

BILL ANALYSIS

Senate Research Center

S.B. 1966
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, nationally chartered banks offer debt cancellation and suspension contracts, which are considered a part of the loan itself, not insurance. Because federal law authorizes nationally chartered banks to offer these services, under parity rules, Section 93.008 (Powers Relative to Other Financial Institutions), Finance Code, state commercial and savings banks have similar authority.

In 2003, the Texas Legislature authorized lenders under Chapter 342 (Consumer Loans), Finance Code, to offer a debt suspension agreement or debt cancellation agreement to customers. The Texas Finance Code is silent regarding allowing lenders under Chapter 348 (Motor Vehicle Installment Sales) to offer customers similar agreements.

S.B. 1966 amends current law relating to debt cancellation agreements offered in connection with motor vehicle retail installment contracts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 348.001, Finance Code, by adding Subdivision (1-a), to define "debt cancellation agreement."

SECTION 2. Amends Section 348.005, Finance Code, to provide that an amount in a retail installment contract is an itemized charge if the amount is not included in the cash price and is the amount of charges authorized for insurance, service contracts, warranties, or a debt cancellation agreement by Subchapter C (Insurance).

SECTION 3. Amends Subchapter B, Chapter 348, Finance Code, by adding Section 348.124, as follows:

Sec. 348.124. DEBT CANCELLATION AGREEMENTS. (a) Authorizes a retail seller, in connection with a retail installment transaction under this chapter, to offer to the retail buyer a debt cancellation agreement. Prohibits the retail seller from requiring that the purchase of a debt cancellation agreement by the retail buyer be made in order to enter into a retail installment transaction.

(b) Provides that a debt cancellation agreement is not considered an insurance product.

(c) Requires that the amount charged for a debt cancellation agreement made in connection with a retail installment contract be reasonable.

(d) Requires the retail seller, in addition to other disclosures required by state or federal law, to provide to the retail buyer a separate notice in connection with the retail installment contract stating that the retail buyer is not required to accept or provide a debt cancellation agreement in order to purchase the motor vehicle under a retail installment contract.

SECTION 4. Amends Sections 348.208(b) and (c), Finance Code, as follows:

(b) Authorizes a retail installment contract to include as a separate charge an amount for a debt cancellation agreement if the agreement is included as a term of a retail installment contract under Section 348.124. Makes a nonsubstantive change.

(c) Provides that, notwithstanding any other law, service contracts and debt cancellation agreements sold by a retail seller of a motor vehicle to a retail buyer are not subject to Chapter 101 (Unauthorized Insurance) or 226 (Unauthorized and Independently Procured Insurance Premium Tax), Insurance Code.

SECTION 5. Effective date: September 1, 2009.