

1 AN ACT

2 relating to the extension of credit to a victim of and to insurance
3 coverage for identity theft.

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

5 SECTION 1. Subchapter D, Chapter 35, Business & Commerce
6 Code, is amended by adding Section 35.585 to read as follows:

7 Sec. 35.585. EXTENSION OF CREDIT TO VICTIM OF IDENTITY
8 THEFT. (a) In this section, "victim of identity theft" means an
9 individual who has filed a criminal complaint alleging the
10 commission of an offense under Section 32.51, Penal Code, other
11 than a person who is convicted of an offense under Section 37.08,
12 Penal Code, with respect to that complaint. A person who has been
13 notified that an individual who has the capacity to contract has
14 been the victim of identity theft may not deny the individual an
15 extension of credit, including a loan, in the individual's name or
16 restrict or limit the credit extended solely because the individual
17 has been a victim of identity theft. This subsection does not
18 prohibit a person from denying an individual an extension of credit
19 for a reason other than because the individual has been a victim of
20 identity theft.

21 (b) A license issued under Subtitle B, Title 4, Finance
22 Code, that is held by a person who violates this section is subject
23 to revocation or suspension under that subtitle.

24 SECTION 2. The heading to Subtitle F, Title 5, Insurance

1 Code, is amended to read as follows:

2 SUBTITLE F. INSURANCE FRAUD AND IDENTITY THEFT

3 SECTION 3. Subtitle F, Title 5, Insurance Code, is amended
4 by adding Chapter 706 to read as follows:

5 CHAPTER 706. IDENTITY THEFT INSURANCE

6 Sec. 706.001. DEFINITIONS. (a) The definitions adopted
7 under Article 5.13-2 apply to this chapter.

8 (b) In this chapter, "identity theft" means a criminal
9 offense described by Section 32.51, Penal Code, or a substantially
10 similar federal law or law in another state.

11 Sec. 706.002. COVERAGE AUTHORIZED. (a) An insurer
12 authorized to write property and casualty insurance in this state
13 may offer and issue insurance coverage for a loss suffered by a
14 policyholder as a result of the policyholders' being a victim of
15 identity theft or attempted identity theft.

16 (b) Coverage authorized by Subsection (a) may be:

17 (1) offered as a separate insurance policy or as a
18 rider or endorsement to:

19 (A) a residential and commercial property
20 insurance policy; or

21 (B) a personal or commercial casualty insurance
22 policy; and

23 (2) underwritten and issued as an individual or group
24 insurance policy.

25 Sec. 706.003. ELIGIBLE POLICYHOLDERS. (a) An insurer may
26 issue coverage authorized under Section 706.002 to:

27 (1) an individual; or

1 (2) a group, business, employer, association,
2 trustee, or other entity for the benefit of its members, customers,
3 employees, members, or beneficiaries.

4 (b) An entity described by Subsection (a)(2) may be a group
5 that:

6 (1) is formed solely for the purpose of obtaining
7 insurance coverage under this chapter; or

8 (2) has already been formed for a purpose other than
9 for obtaining insurance coverage under this chapter and that is
10 described by Subsection (a)(2).

11 Sec. 706.004. RATES AND FORMS. Notwithstanding any other
12 law, rates and forms for insurance coverage issued under this
13 chapter are governed by Article 5.13-2.

14 Sec. 706.005. RULES. The commissioner may adopt rules as
15 necessary to implement this chapter.

16 SECTION 4. Subsection (a), Section 2, Article 5.13-2,
17 Insurance Code, is amended to read as follows:

18 (a) This article applies to all lines of the following
19 insurance written under policies or contracts of insurance issued
20 by an insurer authorized to engage in the business of insurance in
21 this state:

22 (1) general liability insurance;

23 (2) residential and commercial property insurance,
24 including farm and ranch insurance and farm and ranch owners
25 insurance;

26 (3) personal and commercial casualty insurance,
27 except as provided by Subsection (b) of this section;

- 1 (4) medical professional liability insurance;
- 2 (5) fidelity and surety bonds other than criminal
- 3 court appearance bonds;
- 4 (6) personal umbrella insurance;
- 5 (7) personal liability insurance;
- 6 (8) guaranteed auto protection (GAP) insurance;
- 7 (9) involuntary unemployment insurance;
- 8 (10) financial guaranty insurance;
- 9 (11) inland marine insurance;
- 10 (12) rain insurance;
- 11 (13) hail insurance on farm crops; [~~and~~]
- 12 (14) personal and commercial automobile insurance;
- 13 and
- 14 (15) identity theft insurance coverage issued under
- 15 Chapter 706.

16 SECTION 5. This Act takes effect September 1, 2005.

David Newkirk
President of the Senate

Jim Caddell
Speaker of the House

I hereby certify that S.B. No. 99 passed the Senate on April 26, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 12, 2005, by the following vote: Yeas 31, Nays 0.

Ratsy Saw
Secretary of the Senate

I hereby certify that S.B. No. 99 passed the House, with amendments, on May 9, 2005, by a non-record vote.

Robert Nancy
Chief Clerk of the House

Approved:

20 MAY 05

Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
7:20 PM O'CLOCK

Roger Williams
MAY 20 2005
Secretary of State