

INSURANCE CODE

TITLE 5. PROTECTION OF CONSUMER INTERESTS

SUBTITLE D. PRIVACY

CHAPTER 601. PRIVACY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 601.001. DEFINITIONS. In this chapter:

(1) "Affiliate" means a company that controls, is controlled by, or is under common control with another company. For the purposes of this subdivision, "control" has the meaning described by Sections [823.005](#) and [823.151](#).

(2) "Authorization" has the meaning assigned by Section [82.001](#).

(3) "Covered entity" means an individual or entity that receives an authorization from the department. The term includes an individual or entity described by Section [82.002](#).

(4) "Nonaffiliated third party" means an entity that is not an affiliate of, or related to by common ownership or affiliated by corporate control with, the covered entity. The term does not include a joint employee of the entity.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 601.002. COMPLIANCE WITH FEDERAL LAW REQUIRED. (a) A covered entity shall comply with 15 U.S.C. Sections 6802 and 6803, as amended, in the same manner as a financial institution is required to comply under those sections.

(b) An entity that is a nonaffiliated third party in relation to a covered entity shall comply with 15 U.S.C. Section 6802(c), as amended.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 601.003. EXEMPTION. Section [601.002](#)(a) does not apply to a covered entity to the extent that the entity is acting solely as an insurance agent, employee, or other authorized representative for another covered entity.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 601.004. TREATMENT OF CERTAIN HEALTH INFORMATION; STRICTER RULES NOT PRECLUDED. This chapter does not affect the authority of the department or another state agency to adopt stricter rules governing the treatment of health information by a covered entity if another law gives the department or agency that authority, including a law or rule of this state related to the privacy of individually identifiable health information under Subtitle F, Title II, Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.), as amended.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES

Sec. 601.051. RULES. (a) The commissioner shall adopt:

(1) rules to implement this chapter; and

(2) any other rules necessary to carry out Subtitle A, Title V, Gramm-Leach-Bliley Act (15 U.S.C. Section 6801 et seq.), as amended, to make this state eligible to override federal regulations as described by 15 U.S.C. Section 6805(c), as amended.

(b) In adopting rules under this chapter, the commissioner shall attempt to keep state privacy requirements consistent with federal regulations adopted under Subtitle A, Title V, Gramm-Leach-Bliley Act (15 U.S.C. Section 6801 et seq.), as amended.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 601.052. IMPLEMENTATION OF CERTAIN STANDARDS. The department shall implement standards as required by 15 U.S.C. Section 6805(b), as amended.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

SUBCHAPTER C. ENFORCEMENT

Sec. 601.101. ENFORCEMENT BY DEPARTMENT. The department shall enforce 15 U.S.C. Sections 6801-6805, as amended, to the

extent required by 15 U.S.C. Section 6805, as amended, and this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 601.102. INJUNCTIVE OR DECLARATORY RELIEF; CIVIL PENALTY. (a) The attorney general, after conferring with the commissioner, may institute an action for injunctive or declaratory relief to restrain a violation of this chapter.

(b) In addition to instituting an action for injunctive relief under Subsection (a), the attorney general, after conferring with the commissioner, may institute an action for civil penalties against a covered entity or nonaffiliated third party for a violation of this chapter. A civil penalty assessed under this section may not exceed \$3,000 for each violation.

(c) If the court in which an action under Subsection (b) is pending finds that violations of this chapter have occurred with a frequency that constitutes a pattern or practice, the court may assess a civil penalty not to exceed \$250,000.

(d) If the attorney general substantially prevails in an action for injunctive relief or a civil penalty under this section, the attorney general may recover reasonable attorney's fees, costs, and expenses incurred obtaining the relief or penalty, including court costs and witness fees.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.