

AN ACT

1 relating to the licensing and regulation of identity recovery
2 service contract providers and the inclusion of identity recovery
3 service agreements in certain service contracts, retail
4 installment contracts, and vehicle protection products; providing
5 penalties.
6

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

8 SECTION 1. Subsection (b), Section 348.208, Finance Code,
9 is amended to read as follows:

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

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

14 (2) mechanical breakdown insurance;

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

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

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

23 (6) an identity recovery service contract defined by
24 Section 1306.003, Occupations Code.

1 SECTION 2. Subsection (b), Section 1304.003, Occupations
2 Code, is amended to read as follows:

3 (b) A service contract may also provide for:

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

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

10 (3) identity recovery, as defined by Section 1306.002,
11 if the service contract is financed under Chapter 348, Finance
12 Code.

13 SECTION 3. Title 8, Occupations Code, is amended by adding
14 Chapter 1306 to read as follows:

15 CHAPTER 1306. IDENTITY RECOVERY SERVICE CONTRACT PROVIDERS AND
16 ADMINISTRATORS

17 SUBCHAPTER A. GENERAL PROVISIONS

18 Sec. 1306.001. SHORT TITLE. This chapter may be cited as
19 the Identity Recovery Service Contract Regulatory Act.

20 Sec. 1306.002. DEFINITIONS. In this chapter:

21 (1) "Administrator" means a person, other than the
22 provider of the identity recovery service contract or an employee
23 of the provider, who is responsible for the third-party
24 administration of an identity recovery service contract.

25 (2) "Commission" means the Texas Commission of
26 Licensing and Regulation.

27 (3) "Consumer" means an individual who, for a purpose

1 other than resale, buys a motor vehicle that is:

2 (A) distributed in commerce; and

3 (B) normally used for personal, family, or
4 household purposes and not for business or research purposes.

5 (4) "Department" means the Texas Department of
6 Licensing and Regulation.

7 (5) "Executive director" means the executive director
8 of the department.

9 (6) "Identity recovery" means a process, through a
10 limited power of attorney and the assistance of an identity
11 recovery expert, that returns the identity of an identity theft
12 victim to pre-identity theft event status.

13 (7) "Identity recovery service contract holder" means
14 a person who purchases or otherwise holds an identity recovery
15 service contract.

16 (8) "Person" means an individual or an association,
17 company, corporation, partnership, or other group.

18 (9) "Provider" means a person who is contractually
19 obligated to an identity recovery service contract holder under the
20 terms of an identity recovery service contract.

21 (10) "Reimbursement insurance policy" means a policy
22 of insurance issued to a provider to:

23 (A) reimburse the provider under an identity
24 recovery service contract the provider issued or sold; or

25 (B) pay on behalf of the provider all covered
26 contractual obligations that are incurred by the provider under an
27 identity recovery service contract the provider issued or sold and

1 that the provider does not perform.

2 Sec. 1306.003. IDENTITY RECOVERY SERVICE CONTRACT. In this
3 chapter, "identity recovery service contract" means an agreement:

4 (1) to provide identity recovery;

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 under Chapter 348, Finance Code.

9 Sec. 1306.004. CONTROLLING PERSON. (a) In this chapter,
10 "controlling person" means an individual who:

11 (1) possesses direct or indirect control of at least
12 25 percent of the voting securities of a corporation;

13 (2) possesses the authority to set policy and direct
14 the management of a business entity;

15 (3) is the president, the secretary, or a director of a
16 corporation; or

17 (4) is a general partner of a partnership.

18 (b) An individual who is a controlling person of a
19 corporation or other business entity that is the general partner of
20 a limited partnership is a controlling person of the limited
21 partnership.

22 Sec. 1306.005. EXEMPTIONS. This chapter does not apply to:

23 (1) an identity recovery service contract sold or
24 offered for sale to a person who is not a consumer; or

25 (2) an identity recovery service contract sold by a
26 motor vehicle dealer on a motor vehicle sold by that dealer, if the
27 dealer:

1 (A) is the provider;

2 (B) is licensed as a motor vehicle dealer under
3 Chapter 2301; and

4 (C) covers its obligations under the identity
5 recovery service contract with a reimbursement insurance policy.

6 Sec. 1306.006. EXEMPTIONS FROM CERTAIN OTHER LAWS.
7 Marketing, selling, offering for sale, issuing, making, proposing
8 to make, and administering an identity recovery service contract
9 are exempt from the Insurance Code and other laws of this state
10 regulating the business of insurance.

11 Sec. 1306.007. PURCHASE REQUIREMENT PROHIBITED. A person
12 regulated by Chapter 2301 may not require the purchase of an
13 identity recovery service contract as a condition of a loan or the
14 sale of a vehicle.

15 Sec. 1306.008. GENERAL INVESTIGATIVE POWER OF EXECUTIVE
16 DIRECTOR. (a) The executive director may investigate a provider,
17 administrator, or other person as necessary to enforce this chapter
18 and protect identity recovery service contract holders in this
19 state.

20 (b) On request of the executive director, a provider shall
21 make the records required by Section 1306.105 available to the
22 executive director as necessary to enable the executive director to
23 reasonably determine compliance with this chapter.

24 [Sections 1306.009-1306.050 reserved for expansion]

25 SUBCHAPTER B. REGISTRATION REQUIREMENTS

26 Sec. 1306.051. REGISTRATION REQUIRED; EXEMPTION FROM OTHER
27 LICENSING REQUIREMENTS. (a) A person may not operate as a

1 provider or administrator of identity recovery service contracts
2 sold in this state unless the person is registered with the
3 department.

4 (b) Except for the registration requirement of this
5 subchapter, a provider, identity recovery service contract seller,
6 administrator, or other person who markets, sells, or offers to
7 sell identity recovery service contracts is exempt from any
8 licensing requirement of this state that relates to an activity
9 regulated under this chapter.

10 (c) If a person registered under Chapter 1304 registers
11 under Chapter 1306, the financial security used to comply with
12 Section 1304.151 fulfills the requirements of Section 1306.101.

13 Sec. 1306.052. APPLICATION FOR REGISTRATION OR RENEWAL;
14 GENERAL REQUIREMENTS. (a) An applicant for registration or
15 registration renewal must submit an application to the executive
16 director.

17 (b) The application must:

18 (1) be in the form prescribed by the executive
19 director; and

20 (2) include evidence satisfactory to the executive
21 director of compliance with the applicable financial security
22 requirements prescribed by Section 1306.101, if the application is
23 for a provider registration or renewal.

24 (c) The department may refuse to issue or renew a
25 registration if the applicant or a controlling person of the
26 applicant has violated this chapter or a rule adopted or order
27 issued by the commission or executive director.

1 (d) A person who makes a false statement in an application
2 or in any document provided with an application is subject to
3 disciplinary action under Subchapter D, including denial of the
4 application or suspension or revocation of a registration.

5 Sec. 1306.053. ADDITIONAL REGISTRATION AND RENEWAL
6 REQUIREMENTS FOR PROVIDERS. (a) In addition to the requirements
7 of Section 1306.052, an applicant for issuance or renewal of a
8 provider registration must file with the application:

9 (1) the reimbursement insurance policy required by
10 Section 1306.102, if the provider is using a reimbursement
11 insurance policy; and

12 (2) a biographical affidavit, in a form prescribed by
13 the executive director, for each controlling person of the
14 provider.

15 (b) The executive director may not issue or renew a
16 registration to a provider unless the provider provides evidence to
17 the executive director that:

18 (1) each controlling person of the provider is
19 trustworthy and can competently manage the affairs of the provider
20 in compliance with this chapter; and

21 (2) the provider can meet the provider's obligations
22 under identity recovery service contracts and this chapter.

23 Sec. 1306.054. FEES. (a) As prescribed by this section, a
24 provider must pay annual registration and renewal fees and
25 quarterly fees based on the number of identity recovery service
26 contracts sold or issued and in force in this state. As prescribed
27 by this section, an administrator must pay annual registration and

1 renewal fees.

2 (b) To register or renew a registration, a provider or
3 administrator must pay the appropriate fee. The commission shall
4 set by rule the amounts of the registration and renewal fees
5 required to cover the costs of administering this chapter.

6 (c) Not later than the 30th day after the date each calendar
7 quarter ends, a provider must report to the department the number of
8 identity recovery service contracts sold or issued to consumers in
9 this state during the calendar quarter and submit to the department
10 a fee equal to \$1 for each of those contracts.

11 (d) The information concerning the number of identity
12 recovery service contracts sold or issued by a provider that is
13 submitted under Subsection (c):

14 (1) is a trade secret to which Section 552.110,
15 Government Code, applies; and

16 (2) may be used only by the executive director and the
17 department for the purposes of this section.

18 (e) The commission shall adopt rules to implement this
19 section.

20 Sec. 1306.055. RENEWAL. The commission shall adopt rules
21 regarding the renewal of a registration issued under this chapter.

22 [Sections 1306.056-1306.100 reserved for expansion]

23 SUBCHAPTER C. PRACTICE BY IDENTITY RECOVERY SERVICE CONTRACT

24 PROVIDERS AND ADMINISTRATORS

25 Sec. 1306.101. FINANCIAL SECURITY REQUIREMENTS. (a) To
26 ensure the faithful performance of a provider's obligations to its
27 identity recovery service contract holders, each provider must:

1 (1) insure the provider's identity recovery service
2 contracts under a reimbursement insurance policy issued by an
3 insurer authorized to transact insurance in this state or by a
4 surplus lines insurer eligible to place coverage in this state
5 under Chapter 981, Insurance Code;

6 (2) maintain a funded reserve account covering the
7 provider's obligations under its identity recovery service
8 contracts that are issued and outstanding in this state and place in
9 trust with the executive director a financial security deposit
10 consisting of:

11 (A) a surety bond issued by an authorized surety;

12 (B) securities of the type eligible for deposit
13 by an authorized insurer in this state;

14 (C) a statutory deposit of cash or cash
15 equivalents;

16 (D) a letter of credit issued by a qualified
17 financial institution; or

18 (E) another form of security prescribed by rules
19 adopted by the commission; or

20 (3) maintain, or have a parent company that maintains,
21 a net worth or stockholders' equity of at least \$100 million.

22 (b) If the provider ensures its obligations under
23 Subsection (a)(2), the amount maintained in the reserve account may
24 not be less than an amount equal to 40 percent of the gross
25 consideration the provider received from consumers from the sale of
26 all identity recovery service contracts issued and outstanding in
27 this state, minus any claims paid. The executive director may

1 review and examine the reserve account. The amount of the security
2 deposit may not be less than the greater of:

3 (1) \$25,000; or

4 (2) an amount equal to five percent of the gross
5 consideration the provider received from consumers from the sale of
6 all identity recovery service contracts issued and outstanding in
7 this state, minus any claims paid.

8 (c) If the provider ensures its obligations under
9 Subsection (a)(3), the provider must give to the executive director
10 on request:

11 (1) a copy of the provider's or the provider's parent
12 company's most recent Form 10-K or Form 20-F filed with the
13 Securities and Exchange Commission within the preceding calendar
14 year; or

15 (2) if the provider or the provider's parent company
16 does not file with the Securities and Exchange Commission, a copy of
17 the provider's or the provider's parent company's audited financial
18 statements showing a net worth of the provider or its parent company
19 of at least \$100 million.

20 (d) If the provider's parent company's Form 10-K, Form 20-F,
21 or audited financial statements are filed to show that the provider
22 meets the financial security requirement, the parent company shall
23 agree to guarantee the obligations of the provider relating to
24 identity recovery service contracts sold by the provider in this
25 state.

26 (e) The executive director may not require a provider to
27 meet any additional financial security requirement.

1 Sec. 1306.102. REIMBURSEMENT INSURANCE POLICY. (a) A
2 reimbursement insurance policy that a provider uses to comply with
3 Sections 1306.053 and 1306.101(a)(1) must state that:

4 (1) the insurer that issued the policy shall:

5 (A) reimburse or pay on behalf of the provider
6 any covered amount the provider is legally obligated to pay; or

7 (B) provide the service that the provider is
8 legally obligated to perform according to the provider's
9 contractual obligations under the insured identity recovery
10 service contract;

11 (2) if the covered service is not provided to an
12 identity recovery service contract holder before the 61st day after
13 the date of proof of loss, the insurer shall pay the covered amount
14 directly to the identity recovery service contract holder or
15 provide the required service; and

16 (3) if a refund is not paid to the identity recovery
17 service contract holder or credited to the identity recovery
18 service contract holder's account as required by Section 1306.108,
19 the insurer, after receiving written notice, shall pay the refund
20 amount directly to the identity recovery service contract holder.

21 (b) For a reimbursement insurance policy to comply with
22 Section 1306.101(a)(1), the insurer issuing the policy must:

23 (1) maintain surplus as to policyholders and paid-in
24 capital of at least \$15 million and annually file with the executive
25 director copies of the insurer's audited financial statements,
26 National Association of Insurance Commissioners annual statement,
27 and actuarial certification if the certification is required and

1 filed in the insurer's state of domicile; or
2 (2) maintain surplus as to policyholders and paid-in
3 capital of at least \$10 million but not more than \$15 million,
4 demonstrate to the satisfaction of the executive director that the
5 insurer maintains a ratio of net written premiums, wherever
6 written, to surplus as to policyholders and paid-in capital of not
7 more than three to one, and annually file with the executive
8 director copies of the insurer's audited financial statements,
9 National Association of Insurance Commissioners annual statement,
10 and actuarial certification if the certification is required and
11 filed in the insurer's state of domicile.

12 (c) The insurer may not cancel the reimbursement insurance
13 policy until the insurer delivers to the provider and the executive
14 director a written notice of cancellation that complies with the
15 notice requirements prescribed by Subchapters B and C, Chapter 551,
16 Insurance Code, for cancellation of an insurance policy under those
17 subchapters. Cancellation of the policy does not affect the
18 insurer's liability for an identity recovery service contract
19 issued by the provider and insured under the policy before the
20 effective date of the cancellation.

21 (d) If the insurer or provider cancels the reimbursement
22 insurance policy, the provider named on the policy may not issue a
23 new identity recovery service contract after the effective date of
24 the cancellation unless:

25 (1) the provider files with the executive director a
26 copy of a new policy that meets the requirements of this section and
27 that provides coverage after that date; or

1 (2) the provider complies with other financial
2 security requirements provided by Section 1306.101(a).

3 (e) A provider is considered the agent of an insurer that
4 issues a reimbursement insurance policy for purposes of obligating
5 the insurer to the identity recovery service contract holder in
6 accordance with the identity recovery service contract and this
7 chapter. The insurer issuing the reimbursement insurance policy is
8 considered to have received the premium for the policy on the date
9 the identity recovery service contract holder pays the purchase
10 price of the identity recovery service contract.

11 (f) This chapter does not prevent or limit the right of the
12 insurer to seek indemnification or subrogation against a provider
13 for any amount the insurer pays or is obligated to pay to an
14 identity recovery service contract holder on behalf of the
15 provider.

16 (g) In this section, "net written premiums" means the sum of
17 direct written premiums and assumed reinsurance premiums, minus
18 ceded reinsurance premiums.

19 Sec. 1306.103. APPOINTMENT AND RESPONSIBILITIES OF
20 ADMINISTRATOR. (a) A provider may appoint an administrator
21 registered under this chapter to be responsible for:

22 (1) all or any part of the administration or sale of
23 identity recovery service contracts; and

24 (2) compliance with this chapter, except for Section
25 1306.101.

26 (b) The appointment of an administrator under this section
27 does not affect a provider's responsibility to comply with this

1 chapter.

2 Sec. 1306.104. PROVIDER REQUIREMENTS. A provider may not
3 sell, offer for sale, or issue an identity recovery service
4 contract in this state unless the provider gives the identity
5 recovery service contract holder:

6 (1) a receipt for, or other written evidence of, the
7 purchase of the contract; and

8 (2) a copy of the contract within a reasonable period
9 after the date of purchase.

10 Sec. 1306.105. PROVIDER RECORDS. (a) A provider shall
11 maintain accurate accounts, books, and other records regarding
12 transactions regulated under this chapter. The provider's records
13 must include:

14 (1) a copy of each unique form of identity recovery
15 service contract sold;

16 (2) the name and address of each identity recovery
17 service contract holder who provided the holder's name and address;

18 (3) a list of each location at which the provider's
19 identity recovery service contracts are marketed, sold, or offered
20 for sale; and

21 (4) written claims files that contain at least the
22 date and a description of each claim related to the identity
23 recovery service contracts.

24 (b) The records required by this section may be maintained
25 in an electronic medium or through other recordkeeping technology.
26 If a record is not in a hard copy, the provider must be able to
27 reformat the record into a legible hard copy at the request of the

1 executive director.

2 (c) Except as provided by Subsection (d), a provider shall
3 retain the records required by this section until at least the first
4 anniversary of the expiration date of the specified period of
5 coverage under the identity recovery service contract.

6 (d) A provider that discontinues business in this state
7 shall retain its records until the provider furnishes the executive
8 director with proof satisfactory to the executive director that the
9 provider has discharged all obligations to identity recovery
10 service contract holders in this state.

11 (e) An administrator appointed to maintain the provider's
12 records is responsible for compliance with this section to the same
13 extent as the provider.

14 Sec. 1306.106. FORM OF IDENTITY RECOVERY SERVICE CONTRACT
15 AND REQUIRED DISCLOSURES. (a) An identity recovery service
16 contract marketed, sold, offered for sale, issued, made, proposed
17 to be made, or administered in this state must:

18 (1) be written, printed, or typed in clear,
19 understandable language that is easy to read;

20 (2) state the name and address of the provider;

21 (3) state the purchase price of the contract and the
22 terms under which the contract is sold;

23 (4) state the terms and restrictions governing
24 cancellation of the contract by the provider or the identity
25 recovery service contract holder before the expiration date of the
26 contract;

27 (5) identify:

- 1 (A) any administrator;
2 (B) the contract seller; and
3 (C) the identity recovery service contract
4 holder, if the identity recovery service contract holder provides
5 the holder's name;
6 (6) state the amount of any deductible;
7 (7) specify the services to be provided under the
8 contract and any limitation, exception, or exclusion;
9 (8) specify any restriction governing the
10 transferability of the contract; and
11 (9) state the duties of the identity recovery service
12 contract holder, including any duty to protect against any further
13 damage and any requirement to follow the instructions in the
14 identity recovery service contract.
15 (b) The identity of a person described by Subsection (a)(5)
16 is not required to be preprinted on the identity recovery service
17 contract and may be added to the contract at the time of sale.
18 (c) The purchase price is not required to be preprinted on
19 the identity recovery service contract and may be negotiated with
20 the identity recovery service contract holder at the time of sale.
21 (d) An identity recovery service contract insured under a
22 reimbursement insurance policy under Section 1306.102 must:
23 (1) state the name and address of the insurer;
24 (2) state that the identity recovery service contract
25 holder may apply for reimbursement directly to the insurer if:
26 (A) a covered service is not provided to the
27 identity recovery service contract holder by the provider before

1 the 61st day after the date of proof of loss; or

2 (B) a refund or credit is not paid before the 46th
3 day after the date on which the contract is returned to the provider
4 under Section 1306.107; and

5 (3) contain a statement substantially similar to the
6 following: "Obligations of the provider under this identity
7 recovery service contract are insured under an identity recovery
8 service contract reimbursement insurance policy."

9 (e) An identity recovery service contract that is not
10 insured under a reimbursement insurance policy must contain a
11 statement substantially similar to the following: "Obligations of
12 the provider under this identity recovery service contract are
13 backed by the full faith and credit of the provider."

14 Sec. 1306.107. RETURNING AN IDENTITY RECOVERY SERVICE
15 CONTRACT. An identity recovery service contract must require the
16 provider to allow the identity recovery service contract holder to
17 return the contract to the provider not later than:

18 (1) the 20th day after the date the contract is mailed
19 to the identity recovery service contract holder; or

20 (2) the 10th day after the date of delivery, if the
21 contract is delivered to the identity recovery service contract
22 holder at the time of sale.

23 Sec. 1306.108. VOIDING AN IDENTITY RECOVERY SERVICE
24 CONTRACT. (a) If an identity recovery service contract holder
25 returns an identity recovery service contract in accordance with
26 Section 1306.107 and a claim has not been made under the contract
27 before the contract is returned, the contract is void.

1 (b) An identity recovery service contract holder may void
2 the identity recovery service contract at a later time as provided
3 by the contract.

4 (c) If an identity recovery service contract is voided under
5 Subsection (a), the provider shall refund to the identity recovery
6 service contract holder or credit to the account of the identity
7 recovery service contract holder the full purchase price of the
8 contract. If the provider does not pay the refund or credit the
9 identity recovery service contract holder's account before the 46th
10 day after the date the contract is returned to the provider, the
11 provider is liable to the identity recovery service contract holder
12 for a penalty each month an amount remains outstanding. The monthly
13 penalty may not exceed 10 percent of the amount outstanding.

14 (d) The right to void an identity recovery service contract
15 is not transferable.

16 Sec. 1306.109. CANCELING AN IDENTITY RECOVERY SERVICE
17 CONTRACT. (a) A provider may cancel an identity recovery service
18 contract by mailing a written notice of cancellation to the
19 identity recovery service contract holder at the identity recovery
20 service contract holder's last known address according to the
21 records of the provider. The provider must mail the notice before
22 the fifth day preceding the effective date of the cancellation. The
23 notice must state the effective date of the cancellation and the
24 reason for the cancellation.

25 (b) The provider is not required to provide prior notice of
26 cancellation if the identity recovery service contract is canceled
27 because of:

- 1 (1) nonpayment of the consideration for the contract;
- 2 (2) a material misrepresentation by the identity
- 3 recovery service contract holder to the provider; or
- 4 (3) a substantial breach of a duty by the identity
- 5 recovery service contract holder.

6 Sec. 1306.110. LIMITATIONS ON PROVIDER NAME. (a) A

7 provider may not use a name that:

- 8 (1) includes "insurance," "casualty," "surety," or
- 9 "mutual" or any other word descriptive of the insurance, casualty,
- 10 or surety business; or
- 11 (2) is deceptively similar to the name or description
- 12 of an insurance or surety corporation or to the name of any other
- 13 provider.

14 (b) A provider may include in its name "guaranty" or a

15 similar word.

16 (c) This section does not apply to a provider that, before

17 September 1, 2009, included a word prohibited under this section in

18 its name. A provider described by this subsection must include in

19 each identity recovery service contract a statement substantially

20 similar to the following: "This agreement is not an insurance

21 contract."

22 Sec. 1306.111. MISLEADING STATEMENTS PROHIBITED. A

23 provider or the provider's representative may not, in the

24 provider's identity recovery service contracts or literature:

- 25 (1) make, permit, or cause to be made any false or
- 26 misleading statement; or
- 27 (2) deliberately omit a material statement if the

1 omission would be considered misleading.

2 [Sections 1306.112-1306.150 reserved for expansion]

3 SUBCHAPTER D. DISCIPLINARY ACTION

4 Sec. 1306.151. DISCIPLINARY ACTION. On a finding that a
5 ground for disciplinary action exists under this chapter, the
6 commission may impose an administrative sanction, including an
7 administrative penalty as provided by Subchapter F, Chapter 51.

8 Sec. 1306.152. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The
9 executive director may institute an action under Section 51.352 for
10 injunctive relief to restrain a violation or a threatened violation
11 of this chapter or an order issued or rule adopted under this
12 chapter.

13 (b) In addition to the injunctive relief provided by
14 Subsection (a), the executive director may institute an action for
15 a civil penalty as provided by Section 51.352. The amount of a
16 civil penalty assessed under this section may not exceed:

- 17 (1) \$2,500 for each violation; or
- 18 (2) \$50,000 in the aggregate for all violations of a
19 similar nature.

20 Sec. 1306.153. MULTIPLE VIOLATIONS. For purposes of this
21 subchapter, violations are of a similar nature if the violations
22 consist of the same or a similar course of conduct, action, or
23 practice, regardless of the number of times the conduct, act, or
24 practice occurred.

25 Sec. 1306.154. ADMINISTRATIVE PROCEDURE. Sections 51.305,
26 51.310, and 51.354 apply to disciplinary action taken under this
27 chapter.

1 SECTION 4. Section 2306.003, Occupations Code, is amended
2 by adding Subsection (c) to read as follows:

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

6 SECTION 5. (a) The change in law made by this Act applies
7 to an identity recovery service contract entered into on or after
8 January 1, 2010. An identity recovery service contract entered
9 into before January 1, 2010, is covered by the law in effect on the
10 date the contract was entered into, and the former law is continued
11 in effect for that purpose.

12 (b) Not later than November 1, 2009, the Texas Commission of
13 Licensing and Regulation shall adopt rules to implement Chapter
14 1306, Occupations Code, as added by this Act.

15 SECTION 6. (a) Except as provided by Subsection (b) of
16 this section, this Act takes effect September 1, 2009.

17 (b) Section 1306.051 and Subchapter D, Chapter 1306,
18 Occupations Code, as added by this Act, take effect January 1, 2010.

Maria Newkirk

President of the Senate

Jim Strawn

Speaker of the House

I hereby certify that S.B. No. 778 passed the Senate on April 9, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 5, 2009, by the following vote: Yeas 29, Nays 0.

Sally Spaw
Secretary of the Senate

I hereby certify that S.B. No. 778 passed the House, with amendment, on April 30, 2009, by the following vote: Yeas 144, Nays 0, one present not voting.

Robert Honey
Chief Clerk of the House

Approved:

13 MAY '09

Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
5:30 P.M. CLOCK

Boyd Roberts
Secretary of State