

BILL ANALYSIS

Senate Research Center
82R22202 CLG-F

H.B. 3453
By: Anchia (Elife)
Business & Commerce
5/17/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3453 amends current law relating to the regulatory authority of the consumer credit commissioner.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 14.2015, Finance Code, as follows:

Sec. 14.2015. CONFIDENTIALITY OF CERTAIN INFORMATION. (a) Provides that, except as provided by Subsection (b), information or material obtained or compiled by the consumer credit commissioner (commissioner) in relation to an examination or investigation by the commissioner or the commissioner's representative of a license holder, registrant, applicant, or other person, rather than a license holder or registrant, under Subtitle B (Savings and Loan Associations) or C (Savings Banks), Title 4 (Regulation of Interest, Loans, and Financed Transactions) or Chapter 394 (Debtor Assistance) is confidential and may not be disclosed by the commissioner or an officer or employee of the Office of Consumer Credit Commissioner, including:

- (1) information obtained from a license holder, registrant, applicant, or other person, rather than from a license holder or registrant, examined or investigated under Subtitle B or C, Title 4, or Chapter 394, rather than information obtained from a license holder or registrant under Subtitle B or C, Title 4, or Chapter 394;
- (2) work performed by the commissioner or the commissioner's representative on information obtained from a license holder, registrant, applicant, or other person, rather than from a license holder or registrant, for the purposes of an examination or investigation conducted under Subtitle B or C, Title 4, or Chapter 394;
- (3) a report on an examination or investigation of a license holder, registrant, applicant, or other person, rather than a license holder or registrant, conducted under Subtitle B or C, Title 4, or Chapter 394; and
- (4) any written communications between the license holder, registrant, applicant, or other person, rather than between license holder or registrant, as applicable, and the commissioner or the commissioner's representative relating to or referencing an examination or investigation conducted under Subtitle B or C, Title 4, or Chapter 394.

(b) Authorizes the commissioner or the commissioner's representative to disclose the confidential information or material described by Subsection (a):

(1) to a department, agency, or instrumentality of this state or the United States if the commissioner considers disclosure to be necessary or proper to the enforcement of the laws of this state or the United States and in the best interest of the public;

(2) if the license holder, registrant, applicant, or other person, rather than if the license holder or registrant, consents to the release of the information or has published the information contained in the release; or

(3) if the commissioner determines that release of the information is required for an administrative hearing.

SECTION 2. Amends Subchapter E, Chapter 14, Finance Code, by adding Section 14.2016, as follows:

Sec. 14.2016. INFORMATION SHARING WITH DEPARTMENTS AND AGENCIES. Authorizes the commissioner, to ensure consistent enforcement of law and minimization of regulatory burdens, to share information, including criminal history or confidential information, relating to a license holder, registrant, applicant, or other person investigated or examined under the commissioner's authority with a department, agency, or instrumentality of this state, another state, or the United States if the commissioner considers the disclosure of the information to be necessary or proper to the enforcement of the laws of this state or the United States and in the best interest of the public. Provides that information otherwise confidential remains confidential after the information is shared under this section.

SECTION 3. Amends Section 348.006, Finance Code, by adding Subsections (e-1), (e-2), and (e-3), as follows:

(e-1) Provides that except as provided by Subsections (e-2) and (e-3), the following information and documents are confidential and not subject to disclosure:

(1) all information provided by a retail seller to the commissioner under Subsection (e), including the maximum documentary fee a retail seller intends to charge, the written notice of an increased documentary fee, and any financial information submitted with the notice; and

(2) all correspondence between a retail seller and the commissioner or the commissioner's representative relating to the notice of an increased documentary fee under Subsection (e) and a review for reasonableness of the amount of the documentary fee to be charged.

(e-2) Authorizes the commissioner to disclose information or documents that are confidential under Subsection (e-1) if:

(1) the commissioner determines that release of the information or documents is required for an administrative hearing;

(2) the retail seller consents to the release of the information or documents; or

(3) the disclosure is required by a court order.

(e-3) Authorizes the commissioner or the commissioner's representative to disclose whether a retail seller has filed written notice of an increased documentary fee and the proposed amount of the increased fee to:

(1) a holder that provides written proof, signed by the retail seller, that the retail seller has agreed to assign or transfer one or more retail installment contracts to the holder; or

(2) a prospective retail buyer that provides to the commissioner a buyer's order executed by the prospective buyer and the retail seller; a draft of a retail installment contract provided by the retail seller to the prospective buyer; or a written statement by the retail seller acknowledging that the person is a prospective buyer of a motor vehicle from the retail seller.

SECTION 4. Reenacts Section 411.081(i), Government Code, as amended by Chapters 183 (H.B. 1830), 780 (S.B. 1056), 816 (S.B. 1599), and 1027 (H.B. 4343), Acts of the 81st Legislature, Regular Session, 2009, and amends it to authorize a criminal agency to disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) to certain noncriminal justice agencies or entities only, including the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner. Makes nonsubstantive changes.

SECTION 5. Amends Section 53.0211(a), Occupations Code, to provide that this section does not apply to an applicant for a license that would allow the applicant to provide certain services, including financial services in an industry regulated by the commissioner.

SECTION 6. Provides that the change in law made by this Act to Section 53.0211(a), Occupations Code, prospective.

SECTION 7. Provides that to the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in acted codes.

SECTION 8. Effective date: September 1, 2011.