

BILL ANALYSIS

H.B. 2965
By: Seaman
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Insurance premium finance companies and insurance premium finance agreements are governed by Subtitle E, Title 5, Insurance Code. An “insurance premium finance company” is defined by Section 651.051, Insurance Code, as a person engaged in the business of making loans by entering into premium finance agreements with the insured or prospective insured or the business of acquiring premium finance agreements from insurance agents or brokers or from other insurance premium finance companies, or an insurance agent or broker making loans who holds premium finance agreements made and delivered by insureds that are payable to the agent or broker or to the agents’ or brokers’ order.

A “premium finance agreement” is an agreement by which an insured or prospective insured promises to pay an insurance premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent in payment of the premiums on an insurance contract.

Many larger premium finance companies securitize their receivables under premium finance agreements by selling them to a bank, trust, or some other form of special purpose vehicle. However, in all cases, the original premium finance company retains the obligation to service the premium finance agreements, such as disbursing loan proceeds, monthly billing, cancellation and collection. The financial entity which accepts the agreements performs no function which affects the insured. However, the current definition of an “insurance premium finance company” is so broad as to require a license from entities which merely accept premium finance agreements, but do not in any way service them or have any relationship with the insured.

Section 651.158, Insurance Code, authorizes an insured to prepay the balance due under an insurance premium finance agreement at any time before the maturity of the final installment of the balance on the agreement. When a prepayment is made, an insured may be entitled to a refund. The premium finance insurance company is required to refund any credit for prepayment which is \$1.00 or more, but it is not required to make any refund in an amount less than \$1.00. An analysis of the cost of issuing refund checks performed by one company indicates that its total cost for refunding all checks under \$5.00 issued in 2004 significantly exceeded the total amount of the refunds paid, and that more than 25% of the refund checks were never cashed at all.

The purpose of this bill is to eliminate the requirement that a person or entity who merely purchases or otherwise acquires a premium finance agreement from a licensee is not required to secure a license if the licensee retains the right and responsibility for servicing it as required by the Insurance Code. In addition, the bill increases the amount of the credit for prepayment of a premium finance agreement over which the insured is entitled to a refund from \$1.00 to \$5.00.

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

SECTION 1 - Amends Section 651.051, Insurance Code, to provide that a license is not required of a person licensed as an “insurance premium finance company” and is not required of a person

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who purchases or otherwise acquires a premium finance agreement if the licensed person from whom the premium finance agreement was acquired retains the rights to service the agreement.

SECTION 2 - Increases the amount under which an insured is not entitled to a refund credit upon prepayment of a premium finance agreement from one dollar to five dollars.

SECTION 3 - The effective date is immediate upon receipt of a two-thirds vote by both houses or September 1, 2005.

EFFECTIVE DATE

Upon passage, or if the Act does not receive the necessary number of votes, the Act takes effect September 1, 2005.