



Sarah M. Ohs
Vice President of Government Relations
sohs@cdiaonline.org
(703) 965-5286

Consumer Data Industry Association
1090 Vermont Ave., NW, Suite 200
Washington, D.C. 20005-4905

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WWW.CDIAONLINE.ORG

Adam Bitter, General Counsel,
Office of the Secretary of State
P.O. Box 12887, Austin, Texas 78711-2887
generalcounsel@sos.texas.gov

RE: Proposed Rule, Office of the Secretary of State, New Chapter 106, Registration of Data Brokers

Dear General Bitter:

I write on the behalf of the Consumer Data Industry Association (CDIA), we are the voice of the consumer reporting industry, representing consumer reporting agencies including the nationwide credit bureaus, regional and specialized credit bureaus, background check 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, helping ensure fair and safe transactions for consumers, facilitating competition and expanding consumers' access to financial and other products suited to their unique needs.

CDIA appreciates the opportunity to comment upon the proposed rule by the Texas Office of the Secretary of State (SOS) to implement the data broker registration requirements in Senate Bill 2105 (SB 2105). On behalf of our members, who would be subject to this registry, we respectfully suggest the following comments.

Contact information for an individual

Section 106.2(b)(1), as proposed, would require the registrant to provide contact information for an individual.

(b) A registration statement or renewal application must comply with Business and Commerce Code §509.005, and also provide:

(1) For the individual submitting the registration statement or renewal application:

(A) The individual's legal name;

(B) The individual's telephone number;

(C) The individual's primary physical address;

- (D) The individual's mailing address; and*
- (E) The individual's e-mail address.*

We believe the requirement of the registrant to identify a specific individual at company is problematic, because it ties the registration to a specific employee who may choose to leave or take a different job within or outside of the company. As soon as an individual moves on it would make the registration invalid. Instead, it seems to make sense to require that a registrant must maintain consistent contact information annually in order for consumers to contact the entity.

Under Section 509.005, “(b) The registration statement must include: . . . (2) a contact person **and** the primary physical address, e-mail address, telephone number, and Internet website address **for the data broker**” (**emphasis added**). This language can be read to mean the contact information for the entity. In addition, the definitions of the proposed rule in §106.1. seem to apply that understanding as well, where it states that “(1) Primary physical address – The physical address at which the relevant individual **or entity** is available for contact” (**emphasis added**).

In order to align the regulation with the statute, we suggest that the proposed regulation should be revised to allow for the registrant to list either the individual or the data broker.

(1) For the ~~individual~~ data broker submitting the registration statement or renewal application:

- (A) ~~The individual's~~ A contact person and data broker's legal name;*
- (B) ~~The individual's~~ data broker's telephone number;*
- (C) ~~The individual's~~ data broker's primary physical address;*
- (D) ~~The individual's~~ data broker's mailing address; and*
- (E) ~~The individual's~~ data broker's e-mail address.*

Timing of the Notice Requirement

The Notice Requirements in Subchapter D (1 TAC §106.5) do not have separate effective dates from the proposed rule, so it would seem to take effect as soon as the final rule is issued. However, registrants will need a reasonable amount of time to make the changes required under the regulations to include the notice on the website or mobile application. In addition, the proposed notice directs the consumer to go to the website of the SOS to search for information on specific data brokers. This information will not exist on the SOS's website until data brokers register by March 1, 2024. For these reasons, the rule should require the data broker to post the notice only after the data broker has filed its initial registration with the SOS. Otherwise, the notice would send consumers to the website of the SOS where the broker has not yet registered. Therefore, section

106.5 of the regulation should only be in effect for a broker who has initially registered with the SOS.

§106.5. Notice Requirements.

A data broker that maintains an Internet website or mobile application that has submitted a completed registration statement to the secretary and is listed on the registry shall post a conspicuous notice on the website or mobile application that states:

(1) For websites:

Figure: 1 TAC §106.5(1)

(2) For mobile applications:

Figure: 1 TAC §106.5(2)

Content of the Notice Requirement

In addition, the proposed notice is unnecessarily lengthy and should be focused on information necessary under the statute. We would suggest that the SOS significantly shorten the length of the notice.

[Registrant name] is registered as a data broker under Texas law. More information is available on the website of the Secretary of State at [SOS website].

Thank you for consideration of our comments. I would be very happy to answer any questions that you might have.

Sincerely,



Sarah M. Ohs

Vice President of *Government Relations*