

BILL ANALYSIS

C.S.S.B. 1388
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that current requirements relating to identity recovery service contract providers who provide stand-alone contracts that are financed through a vehicle installment contract are to blame for the low number of registrants with the Texas Department of Licensing and Regulation. C.S.S.B. 1388 seeks to address this issue as it relates to identity recovery services.

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.S.B. 1388 repeals the Identity Recovery Service Contract Regulatory Act and amends the Occupations Code, with regard to the Service Contract Regulatory Act, to define "identity recovery" as a process, through a limited power of attorney and the assistance of an identity recovery expert, that returns the identity of an identity theft victim to pre-identity theft status and to expand the definition of "service contract" to include an agreement that is entered into for a separately stated consideration and for a specified term under which a provider agrees to provide identity recovery, if the service contract is financed under statutory provisions relating to motor vehicle and commercial motor vehicle installment sales. The bill requires a service contract 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 identity recovery service contracts that were sold or issued to consumers in Texas during the most recent calendar quarter and to submit a fee of \$1 for each of those service contracts to TDLR. The bill limits the applicability of these report and fee requirements to a service contract that provides only for identity recovery services and specifies that information concerning the number of service contracts sold or issued by a provider that is submitted under such a report is a trade secret to which relating state public information law applies.

C.S.S.B. 1388 amends the Finance Code to define "identity recovery service contract," for the purposes of certain statutory provisions relating to motor vehicle or commercial motor vehicle installment sales, to mean an agreement to provide identity recovery that is entered into for a separately stated consideration and for a specified term and that is financed through a retail installment contract.

C.S.S.B. 1388 repeals Chapter 1306, Occupations Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 1388 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Section 348.208, Finance Code, is amended.

SECTION 2. Section 353.207, Finance Code, is amended.

SECTION 3. Subsections (a) and (b), Section 1304.003, Occupations Code, are amended.

SECTION 4. Subchapter C, Chapter 1304, Occupations Code, is amended by adding Section 1304.1035 to read as follows:

Sec. 1304.1035. QUARTERLY REPORT REQUIRED; FEE. Not later than the 30th day after the date each calendar quarter ends, a provider must report to the department 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 must submit a fee of \$1 for each contract to the department.

SECTION 5. Section 1304.104, Occupations Code, is amended.

SECTION 6. Subsection (c), Section 2306.003, Occupations Code, is amended.

SECTION 7. Chapter 1306, Occupations Code, is repealed.

SECTION 8. (a) The changes in law made by this Act apply only to a contract entered into or renewed on or after the effective date of this Act. A contract entered into or renewed before the effective date of this Act is governed by the law in effect immediately

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 2. Same as engrossed version.

SECTION 3. Same as engrossed version except for recitation.

SECTION 4. Subchapter C, Chapter 1304, Occupations Code, is amended by adding Section 1304.1035 to read as follows:

Sec. 1304.1035. IDENTITY RECOVERY SERVICE CONTRACT REPORT; FEE. Not later than the 30th day after the date each calendar quarter ends, a provider must report to the department 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 must submit a fee of \$1 for each of those service contracts to the department. The report and fee are required only for a service contract that provides only for identity recovery services.

SECTION 5. Same as engrossed version.

SECTION 6. Same as engrossed version except for recitation.

SECTION 7. Same as engrossed version.

SECTION 8. Same as engrossed version.

before the effective date of this Act, and that law is continued in effect for that purpose.

(b) 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. 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. For purposes of this subsection, a violation occurred before the effective date of the repeal if any element of the violation occurred before that date.

SECTION 9. This Act takes effect September 1, 2013.

SECTION 9. Same as engrossed version.