

## **BILL ANALYSIS**

C.S.S.B. 382

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Insurance

Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, credit insurance companies offer debtors insurance policies for the period of their loans for protection in the event they are not able to repay their loans due to death or disability. Section 1153.202 of the Texas Insurance Code governs the requirements for refunds of unearned credit insurance premiums.

The current statute is problematic because it states that credit insurance companies must promptly refund unearned premiums, yet it does not contain a notice provision requiring debtors to alert the credit insurance companies that a refund is owed. Thus, in many circumstances, these credit insurance companies do not know that debtors are entitled to a refund of unearned premiums. As a result, credit insurance companies have been and continue to be accused of wrongly withholding refunds, even when they do not know that an obligation to refund unearned premiums has arisen. Last year, the Texas Attorney General sued several credit insurance companies citing violations of the Texas Insurance Code and the Texas Deceptive Trade Practices Act and alleging that they failed to refund unearned insurance premiums.

C.S.S.B 382 requires that each individual policy or group policy include a written notice stating that if the underlying debt or insurance terminates before the originally scheduled termination date of the insurance, including the termination of a debt by renewing or refinancing a debt, then the debtor shall be entitled to a refund of unearned premium. The obligation of the insurer to refund any unearned premium requires a notice to be sent to the insurer by the person who is the holder of the underlying debt instrument as of the originally scheduled termination date, including the termination of a debt by renewing or refinancing of a debt, no later than 60 days after the termination date of the insurance. The notice must include the name and address of the insured and the payoff date of the underlying debt. On receipt of the notice required to be sent to the insurer, the insurer must promptly refund any amount of unearned premium paid by or charged to the debtor for insurance and such unearned premium shall be paid or credited promptly to the person entitled to the refund no later than 30 days after receipt of the notice required to be sent to the insurer. In any claim or action asserted by an insured against an insurer for failure to refund any unearned premium, the insurer shall be entitled to indemnity from a holder who failed to provide the required notice.

### **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 1153.202, Insurance Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2) as follows:

Requires that insurers include a written notice in each individual policy or group policy and group certificate which states that if the underlying debt or the insurance terminates before the originally scheduled termination date of the insurance, including the termination of a debt by renewing or refinancing the debt, the debtor shall be entitled to a refund of unearned premium.

Requires the person who is the holder of the underlying debt instrument as of the date on which the debt terminates, including the termination of a debt by renewing or refinancing the debt, to submit notice to the insurer that the underlying debt or the insurance has terminated before the originally scheduled termination date of insurance, including the termination of a debt by renewing or refinancing the debt. Such notice shall be submitted to the insurer no later than 60 days after the termination date of the insurance.

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Requires that the notice submitted to the insurer must include the name and address of the insured and the payoff date of the underlying debt.

Requires that the refund of any amount of unearned premium paid by or charged to the debtor for insurance shall be paid or credited promptly to the person entitled to the refund no later than 30 days after receipt of the notice required to be sent to the insurer.

Requires that in any claim or action asserted by an insured against an insurer for failure to refund any unearned premium in accordance with the appropriate section, the insurer shall be entitled to indemnity from the holder who failed to provide the required notice.

SECTION 2 states that this Act applies only to a credit life or credit accident and health insurance policy evidenced by an individual policy or group certificate of insurance that is delivered, issued for delivery, or renewed on or after January 1, 2008. A policy or certificate delivered, issued for delivery, or renewed before January 1, 2008, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3 states that this Act takes effect September 1, 2007.

### **EFFECTIVE DATE**

September 1, 2007.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.S.B. 382 makes several changes to the original bill. C.S.S.B. 382, in SECTION 1, adds “and (a-2)” after “Subsection (a-1)”. The original bill does not include Subsection (a-2). C.S.S.B. 382, in SECTION 1, replaces the word "expiration", as found in the original bill, with the word "termination" as now found in the substitute. Next, the committee substitute changes the language found in Section 1153.202(a)(1) of the original bill. Whereas the original bill state that "the debtor may be entitled to a refund of unearned premium; and", the substitute now states that "the debtor shall be entitled to a refund of unearned premium; and".

C.S.S.B. 382 also amends the language found in Section 1153.202(a)(2) of the original house bill. Whereas the original bill stated that "the obligation of the insurer to refund any unearned premium requires a notice: (A) to be sent to the insurer, by the person who is the holder of the underlying debt instrument as of the date on which the debt terminates, within 90 days after the original expiration date of the insurance; and (B) that includes the name of the insured and the policy number", the substitute provides that in the event that the underlying debt or the insurance terminates before the originally scheduled termination date of the insurance, including the termination of a debt by renewing or refinancing the debt, the person who is the holder of the underlying debt instrument on the date the debt terminates shall provide notice to the insurer no later than 60 days after the termination of the insurance, of the termination of the debt, that includes the name and address of the insured and the payoff date of the underlying debt.

Next, (a-1) is amended by the substitute. Whereas the original bill stated that "The refund of any amount of unearned premium paid by or charged to the debtor for insurance shall be paid or credited promptly to the person entitled to the refund on receipt of the notice required to be sent to the insurer under Subsection (a) (2)", the substitute states that " The refund of any amount of unearned premium paid by or charged to the debtor for insurance shall be paid or credited promptly to the person entitled to the refund no later than 30 days after receipt of the notice required to be sent to the insurer under Subsection (a) (2)".

The committee substitute also adds a subsection to the original bill, Subsection (a-2). This subsection states that in any claim or action asserted by an insured against an insurer for failure to refund any unearned premium in accordance with this section, the insurer shall be entitled to indemnity from a holder who failed to provide the notice required under Subsection (a) (2).