

BILL ANALYSIS

Senate Research Center

S.B. 1388
By: Carona
Business & Commerce
7/12/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Identity recovery service experts work to restore the identity of identity theft victims. These services are often offered through financing when buying different kinds of vehicle installment contracts. Under current law, this may be accomplished through a service contract, a vehicle protection product warranty, or a stand-alone identity recovery service contracts. Contract providers who provide identity recovery through any of these financing options must register with the Texas Department of Licensing and Regulation (TDLR).

Requirements relating to identity recovery service contract providers who provide stand-alone contracts that are financed through a vehicle installment contract are so narrow that TDLR only has two registrants covered by these provisions, which are located in Chapter 1306 (Identity Recovery Service Contract Providers and Administrators), Occupations Code.

S.B. 1388 repeals the registration program for stand-alone identity recovery service contract providers under Chapter 1306, Occupations Code. In addition, S.B. 1388 inserts and revises definitions and cross-references to reflect the fact that identity recovery services may continue to be offered and financed through other chapters of the Occupations Code despite the repeal of Chapter 1306, Occupations Code.

S.B. 1388 amends current law relating to identity recovery services, and imposes a fee.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation is rescinded in SECTION 7 (Sections 1306.022, 1306.054, and 1306.055, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 348.208, Finance Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Authorizes a retail installment contract to include, as a separate charge, an amount for certain items, including an identity recovery service contract, rather than an identity recovery service contract defined by Section 1306.003 (Identity Recovery Service Contract), Occupations Code.

(b-1) Defines "identity recovery service contract" for this section.

SECTION 2. Amends Section 353.207, Finance Code, by amending Subsection (b) and adding Subsection (b-1) as follows:

(b) Authorizes a retail installment contract to include, as a separate charge, an amount for certain items, including an identity recovery service contract, rather than an identity recovery service contract defined by Section 1306.003, Occupations Code.

(b-1) Defines "identity recovery service contract" for this section.

SECTION 3. Amends Sections 1304.003(a) and (b), Occupations Code, as follows:

(a) Defines, in this chapter, "identity recovery" and redefines "service contract" to mean an agreement that is entered into for a separately stated consideration and for a specified term under which a provider agrees to:

(A) repair, replace, or maintain a product, or provide indemnification for the repair, replacement, or maintenance of a product, for operational or structural failure or damage caused by a defect in materials or workmanship or by normal wear; or

(B) provide identity recovery, if the service contract is financed under Chapter 348 (Motor Vehicle Installment Sales) or 353 (Commercial Motor Vehicle Installment Sales), Finance Code.

Makes nonsubstantive changes.

(b) Authorizes a service contract described by Subsection (a)(2)(A) to provide for certain items, including identity recovery, rather than identity recovery as defined by Section 1306.002 (Definitions), if the service contract is financed under Chapter 348 or 353, Finance Code.

SECTION 4. Amends Subchapter C, Chapter 1304, Occupations Code, by adding Section 1304.1035, as follows:

Sec. 1304.1035. IDENTITY RECOVERY SERVICE CONTRACT REPORT; FEE. Requires a provider, not later than the 30th day after the date each calendar quarter ends, to report to the Texas Department of Licensing and Regulation (TDLR) the number of service contracts described by Section 1304.003(a)(2)(B) that were sold or issued to consumers in this state during the most recent calendar quarter, and to submit a fee of \$1 for each of those service contracts to TDLR. Provides that the report and fee are required only for a service contract that provides only for identity recovery services.

SECTION 5. Amends Section 1304.104, Occupations Code, to provide that information concerning the number of services contracts sold or issued by a provider that is submitted under Section 1304.103 or 1304.1035 is a trade secret to which Section 552.110 (Exception: Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information), Government Code, applies.

SECTION 6. Amends Section 2306.003(c), Occupations Code, to authorize a vehicle protection product to also include identity recovery, as defined by Section 1304.003 (Service Contract), rather than 1306.002, if the vehicle protection product is financed under Chapter 348 or 353, Finance Code.

SECTION 7. Repealer: Chapter 1306 (Identity Recovery Service Contract Providers and Administrators), Occupations Code.

SECTION 8. (a) Makes application of the changes in law made by this Act prospective.

(b) Provides that the repeal of Chapter 1306, Occupations Code, by this Act does not apply to a violation of that chapter that occurs before the effective date of the repeal. Provides that a violation that occurs before the effective date of the repeal is governed by the law as it existed on the date the violation occurred, and the former law is continued in effect for that purpose. Provides that a violation, for purposes of this subsection, occurred before the effective date of the repeal if any element of the violation occurred before that date.

SECTION 9. Effective date: September 1, 2013.