

By: Carona

S.B. No. 1388

A BILL TO BE ENTITLED

AN ACT

relating to identity recovery services; imposing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

(b) A retail installment contract may include as a separate charge an amount for:

(1) motor vehicle property damage or bodily injury liability insurance;

(2) mechanical breakdown insurance;

(3) participation in a motor vehicle theft protection plan;

(4) insurance to reimburse the retail buyer for the amount computed by subtracting the proceeds of the buyer's basic collision policy on the motor vehicle from the amount owed on the vehicle if the vehicle has been rendered a total loss;

(5) a warranty or service contract relating to the motor vehicle;

(6) an identity recovery service contract [~~defined by Section 1306.003, Occupations Code~~]; or

(7) a debt cancellation agreement if the agreement is included as a term of a retail installment contract under Section 348.124.

1 (b-1) In this section, "identity recovery service contract"
2 means an agreement:

3 (1) to provide identity recovery, as defined by
4 Section 1304.003, Occupations Code;

5 (2) that is entered into for a separately stated
6 consideration and for a specified term; and

7 (3) that is financed through a retail installment
8 contract.

9 SECTION 2. Section 353.207, Finance Code, is amended by
10 amending Subsection (b) and adding Subsection (b-1) to read as
11 follows:

12 (b) A retail installment contract may include as a separate
13 charge an amount for:

14 (1) motor vehicle property damage or bodily injury
15 liability insurance;

16 (2) mechanical breakdown insurance;

17 (3) participation in a motor vehicle theft protection
18 plan;

19 (4) insurance to pay all or part of the amount computed
20 by subtracting the proceeds of the retail buyer's basic collision
21 policy on the commercial vehicle from the amount owed on the vehicle
22 in the event of a total loss or theft of the vehicle;

23 (5) a warranty or service contract relating to the
24 commercial vehicle;

25 (6) an identity recovery service contract [~~defined by~~
26 ~~Section 1306.003, Occupations Code~~]; or

27 (7) a debt cancellation agreement.

1 (b-1) In this section, "identity recovery service contract"
2 means an agreement:

3 (1) to provide identity recovery, as defined by
4 Section 1304.003, Occupations Code;

5 (2) that is entered into for a separately stated
6 consideration and for a specified term; and

7 (3) that is financed through a retail installment
8 contract.

9 SECTION 3. Subsections (a) and (b), Section 1304.003,
10 Occupations Code, are amended to read as follows:

11 (a) In this chapter:

12 (1) "Identity recovery" means a process, through a
13 limited power of attorney and the assistance of an identity
14 recovery expert, that returns the identity of an identity theft
15 victim to pre-identity theft event status.

16 (2) "Service[~~, —~~"service] contract" means an
17 agreement[~~+~~

18 [~~(1)~~] that is entered into for a separately stated
19 consideration and for a specified term[~~, and~~

20 [~~(2)~~] under which a provider agrees to:

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

26 (B) provide identity recovery, if the service
27 contract is financed under Chapter 348 or 353, Finance Code.

1 (b) A service contract described by Subsection (a)(2)(A)
2 may also provide for:

3 (1) incidental payment or indemnity under limited
4 circumstances, including towing, rental, and emergency road
5 service;

6 (2) the repair or replacement of a product for damage
7 resulting from a power surge or for accidental damage incurred in
8 handling the product; or

9 (3) identity recovery, [~~as defined by Section~~
10 ~~1306.002,~~] if the service contract is financed under Chapter 348 or
11 353, Finance Code.

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

14 Sec. 1304.1035. QUARTERLY REPORT REQUIRED; FEE. Not later
15 than the 30th day after the date each calendar quarter ends, a
16 provider must report to the department the number of service
17 contracts described by Section 1304.003(a)(2)(B) that were sold or
18 issued to consumers in this state during the most recent calendar
19 quarter and must submit a fee of \$1 for each contract to the
20 department.

21 SECTION 5. Section 1304.104, Occupations Code, is amended
22 to read as follows:

23 Sec. 1304.104. INFORMATION CONCERNING NUMBER OF SERVICE
24 CONTRACTS SOLD OR ISSUED. Information concerning the number of
25 service contracts sold or issued by a provider that is submitted
26 under Section 1304.103 or 1304.1035 is a trade secret to which
27 Section 552.110, Government Code, applies.

1 SECTION 6. Subsection (c), Section 2306.003, Occupations
2 Code, is amended to read as follows:

3 (c) A vehicle protection product may also include identity
4 recovery, as defined by Section 1304.003 [~~1306.002~~], if the vehicle
5 protection product is financed under Chapter 348 or 353, Finance
6 Code.

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

8 SECTION 8. (a) The changes in law made by this Act apply
9 only to a contract entered into or renewed on or after the effective
10 date of this Act. A contract entered into or renewed before the
11 effective date of this Act is governed by the law in effect
12 immediately before the effective date of this Act, and that law is
13 continued in effect for that purpose.

14 (b) The repeal of Chapter 1306, Occupations Code, by this
15 Act does not apply to a violation of that chapter that occurs before
16 the effective date of the repeal. A violation that occurs before
17 the effective date of the repeal is governed by the law as it
18 existed on the date the violation occurred, and the former law is
19 continued in effect for that purpose. For purposes of this
20 subsection, a violation occurred before the effective date of the
21 repeal if any element of the violation occurred before that date.

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