatory burdens, to share information, including criminal history or confidential information, relating to a license holder, registrant, applicant, or other person investigated or examined under the commissioner's authority with a department, agency, or instrumentality of the state, another state, or the United States if the commissioner considers the disclosure of the information to be necessary or proper to the enforcement of the laws of Texas or the United States and in the best interest of the public. The bill establishes that information otherwise confidential remains confidential after the information is shared under the bill's provisions. The bill makes conforming changes.

C.S.H.B. 3453 establishes that, except as otherwise provided, the following information and documents are confidential and not subject to disclosure: all information provided by a retail seller of motor vehicles to the commissioner relating to the documentary fee charged in relation to the sale of a motor vehicle under a retail installment transaction, including the maximum documentary fee a retail seller intends to charge, the written notice of an increased documentary

fee, and any financial information submitted with the notice; and all correspondence between a retail seller and the commissioner or the commissioner's representative relating to the notice of an increased documentary fee and a review for reasonableness of the amount of the documentary fee to be charged.

C.S.H.B. 3453 authorizes the commissioner to disclose information or documents relating to such documentary fee that are confidential if the commissioner determines that release of the information or documents is required for an administrative hearing, the retail seller consents to the release of the information or documents, or the disclosure is required by a court order.

C.S.H.B. 3453 authorizes the commissioner or the commissioner's representative to disclose whether a retail seller has filed written notice of an increased documentary fee and the proposed amount of the increased fee to a holder that provides written proof, signed by the retail seller, that the retail seller has agreed to assign or transfer one or more retail installment contracts to the holder or to a prospective retail buyer that provides to the commissioner a buyer's order executed by the prospective buyer and the retail seller, a draft of a retail installment contract provided by the retail seller to the prospective buyer, or a written statement by the retail seller acknowledging that the person is a prospective buyer of a motor vehicle from the retail seller.

C.S.H.B. 3453 reenacts and amends Section 411.081(i), Government Code, as amended by Chapters 183 (H.B. 1830), 780 (S.B. 1056), 816 (S.B. 1599), and 1027 (H.B. 4343), Acts of the 81st Legislature, Regular Session, 2009, to include the consumer credit commissioner in a list of entities to whom a criminal justice agency is authorized to disclose criminal history record information that is the subject of an order of nondisclosure.

C.S.H.B. 3453 amends the Occupations Code to make provisions of law permitting the licensing of certain applicants with prior criminal convictions inapplicable to an applicant for a license that would allow the applicant to provide financial services in an industry regulated by the consumer credit commissioner.

C.S.H.B. 3453 establishes that, to the extent of any conflict, the bill's provisions prevail over another act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

### **EFFECTIVE DATE**

September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 3453 contains a provision not included in the original establishing that, except as otherwise provided, certain information and documents exchanged between a retail seller of motor vehicles and the consumer credit commissioner relating to the documentary fee charged in relation to a motor vehicle installment sale are confidential and not subject to disclosure.

C.S.H.B. 3453 contains a provision not included in the original authorizing the consumer credit commissioner to disclose information or documents relating to such documentary fee that are confidential if the commissioner determines that release of the information or documents is required for an administrative hearing, a retail seller consents to the release of the information or documents, or the disclosure is required by a court order.

C.S.H.B. 3453 contains a provision not included in the original authorizing the commissioner or the commissioner's representative to disclose whether a retail seller has filed written notice of an increased documentary fee and the proposed amount of the increased fee to a holder or to a prospective retail buyer under certain circumstances.