

By: Carona  
(Bohac)

S.B. No. 1388

Substitute the following for S.B. No. 1388:

By: Bohac

C.S.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. Sections 1304.003(a) and (b), Occupations Code,  
10 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. Section 2306.003(c), Occupations Code, is  
4 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.