

BILL ANALYSIS

C.S.H.B. 1494
By: Solomons
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Rental-Purchase Agreements Act was enacted in 1985, at which time liability damage waivers were not offered in rental-purchase transactions. Thus, the Act does not specifically prohibit or permit the sale of such waivers. Many customers of goods subject to rental-purchase transactions do not have or are unable to obtain household or renters' insurance. As a matter of industry practice, liability damage waivers are sold for a small fee for rental property, including for rental cars, tuxedo rentals, and tool and equipment rentals. C.S.H.B. 1494 sets forth requirements relating to the use of loss damage waivers under rental-purchase agreements.

The Texas Rental-Purchase Agreements Act also applies a seven-day grace period to a rental agreement with a weekly term, and a fifteen-day grace period to a rental agreement with a monthly term. During the grace period, the renter incurs no additional charge for failing to make payments in accordance with the terms of the rental-purchase agreement. The renter must either pay the applicable rental fees or return the rented goods upon the expiration of the grace period. The seven and fifteen day grace periods are longer than the grace periods utilized in other states similar to Texas in population and commercial activity. For example, New York applies three and seven day grace periods, respectively, to the weekly and monthly agreements. California applies two and six day grace periods to the weekly and monthly agreements. Extended grace periods may encourage customers to fall behind in payments, resulting in defaults on the rental-purchase agreements and higher losses in the rental business industry. C.S.H.B. 1494 allows rental-purchase contracts to require the payment of charges or fees if payment is delinquent for more than seven days for monthly payments and if the payment is delinquent for more than three days for more frequent payments.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1494 amends the Business & Commerce Code to authorize a consumer to contract for a loss damage waiver, as part of a rental-purchase agreement. The bill specifies that a loss damage waiver is not insurance.

The bill prohibits a merchant from selling a loss damage waiver unless the consumer agrees in writing and prohibits a merchant from imposing or requiring the purchase of a loss damage waiver. The bill provides for exclusions in a loss damage waiver for damage caused by an unexplained disappearance or abandonment of merchandise, or any other damage that is intentionally caused or that results from wilful or wanton misconduct.

The bill provides that a loss damage waiver agreement must include a statement of the total charge for a loss damage waiver. The bill authorizes a merchant to charge a fee for a loss damage waiver that may not exceed 10 percent of the periodic rental payment. The bill provides that a contract offering a loss damage waiver must include a notice.

The bill allows a rental-purchase agreement to require the payment of a late charge or reinstatement fee, if a periodic payment is delinquent for more than seven days if the payment is due monthly, or is delinquent for more than three days if the payment is due more frequently than monthly.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1494 modifies the original by removing damage caused by moisture, scratches, or vandalism as an authorized exclusion from a loss damage waiver. The substitute adds that a merchant may charge for a fee for a loss damage waiver. The bill adds that a contract that offers a loss damage waiver must include a specific notice.