

BILL ANALYSIS

Senate Research Center

S.B. 1075
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the Office of Consumer Credit Commissioner (OCCC) is authorized to obtain criminal history record information about license holders and applicants under two statutes: Chapter 14 (Consumer Credit Commissioner) of the Finance Code and Chapter 411 (Department of Public Safety of the State of Texas) of the Government Code. Under Section 14.151, Finance Code, this authority applies to any applicant for a license issued by the OCCC or any person licensed under the OCCC's authority. However, Section 411.095, Government Code, only lists applicants and license holders under Chapters 342, 347, 348, 351, 353, or 371 of the Finance Code.

S.B. 1075 amends the provisions authorizing the OCCC to obtain criminal history record information, in order to ensure that these provisions are consistent and enable the OCCC to fulfill its regulatory functions. S.B. 1075 authorizes the OCCC to obtain criminal history record information regarding employees and volunteers of the OCCC, applicants for employment with the OCCC, and contractors or subcontractors with the OCCC. The bill also specifies the situations in which the OCCC can release or disclose criminal history record information. S.B. 1075 also amends Chapter 14, Finance Code, to ensure that it conforms to Chapter 411, Government Code. In particular, the bill removes a criminal offense in Section 14.155, Finance Code, because it is duplicative of a similar offense in Section 411.085, Government Code.

S.B. 1075 amends current law relating to criminal history record information obtained by 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 411.095, Government Code, as follows:

Sec. 411.095. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CONSUMER CREDIT COMMISSIONER. (a) Creates this subsection from existing text. Entitles the consumer credit commissioner (commissioner) to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information that relates to a person who is:

(1) an applicant for or holder of a license or registration under Chapter 180 (Residential Mortgage Loan Originators), 342 (Consumer Loans), 347 (Manufactured Home Credit Transactions), 348 (Motor Vehicle Installment Sales), 351 (Property Tax Lenders), 353 (Commercial Motor Vehicle Installment Sales), 371 (Pawnshops), 393 (Credit Services Organizations), or 394 (Debtor Assistance), Finance Code;

(2) an employee of or volunteer with the Office of Consumer Credit Commissioner (OCCC);

(3) an applicant for employment with OCCC; or

(4) a contractor or subcontractor of OCCC.

(b) Prohibits the commissioner from releasing or disclosing criminal history record information obtained under this section unless:

(1) the information is obtained from a fingerprint-based search; and

(2) the information is released or disclosed:

(A) on court order;

(B) to the person who is the subject of the criminal history record information; or

(C) with the consent of the person who is the subject of the criminal history record information.

SECTION 2. Amends Section 14.151, Finance Code, as follows:

Sec. 14.151. OBTAINING INFORMATION. (a) Requires the consumer credit commissioner (commissioner) or assistant commissioner, examiner, or other employee of OCCC to obtain criminal history record information maintained by DPS, the Federal Bureau of Investigation Identification Division, or another law enforcement agency relating to a person described by Section 411.095(a)(1), Government Code.

Deletes existing Subdivisions (1) and (2) requiring the commissioner or an assistant commissioner, examiner, or other employee of OCCC shall obtain criminal history record information maintained by DPS, the Federal Bureau of Investigation Identification Division, or another law enforcement agency relating to an applicant for a license issued by the commissioner or a person licensed under the commissioner's authority.

(b) Provides that, for an applicant for a license or registration, license holder, or registrant that is a business entity, the criminal history record information requirement of this section applies to an officer, director, owner, or employee of the entity or another person having a substantial relationship with the entity. Makes a nonsubstantive change.

SECTION 3. Amends Section 14.152, Finance Code, as follows:

Sec. 14.152. FINGERPRINT REQUIREMENT; PENALTY. Authorizes the commissioner to refuse to grant a license or registration to, or to suspend or revoke the license or registration of, an applicant, license holder, or registrant described by Section 411.095(a)(1), Government Code, who fails to provide, on request, a complete set of legible fingerprints on a fingerprint card format approved by DPS and the Federal Bureau of Investigation.

SECTION 4. Amends the heading to Section 14.155, Finance Code, to read as follows:

Sec. 14.155. DISCLOSURE.

SECTION 5. Amends Section 14.155(a), Finance Code, as follows:

(a) Prohibits OCCC from releasing or disclosing criminal history record information obtained from DPS, Federal Bureau of Investigation Identification Division, or other law enforcement agency, except as provided by Section 411.095(b), Government Code, rather than prohibiting OCCC from providing a person being investigated under this subchapter with a copy of the person's criminal history record obtained from DPS, Federal Bureau of

Investigation Identification Division, or other law enforcement agency. Deletes existing text providing that this subchapter does not prevent OCCC from disclosing to the person being investigated a date and place of arrest or an offense or disposition contained in the criminal history record or from disclosing criminal history record information to, and discussing the information with, an authorized law enforcement agency with an interest in the person to whom the information relates.

SECTION 6. Amends Section 14.156, Finance Code, as follows:

Sec. 14.156. RECOVERY OF COSTS. Entitles the commissioner, in addition to an investigation fee paid to the commissioner by an applicant for a license or registration, rather than by a license applicant, to recover from an applicant, license holder, or registrant the cost of processing an inquiry to determine whether the person has a criminal history record. Makes a nonsubstantive change.

SECTION 7. Repealer: Sections 14.154(b) (prohibiting information collected under this section from being released, except on court order) and 14.155(b) (providing that a person commits an offense if the person releases or discloses information received under this subchapter), Finance Code.

SECTION 8: Effective date: September 1, 2015.