

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. IDENTITY RECOVERY SERVICE CONTRACT REPORT;
15 FEE. Not later than the 30th day after the date each calendar
16 quarter ends, a provider must report to the department the number of
17 service contracts described by Section 1304.003(a)(2)(B) that were
18 sold or issued to consumers in this state during the most recent
19 calendar quarter and must submit a fee of \$1 for each of those
20 service contracts to the department. The report and fee are
21 required only for a service contract that provides only for
22 identity recovery services.

23 SECTION 5. Section 1304.104, Occupations Code, is amended
24 to read as follows:

25 Sec. 1304.104. INFORMATION CONCERNING NUMBER OF SERVICE
26 CONTRACTS SOLD OR ISSUED. Information concerning the number of
27 service contracts sold or issued by a provider that is submitted

1 under Section 1304.103 or 1304.1035 is a trade secret to which
2 Section 552.110, Government Code, applies.

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

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

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 Chapter 1306, Occupations Code, is repealed.

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

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1388 passed the Senate on April 11, 2013, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 24, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1388 passed the House, with amendment, on May 22, 2013, by the following vote: Yeas 111, Nays 36, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor