

BILL ANALYSIS

C.S.H.B. 2816
By: Minjarez
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties point to the benefits that a depreciation benefit optional member program can provide consumers when attempting to defray replacement costs following a car accident. C.S.H.B. 2816 seeks to provide Texans an opportunity to obtain these benefits by including such a program among the service contracts to which the Service Contract Regulatory Act applies.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2816 amends the Occupations Code to make the Service Contract Regulatory Act applicable to a depreciation benefit optional member program, defined by the bill as a service contract financed under Finance Code provisions governing motor vehicle installment sales or commercial motor vehicle installment sales that pays to the buyer, as a credit toward the purchase of a replacement vehicle at a participating dealer, an amount less than or equal to the difference between the purchase price and actual cash value for a total constructive loss. The bill prohibits a service contract that provides compensation to the buyer of a vehicle on the total constructive loss under a depreciation benefit optional member program from being required as a condition of approval of a loan for the purchase of a vehicle and from being offered by a dealer who requires a loan for the purchase of a vehicle to be financed exclusively with the dealer. The bill authorizes such a service contract to be canceled by the buyer without penalty not later than the 30th day after a buyer enters into the contract and to be canceled by the buyer later than the 30th day after a buyer enters into the contract with a pro rata refund to be provided to the buyer. The bill limits the fees charged in such a service contract to a fee that is reasonable in relation to the benefit provided by the contract.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2816 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 1304.003(a), Occupations Code, is amended to read as follows:

(a) In this chapter:

(1) "Identity recovery" means a process, through a limited power of attorney and the assistance of an identity recovery expert, that returns the identity of an identity theft victim to pre-identity theft event status.

(2) "Service contract" means an agreement that is entered into for a separately stated consideration and for a specified term under which a provider agrees to:

(A) repair, replace, or maintain a product, or provide indemnification for the repair, replacement, or maintenance of a product, for operational or structural failure or damage caused by a defect in materials or workmanship or by normal wear; ~~[or]~~

(B) provide identity recovery, if the service contract is financed under Chapter 348 or 353, Finance Code; or

(C) provide compensation to the buyer of a vehicle on the total constructive loss under a depreciation benefit optional member program.

(3) "Depreciation benefit optional member program" means a service contract financed under Chapter 348 or 353, Finance Code, that pays to the buyer, as a credit toward the purchase of a replacement vehicle at a participating dealer, an amount less than or equal to the difference between the purchase price and actual cash value for a total constructive loss.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 1304.003, Occupations Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) In this chapter:

(1) "Identity recovery" means a process, through a limited power of attorney and the assistance of an identity recovery expert, that returns the identity of an identity theft victim to pre-identity theft event status.

(2) "Service contract" means an agreement that is entered into for a separately stated consideration and for a specified term under which a provider agrees to:

(A) repair, replace, or maintain a product, or provide indemnification for the repair, replacement, or maintenance of a product, for operational or structural failure or damage caused by a defect in materials or workmanship or by normal wear; ~~[or]~~

(B) provide identity recovery, if the service contract is financed under Chapter 348 or 353, Finance Code; or

(C) provide compensation to the buyer of a vehicle on the total constructive loss under a depreciation benefit optional member program.

(3) "Depreciation benefit optional member program" means a service contract financed under Chapter 348 or 353, Finance Code, that pays to the buyer, as a credit toward the purchase of a replacement vehicle at a participating dealer, an amount less than or equal to the difference between the purchase price and actual cash value for a total constructive loss.

(e) A service contract described by Subsection (a)(2)(C):

(1) may not be required as a condition of approval of a loan for the purchase of a vehicle;

(2) may not be offered by a dealer who requires a loan for the purchase of a vehicle to be financed exclusively with the dealer;

(3) may be canceled by the buyer not later than the 30th day after a buyer enters into the contract, without a penalty;

(4) may be canceled by the buyer later than the 30th day after a buyer enters into the contract, with a pro rata refund to be provided to the buyer; and

(5) may only charge a fee that is reasonable

in relation to the benefit provided by the service contract.

SECTION 2. The changes in law made by this Act apply only to a depreciation benefit optional member program service contract entered into or renewed on or after the effective date of this Act. A depreciation benefit optional member program service contract entered into or renewed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.