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March 10, 2021

The Honorable Jane Nelson  
Texas State Senate  
P.O. Box 12068  
Capitol Station  
Austin, TX 78711

Re: The sale of public records without consent promote public health and safety for all  
Texans

Dear Sen. Nelson:

If the release of public records in Texas was limited to a consent-only system, the people with the most to hide will be the ones that hide the most. I write on behalf of the Consumer Data Industry Association ("CDIA")<sup>1</sup> to respectfully oppose your bill, [S.B. 16](#), because the sale of public records without consent helps promote public health and safety for all Texans. We hope that we can meet with you or your staff to discuss how public records helps to promote health and safety across the state and the nation.

Our consumer reporting agency ("CRAs") members collect public records to help employers, government agencies, nonprofits, businesses, public health agencies, and law enforcement for many critical services. The services CRAs provide allow these entities to create safe working and living environments; prevent fraud; determine eligibility for government benefits; locate victims, witnesses, and fugitives; locate parents who have skipped out on their child support obligations; and more. Our members are located across the U.S. and in Texas, in places like Allen, Austin, Dallas, El Paso, McKinney, Richardson, and San Antonio.

### **Public safety**

Public records are critical to law enforcement. "We [the Texas Attorney General's Office] need the private sector [which also includes public record information] to help protect consumers and help combat identity fraud. Moreover, we also need the private sector to assist law enforcement."<sup>2</sup>

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<sup>1</sup> The Consumer Data Industry Association is the voice of the consumer reporting industry, representing consumer reporting agencies, including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals and to help businesses, governments, and volunteer organizations avoid fraud and manage risk. Through data and analytics, CDIA members empower economic opportunity all over the world, helping ensure fair and safe transactions for consumers, facilitating competition, and expanding consumers' access to financial and other products suited to their unique needs.

<sup>2</sup> Amicus Argument of James Ho for State of Texas, *Taylor v. Acxiom Corp.*, U.S. Court of Appeals (5<sup>th</sup> Cir.) Case Nos. 08-41083, 41180, 41232, (Nov. 4, 2009).

When he was the director of the FBI, Louis Freeh testified before Congress that in 1998, his agency made more than 53,000 inquiries to commercial on-line databases “to obtain public source information regarding individuals, businesses, and organizations that are subjects of investigations.” This information, according to Director Freeh, “assisted in the arrests of 393 fugitives, the identification of more than \$37 million in seizable assets, the locating of 1,966 individuals wanted by law enforcement, and the locating of 3,209 witnesses wanted for questioning.”<sup>3</sup>

### **Locating delinquent child support payors**

The Association for Children for Enforcement of Support reports that public record information provided through commercial vendors helped locate over 75 percent of the “deadbeat parents” they sought.<sup>4</sup>

### **Keeping the roads safe**

Trucking is critical to the Texas economy and the number of trucks on Texas roads continues to grow.<sup>5</sup> Motor vehicle and driving records help trucking companies screen drivers for violations, like moving violations and impairment violations. Motor vehicle records also review the history of the vehicles themselves. Both driver and vehicle records are needed to keep Texas roads and people safe. This safety is not just for trucking, but for school buses, taxis, food delivery, and much more.

Motor vehicle title records are necessary to protect the safety and health of Texans when automobile manufacturers conduct safety- and emissions-related vehicle recall notifications. Title records are also essential for vehicle history reports when Texans want to better understand the value of a used car. Third party service providers play a critical role in title record maintenance.

Motor vehicle records facilitate the real-time approval of loans and insurance by dealers, lenders, and insurers. These services meet consumer needs and expectations in closing transactions quickly, and they prevent identity, banking, and insurance fraud.

The statistical reports generated from title records are also vital to car and part manufacturers, automobile dealers, body shops, service garages, suppliers, and retailers in making important decisions about for the manufacture, sale, distribution and repair of motor vehicles and vehicle parts.

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<sup>3</sup> *Hearing before the Senate Comm. on Appropriations Subcomm. for the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies*, March 24, 1999 (Statement of Louis J. Freeh, Director of the Federal Bureau of Investigation).

<sup>4</sup> *Information Privacy Act, Hearings before the Comm. on Banking and Financial Services, House of Representatives, 105<sup>th</sup> Cong., 2<sup>nd</sup> Sess.* (July, 28, 1998) (statement of Robert Glass).

<sup>5</sup> [Texas Trucking Industry](#), The Trucker.

Legislation to limit access to public records without consumer consent would have many unintended consequences, including:

- Eliminating an effective means of timely and accurate delivery of class action notifications;
- Hindering local government's collection of unpaid tolls, taxes and child support;
- Delaying notification to owners of towed or impounded vehicles;
- Impeding employer verification of commercial vehicle ownership; and
- Limiting identification of cloned vehicles and fraudulent Vehicle Identification Numbers.

### **Preventing public benefits fraud and saving taxpayers' money**

In 2019, "The Harris County Appraisal District in Houston, Texas has identified more than \$22 million in tax revenue using the LexisNexis Homestead Exemption Fraud Detection Solution. The appraisal district used the technology to examine exemption filings, combined with public records data, identity analytics and advanced linking technology to help investigators detect erroneous and undeserved filings and return the recaptured values to the jurisdictions to collect the taxes. In the first 18 months of implementing the technology, the Harris County Appraisal District found \$21,076,592 in erroneous homestead exemption filings across Houston and other locales in the county."<sup>6</sup>

### **Employment screening to protect the public**

Public records are an important, and often critical need to employers to help them protect the health and safety of their customers and other employees, and to protect the worksites, which are often peoples' homes. Public records for employment include the use of motor vehicle and drivers' records information for trucking companies, taxis, school bus drivers, and nonprofits who screen volunteer drivers of people and deliverers of food. It would be a disservice to the public to allow an applicant to pick and choose which violations to share and which violations to hide.

### **Land records for property searches**

Public records play an important role in permitting, mortgage lending, and insurance underwriting. These vital processes would be harmed if Texas residents could hide their critical public record information, risking a wrong permitting, lending, or insurance decision.

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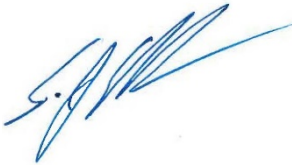
<sup>6</sup> StateScop, Harris County Homestead Exemption Audit Program, Sept. 2019, <https://statescoop.com/bio/localsmart-harris-county-homestead-exemption-audit-program/>.

## Summary

The harms noted above that would arise if S.B. 16 were to pass are just the start of the enumeration of risks to Texas health and safety. We respectfully request a meeting with you or your staff so that we could listen to and benefit from your concerns, in the hope that we can also share with you the risks that would result if S.B. 16 becomes law.

We thank you in advance for your consideration.

Sincerely,



Eric J. Ellman  
Senior Vice President, Public Policy & Legal Affairs