

By: Flynn

H.B. No. 754

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 consumer credit commissioner.

(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. The term does not include a business or other person that reports to a credit reporting bureau information relating to a debt owed to that business or person or owed to a business or other person who holds a general distinguishing number issued under Chapter 503, Transportation Code.

(3) "Finance commission" means the Finance Commission of Texas.

(4) "Office" means the Office of Consumer Credit Commissioner.

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

6           [Sections 158.002-158.100 reserved for expansion]

7       SUBCHAPTER B. POWERS AND DUTIES OF OFFICE AND FINANCE COMMISSION

8           Sec. 158.101. ADMINISTRATION. The office shall administer  
9 this chapter.

10          Sec. 158.102. RULES. (a) The finance commission may:

11           (1) adopt rules necessary to enforce and administer  
12 this chapter, including rules relating to an application for a  
13 license; and

14           (2) adopt rules to accomplish the purposes of Chapter  
15 20, Business & Commerce Code, and any other law applicable to a  
16 credit reporting bureau, including rules reasonable or necessary  
17 to:

18                   (A) implement and clarify Chapter 20, Business &  
19 Commerce Code; and

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

23          (b) In adopting rules under this section, the finance  
24 commission shall consider the necessity to:

25           (1) promote a stable consumer reporting environment;

26           (2) provide adequate protection to consumers and their  
27 personal identifying information; and

1           (3) ensure a consumer's ability to correct  
2 information provided by a credit reporting bureau to third parties.

3           [Sections 158.103-158.200 reserved for expansion]

4           SUBCHAPTER C. APPLICATION FOR AND ISSUANCE OF LICENSE

5           Sec. 158.201. LICENSE REQUIREMENT. A credit reporting  
6 bureau may not engage in the practice of assembling or reporting  
7 credit information about individuals in this state for the purpose  
8 of furnishing the information to a third party, as a service or for  
9 consideration, unless the credit reporting bureau holds a license  
10 issued under this chapter.

11           Sec. 158.202. APPLICATION. (a) An application for a  
12 license issued under this chapter must be in writing, sworn to, and  
13 filed with the commissioner in the form prescribed by the  
14 commissioner.

15           (b) The application must:

16           (1) state the legal name, federal taxpayer  
17 identification number or social security number, and business  
18 address of:

19                   (A) the applicant;

20                   (B) each individual who is a principal of the  
21 applicant; and

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

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

26           Sec. 158.203. ACCOMPANYING FEE, STATEMENTS, AND BOND. An  
27 application for a license issued under this chapter must be

1 accompanied by:

2 (1) a nonrefundable application fee in the amount  
3 prescribed by finance commission rule that is sufficient to cover  
4 the costs of administering this chapter;

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

7 (3) the location of the home office of the applicant  
8 and of the main office of the applicant in this state; and

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

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

11 and

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

14 Sec. 158.204. ISSUANCE OF LICENSE. On the filing of an  
15 application that meets the requirements of Sections 158.202 and  
16 158.203, the commissioner shall issue a license to the applicant if  
17 the commissioner:

18 (1) approves the documents; and

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

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

22 (b) The commissioner shall give the applicant notice of the  
23 hearing.

24 [Sections 158.206-158.300 reserved for expansion]

25 SUBCHAPTER D. REQUIREMENTS TO MAINTAIN LICENSE

26 Sec. 158.301. INSUFFICIENT BOND. (a) If the commissioner  
27 at any time reasonably determines that the bond required by this

1 chapter is insecure or deficient in amount, the commissioner by  
2 written order may require the license holder to file a new or  
3 supplemental bond to secure compliance with this chapter.

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

6 Sec. 158.302. ANNUAL LICENSE FEE. (a) Not later than June  
7 30 of each year, a license holder shall pay to the commissioner a  
8 license renewal fee in the amount prescribed by finance commission  
9 rule.

10 (b) The fee required by Section 158.203(1) satisfies the  
11 license fee requirement for the first license year or part of that  
12 year.

13 Sec. 158.303. REVOCATION OF LICENSE. (a) The commissioner  
14 may revoke a license:

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

17 (2) for a violation of this chapter.

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

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

24 (b) The commissioner shall give the license holder notice of  
25 the hearing.

26 [Sections 158.305-158.400 reserved for expansion]

1           SUBCHAPTER E. CRIMINAL PENALTIES AND CIVIL REMEDIES

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

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

7           (2) violates Section 158.201.

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

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

13           (1) this chapter;

14           (2) a rule adopted under this chapter; or

15           (3) an order of the commissioner issued under this  
16 chapter.

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

18           (1) \$1,000 for each violation; or

19           (2) \$1,000 for each day the violation continues.

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

22           (1) the seriousness of the violation, including the  
23 nature, circumstances, extent, and gravity of the prohibited act;

24           (2) the extent of actual or potential harm to a person;

25           (3) the history of violations;

26           (4) the amount necessary to deter future violations;

27           (5) efforts to correct the violation; and

1           (6) any other matter that justice may require.

2           (d) The enforcement of the penalty may be stayed during the  
3 time the order is under judicial review if the person pays the  
4 penalty to the clerk of the court or files a supersedeas bond with  
5 the court in the amount of the penalty. A person who cannot afford  
6 to pay the penalty or file the bond may stay the enforcement by  
7 filing an affidavit in the manner required by the Texas Rules of  
8 Civil Procedure for a party who cannot afford to file security for  
9 costs, subject to the right of the commissioner to contest the  
10 affidavit as provided by those rules.

11           (e) The attorney general may sue to collect the penalty.

12           (f) A proceeding to impose the penalty is considered to be a  
13 contested case under Chapter 2001, Government Code.

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

18           SECTION 2. This Act takes effect September 1, 2011.