

SUBJECT: Exempting CPAs from adopting a privacy policy

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 9 ayes — Giddings, Elkins, Darby, Bailey, Bohac, Castro, Martinez, Solomons, Zedler

0 nays

WITNESSES: For — Bob Owen, Texas Society of CPAs

Against — None

BACKGROUND: The 79th Legislature in 2005 enacted HB 1130 by B. Cook, which amended Business and Commerce Code, sec. 35.581 to require businesses to provide a privacy policy to customers who must disclose their social security number for a service. It exempted businesses required to maintain and disseminate privacy policies under the federal Gramm-Leach-Bliley Act. In 2006, Congress removed certified public accountants (CPAs) from the privacy policy requirements of the Gramm-Leach-Bliley Act.

Occupations Code, sec. 901.457 prohibits an accountant from disclosing a client's personal information without that client's express permission except for professional reporting purposes or adjudication.

DIGEST: HB 863 would add certified public accountants (CPAs) to the list of businesses exempted from providing a privacy policy to customers as required by Business and Commerce Code, sec. 35.581.

The bill would take effect September 1, 2007.

SUPPORTERS SAY: HB 863 would exempt CPAs from the Business and Commerce Code requirement of providing a privacy policy to customers because is redundant and unnecessary. CPAs already are subject to the more strict Occupations Code, sec. 901.457, which prohibits any disclosure of personal information without the expressed consent of the client, with punishment including fines and license revocation. In October 2006, Congress exempted CPAs from the Gramm-Leach-Bliley Act because

CPAs are certified or licensed by state boards of accountancy. The American Institute of Certified Public Accountants Code of Professional Conduct, sec. 301.01 already prohibits disclosure of personal information.

HB 863 would restore sec. 35.581 to its original intent. CPAs were excluded from the state requirement of promulgating privacy disclosure statements until October 2006, when Congress removed CPAs from the Gramm-Leach-Bliley Act. This bill would clarify the current law while maintaining current CPA confidentiality standards.

Business and Commerce Code, sec. 35.581 does not actually provide additional protection to clients. Rather, it just requires disclosure statements, which are often confusing to clients, expensive to circulate, and time-consuming for CPAs to prepare.

OPPONENTS
SAY:

CPAs should have to conform to Business & Commerce Code, sec. 35.581 to ensure customers' social security numbers are adequately protected. In some cases, CPAs may not have a policy to protect the privacy of social security numbers or may not have a procedure for providing the policy to consumers. Consumers should not be forced to reveal social security numbers for necessary activities without some assurances that their information will be protected.

The prevalence of identity theft and the misuse of social security numbers make it essential that all businesses that use social security numbers, even small ones, create and maintain privacy policies. Business & Commerce Code, sec. 35.581 is not a burden to business, and any costs to consumers would be minimal and gladly borne as the cost of knowing how their information is protected.