

By: Flynn

H.B. No. 1985

Substitute the following for H.B. No. 1985:

By: Holland

C.S.H.B. No. 1985

A BILL TO BE ENTITLED

AN ACT

relating to debt cancellation agreements offered in connection with certain retail installment contracts and leases for vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 345, Finance Code, is amended by adding Section 345.084 to read as follows:

Sec. 345.084. DEBT CANCELLATION AGREEMENT. A debt cancellation agreement under Chapter 354 may be offered in connection with a retail installment contract for a covered vehicle to which this chapter applies. For purposes of this section, "covered vehicle" has the meaning assigned by Section 354.001.

SECTION 2. Section 348.124(a), Finance Code, is amended to read as follows:

(a) In connection with a retail installment transaction under this chapter, a retail seller may offer to the retail buyer a debt cancellation agreement, including a guaranteed asset protection waiver or similarly named agreement. If the retail installment transaction requires insurance coverage as part of the retail buyer's responsibility to the holder, the debt cancellation agreement, guaranteed asset protection waiver, or similarly named agreement must be offered under Chapter 354. The retail seller may not require that the purchase of a debt cancellation agreement by the retail buyer be made in order to enter into a retail installment transaction.

1 SECTION 3. Subchapter G, Chapter 348, Finance Code, is
2 redesignated as Chapter 354, Finance Code, and amended to read as
3 follows:

4 CHAPTER 354 [~~SUBCHAPTER G~~]. [~~CERTAIN~~] DEBT CANCELLATION AGREEMENTS
5 FOR CERTAIN RETAIL VEHICLE INSTALLMENT SALES

6 Sec. 354.001. DEFINITIONS. In this chapter:

7 (1) "Contract" means a retail installment contract
8 made under Chapter 345 or 348.

9 (2) "Covered vehicle" includes a self-propelled or
10 towed vehicle designed for personal use, including an automobile,
11 truck, motorcycle, recreational vehicle, all-terrain vehicle,
12 snowmobile, camper, boat, personal watercraft, and personal
13 watercraft trailer.

14 (3) "Debt cancellation agreement" means a contract
15 term or a contractual arrangement modifying a contract term under
16 which a retail seller or holder agrees to cancel all or part of an
17 obligation of the retail buyer to repay an extension of credit from
18 the retail seller or holder on the occurrence of the total loss or
19 theft of the covered vehicle that is the subject of the contract but
20 does not include an offer to pay a specified amount on the total
21 loss or theft of the covered vehicle.

22 (4) "Holder" means a person who is:

23 (A) a retail seller; or

24 (B) the assignee or transferee of a contract.

25 (5) "Retail buyer" means a person who purchases or
26 agrees to purchase a covered vehicle from a retail seller in a
27 retail installment transaction.

1 (6) "Retail seller" means a person in the business of
2 selling covered vehicles to retail buyers in retail installment
3 transactions.

4 Sec. 354.002 [~~348.601~~]. LIMITATION ON CERTAIN DEBT
5 CANCELLATION AGREEMENTS. (a) This chapter [~~subchapter~~] applies
6 only to a debt cancellation agreement that includes insurance
7 coverage as part of the retail buyer's responsibility to the
8 holder.

9 (b) The amount charged for a debt cancellation agreement
10 made in connection with a [~~retail installment~~] contract may not
11 exceed five percent of the amount financed pursuant to the [~~retail~~
12 ~~installment~~] contract. Section 348.124(c) does not apply to a debt
13 cancellation agreement regulated under this chapter [~~subchapter~~].

14 (c) The debt cancellation agreement becomes a part of or a
15 separate addendum to the [~~retail installment~~] contract and remains
16 a term of the [~~retail installment~~] contract on the assignment,
17 sale, or transfer by the holder.

18 Sec. 354.003 [~~348.602~~]. DEBT CANCELLATION AGREEMENTS
19 EXCLUSION LANGUAGE. (a) In addition to the provisions required by
20 Section 354.004 [~~348.603~~], a debt cancellation agreement must fully
21 disclose all provisions permitting the exclusion of loss or damage
22 including, if applicable:

23 (1) an act occurring after the original maturity date
24 or date of the holder's acceleration of the [~~retail installment~~]
25 contract;

26 (2) any dishonest, fraudulent, illegal, or
27 intentional act of any authorized driver that directly results in

- 1 the total loss of the covered [~~motor~~] vehicle;
- 2 (3) any act of gross negligence by an authorized
3 driver that directly results in the total loss of the covered
4 [~~motor~~] vehicle;
- 5 (4) conversion, embezzlement, or concealment by any
6 person in lawful possession of the covered [~~motor~~] vehicle;
- 7 (5) lawful confiscation by an authorized public
8 official;
- 9 (6) the operation, use, or maintenance of the covered
10 [~~motor~~] vehicle in any race or speed contest;
- 11 (7) war, whether or not declared, invasion,
12 insurrection, rebellion, revolution, or an act of terrorism;
- 13 (8) normal wear and tear, freezing, or mechanical or
14 electrical breakdown or failure;
- 15 (9) use of the covered [~~motor~~] vehicle for primarily
16 commercial purposes;
- 17 (10) damage that occurs after the covered [~~motor~~]
18 vehicle has been repossessed;
- 19 (11) damage to the covered [~~motor~~] vehicle before the
20 purchase of the debt cancellation agreement;
- 21 (12) unpaid insurance premiums and salvage, towing,
22 and storage charges relating to the covered [~~motor~~] vehicle;
- 23 (13) damage related to any personal property attached
24 to or within the covered [~~motor~~] vehicle;
- 25 (14) damages associated with falsification of
26 documents by any person not associated with the retail seller or
27 other person canceling the retail buyer's obligation;

1 (15) any unpaid debt resulting from exclusions in the
2 retail buyer's primary physical damage coverage not included in the
3 debt cancellation agreement;

4 (16) abandonment of the covered [~~motor~~] vehicle by the
5 retail buyer only if the retail buyer voluntarily discards, leaves
6 behind, or otherwise relinquishes possession of the covered [~~motor~~]
7 vehicle to the extent that the relinquishment shows intent to
8 forsake and desert the covered [~~motor~~] vehicle so that the covered
9 [~~motor~~] vehicle may be appropriated by any other person;

10 (17) any amounts deducted from the primary insurance
11 carrier's settlement due to prior damages; and

12 (18) any loss occurring outside the United States or
13 outside the United States and Canada.

14 (b) An exclusion of loss or damage not listed in Subsection
15 (a) may be included in a debt cancellation agreement only if the
16 exclusion is disclosed in plain, easy to read language.

17 Sec. 354.004 [~~348.603~~]. REQUIRED DEBT CANCELLATION
18 AGREEMENT LANGUAGE. A debt cancellation agreement must state:

19 (1) the contact information of the retail seller, the
20 holder, and any administrator of the agreement;

21 (2) the name and address of the retail buyer;

22 (3) the cost and term of the debt cancellation
23 agreement;

24 (4) the procedure the retail buyer must follow to
25 obtain benefits under the terms of the debt cancellation agreement,
26 including a telephone number and address where the retail buyer may
27 provide notice under the debt cancellation agreement;

1 (5) the period during which the retail buyer is
2 required to notify the retail seller, the holder, or any
3 administrator of the agreement, of any potential loss under the
4 debt cancellation agreement for total loss or theft of the covered
5 ~~[motor]~~ vehicle;

6 (6) that in order to make a claim, the retail buyer
7 must provide or complete some or all of the following documents and
8 provide those documents to the retail seller, the holder, or any
9 administrator of the agreement:

10 (A) a debt cancellation request form;

11 (B) proof of loss and settlement payment from the
12 retail buyer's primary comprehensive, collision, or uninsured or
13 underinsured motorist policy or other parties' liability insurance
14 policy for the settlement of the insured total loss of the covered
15 ~~[motor]~~ vehicle;

16 (C) verification of the retail buyer's primary
17 insurance deductible;

18 (D) a copy of any police report filed in
19 connection with the total loss or theft of the covered ~~[motor]~~
20 vehicle; and

21 (E) a copy of the damage estimate;

22 (7) that documentation not described by Subdivision
23 (6) may be ~~[or]~~ required by the retail seller, the holder, or any
24 administrator of the agreement ~~[is not required]~~ to substantiate
25 the loss or determine the amount of debt to be canceled;

26 (8) that notwithstanding the collection of the
27 documents under Subdivision (6), on reasonable advance notice the

1 retail seller, the holder, or any administrator of the agreement
2 may inspect the retail buyer's covered [~~motor~~] vehicle;

3 (9) that the retail seller or holder will cancel all or
4 part of the retail buyer's obligation as provided in the debt
5 cancellation agreement on the occurrence of total loss or theft of
6 the covered [~~motor~~] vehicle;

7 (10) the method to be used to calculate refunds;

8 (11) the method for calculating the amount to be
9 canceled under the debt cancellation agreement on the occurrence of
10 total loss or theft of a covered [~~motor~~] vehicle;

11 (12) that purchase of a debt cancellation agreement is
12 not required for the retail buyer to obtain an extension of credit
13 and will not be a factor in the credit approval process;

14 (13) that in order to cancel the debt cancellation
15 agreement and receive a refund, the retail buyer must provide a
16 written request to cancel to the retail seller, the holder, or any
17 administrator of the agreement;

18 (14) that if total loss or theft of the covered [~~motor~~]
19 vehicle has not occurred, the retail buyer has 30 days from the date
20 of the [~~retail installment~~] contract or the issuance of the debt
21 cancellation agreement, whichever is later, or a longer period as
22 provided under the debt cancellation agreement, to cancel the debt
23 cancellation agreement and receive a full refund;

24 (15) that the retail buyer may file a complaint with
25 the commissioner, and include the address, phone number, and
26 Internet website of the Office of Consumer Credit Commissioner; and

27 (16) that the holder will cancel certain amounts under

1 the debt cancellation agreement for total loss or theft of a covered
2 [~~motor~~] vehicle, in the following or substantially similar
3 language: "YOU WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS
4 CONTRACT IN THE CASE OF A TOTAL LOSS OR THEFT OF THE COVERED VEHICLE
5 AS STATED IN THE DEBT CANCELLATION AGREEMENT."

6 Sec. 354.005 [~~348.604~~]. APPROVAL OF FORMS FOR DEBT
7 CANCELLATION AGREEMENTS. (a) Debt cancellation agreement forms
8 must be submitted to the commissioner for approval. Debt
9 cancellation agreement forms may include additional language to
10 supplement the terms of the debt cancellation agreement as required
11 by this chapter [~~subchapter~~].

12 (b) If a debt cancellation agreement form is provided to the
13 commissioner for approval, the commissioner has 45 days to approve
14 the form or deny approval of the form. If after the 45th day the
15 commissioner does not deny the form, the form is considered
16 approved.

17 (c) If the debt cancellation agreement form is approved by
18 the commissioner or considered approved as provided by Subsection
19 (b), the terms of the debt cancellation agreement are considered to
20 be in compliance with this chapter [~~subchapter~~].

21 (d) The commissioner may deny approval of a form only if the
22 form excludes the language required by Sections 354.003 [~~348.602~~]
23 and 354.004 [~~348.603~~] or contains any inconsistent or misleading
24 provisions. All form denials may be appealed to the finance
25 commission.

26 (e) If after approval of a form the Office of Consumer
27 Credit Commissioner discovers that approval could have been denied

1 under Subsection (d), the commissioner may order a retail seller,
2 any administrator of the debt cancellation agreement, or a holder
3 to submit a corrected form for approval. Beginning as soon as
4 reasonably practicable after approval of the corrected form, the
5 retail seller, administrator, or holder shall use the corrected
6 form for all sales.

7 (f) A debt cancellation agreement form that has been
8 approved by the commissioner is public information subject to
9 disclosure under Chapter 552, Government Code. Section 552.110,
10 Government Code, does not apply to a form approved under this
11 chapter [~~subchapter~~].

12 Sec. 354.006 [~~348.605~~]. ADDITIONAL REQUIREMENTS FOR DEBT
13 CANCELLATION AGREEMENTS. (a) If a retail buyer purchases a debt
14 cancellation agreement, the retail seller must provide to the
15 retail buyer a true and correct copy of the agreement not later than
16 the 10th day after the date of the [~~retail installment~~] contract.

17 (b) A holder must comply with the terms of a debt
18 cancellation agreement not later than the 60th day after the date of
19 receipt of all necessary information required by the holder or
20 administrator of the agreement to process the request.

21 (c) A debt cancellation agreement may not knowingly be
22 offered by a retail seller if:

23 (1) the [~~retail installment~~] contract is already
24 protected by gap insurance; or

25 (2) the purchase of the debt cancellation agreement is
26 required for the retail buyer to obtain the extension of credit.

27 (d) This section does not apply to a debt cancellation

1 agreement offered in connection with the purchase of a commercial
2 vehicle.

3 (e) The sale of a debt cancellation agreement must be for a
4 single payment.

5 (f) A holder that offers a debt cancellation agreement must
6 report the sale of and forward money received on all such agreements
7 to any designated party as prescribed in any applicable
8 administrative services agreement, contractual liability policy,
9 other insurance policy, or other specified program documents.

10 (g) Money received or held by a holder or any administrator
11 of a debt cancellation agreement and belonging to an insurance
12 company, holder, or administrator under the terms of a written
13 agreement must be held by the holder or administrator in a fiduciary
14 capacity.

15 (h) A retail seller that negotiates a debt cancellation
16 agreement and subsequently assigns the contract shall:

17 (1) maintain documents or data relating to the
18 agreement that come into the retail seller's possession; and

19 (2) on request of the Office of Consumer Credit
20 Commissioner, cooperate in requesting and obtaining access to
21 documents or data relating to the agreement not in the retail
22 seller's possession.

23 Sec. 354.007 [~~348.606~~]. REFUND FOR DEBT CANCELLATION
24 AGREEMENTS. (a) A refund or credit of the debt cancellation
25 agreement fee must be based on the earliest date of:

26 (1) the prepayment of the [~~retail installment~~]
27 contract in full before the original maturity date;

1 (2) a demand by the holder for payment in full of the
2 unpaid balance or acceleration;

3 (3) a request by the retail buyer for cancellation of
4 the debt cancellation agreement; or

5 (4) the total denial of a debt cancellation request
6 based on one of the exclusions listed in Section 354.003 [~~348.602~~],
7 except in the case of a partial loss of the covered [~~motor~~] vehicle.

8 (b) The refund or credit for the debt cancellation agreement
9 can be rounded to the nearest whole dollar. A refund or credit is
10 not required if the amount of the refund or credit calculated is
11 less than \$5.

12 (c) If total loss or theft has not occurred, the retail
13 buyer may cancel the debt cancellation agreement not later than the
14 30th day after the date of the [~~retail installment~~] contract or the
15 issuance of the debt cancellation agreement, whichever is later, or
16 a later date as provided under the debt cancellation agreement. On
17 cancellation, the holder or any administrator of the agreement
18 shall refund or credit the entire debt cancellation agreement fee.
19 A retail buyer may not cancel the debt cancellation agreement and
20 subsequently receive any benefits under the agreement.

21 (d) A holder may in good faith rely on a computation by any
22 administrator of the agreement of the balance waived, unless the
23 holder has knowledge that the computation is not correct. If a
24 computation by the administrator of the balance waived is not
25 correct, the holder must within a reasonable time of learning that
26 the computation is incorrect make the necessary corrections or
27 cause the corrections to be made to the retail buyer's account.

1 This subsection does not prevent the holder from obtaining
2 reimbursement from the administrator or another responsible for the
3 debt cancellation agreement or computation.

4 (e) If the debt cancellation agreement terminates due to the
5 early termination of the contract, the holder shall, not later than
6 the 60th day after the date the debt cancellation agreement
7 terminates:

8 (1) refund or credit an appropriate amount of the debt
9 cancellation agreement fee; or

10 (2) cause to be refunded or credited an appropriate
11 amount of the debt cancellation agreement fee by providing written
12 instruction to the appropriate person.

13 (f) The holder shall maintain records of any refund or
14 credit of an amount of a debt cancellation agreement fee made under
15 Subsection (e) and provide electronic access to those records until
16 the later of the fourth anniversary of the date of the contract or
17 the second anniversary of the date of the refund or credit.

18 SECTION 4. Title 5, Finance Code, is amended by adding
19 Chapter 397 to read as follows:

20 CHAPTER 397. DEBT CANCELLATION AGREEMENTS FOR CERTAIN VEHICLE

21 LEASES

22 Sec. 397.001. DEFINITIONS. In this chapter:

23 (1) "Covered vehicle" includes a self-propelled or
24 towed vehicle designed for personal use, including an automobile,
25 truck, motorcycle, recreational vehicle, all-terrain vehicle,
26 snowmobile, camper, boat, personal watercraft, and personal
27 watercraft trailer.

1 (2) "Debt cancellation agreement" means a lease term
2 or a contractual arrangement modifying a lease term under which a
3 lessor or holder agrees to cancel all or part of an obligation of
4 the lessee to pay the lessor or holder on the occurrence of the
5 total loss or theft of the covered vehicle that is the subject of
6 the lease but does not include an offer to pay a specified amount on
7 the total loss or theft of the covered vehicle.

8 (3) "Holder" means a person who is:

9 (A) a lessor; or

10 (B) the assignee or transferee of a lease.

11 (4) "Lease" means a lease for a covered vehicle.

12 Sec. 397.002. APPLICABILITY. This chapter does not apply
13 to a lease that is a retail installment transaction under Section
14 345.068 or 348.002.

15 Sec. 397.003. RELATIONSHIP TO INSURANCE. A debt
16 cancellation agreement to which this chapter applies is not
17 insurance.

18 Sec. 397.004. LIMITATION ON CERTAIN DEBT CANCELLATION
19 AGREEMENTS. (a) This chapter applies only to a debt cancellation
20 agreement, including a gap waiver agreement or other similarly
21 named agreement, that includes insurance coverage as part of the
22 lessee's responsibility to the holder.

23 (b) The amount charged for a debt cancellation agreement
24 made in connection with a lease may not exceed five percent of the
25 amount financed pursuant to the lease.

26 (c) The debt cancellation agreement becomes a part of or a
27 separate addendum to the lease and remains a term of the lease on

1 the assignment, sale, or transfer by the holder.

2 Sec. 397.005. DEBT CANCELLATION AGREEMENTS EXCLUSION
3 LANGUAGE. (a) In addition to the provisions required by Section
4 397.006, a debt cancellation agreement must fully disclose all
5 provisions permitting the exclusion of loss or damage including, if
6 applicable:

7 (1) an act occurring after the original maturity date
8 or date of the holder's acceleration of the lease;

9 (2) any dishonest, fraudulent, illegal, or
10 intentional act of any authorized driver that directly results in
11 the total loss of the covered vehicle;

12 (3) any act of gross negligence by an authorized
13 driver that directly results in the total loss of the covered
14 vehicle;

15 (4) conversion, embezzlement, or concealment by any
16 person in lawful possession of the covered vehicle;

17 (5) lawful confiscation by an authorized public
18 official;

19 (6) the operation, use, or maintenance of the covered
20 vehicle in any race or speed contest;

21 (7) war, whether or not declared, invasion,
22 insurrection, rebellion, revolution, or an act of terrorism;

23 (8) normal wear and tear, freezing, or mechanical or
24 electrical breakdown or failure;

25 (9) use of the covered vehicle for primarily
26 commercial purposes;

27 (10) damage that occurs after the covered vehicle has

1 been repossessed;

2 (11) damage to the covered vehicle before the purchase
3 of the debt cancellation agreement;

4 (12) unpaid insurance premiums and salvage, towing,
5 and storage charges relating to the covered vehicle;

6 (13) damage related to any personal property attached
7 to or within the covered vehicle;

8 (14) damages associated with falsification of
9 documents by any person not associated with the lessor or other
10 person canceling the lessee's obligation;

11 (15) any unpaid debt resulting from exclusions in the
12 lessee's primary physical damage coverage not included in the debt
13 cancellation agreement;

14 (16) abandonment of the covered vehicle by the lessee
15 only if the lessee voluntarily discards, leaves behind, or
16 otherwise relinquishes possession of the covered vehicle to the
17 extent that the relinquishment shows intent to forsake and desert
18 the covered vehicle so that the covered vehicle may be appropriated
19 by any other person;

20 (17) any amounts deducted from the primary insurance
21 carrier's settlement due to prior damages; and

22 (18) any loss occurring outside the United States or
23 outside the United States and Canada.

24 (b) An exclusion of loss or damage not listed in Subsection
25 (a) may be included in a debt cancellation agreement only if the
26 exclusion is disclosed in plain, easy to read language.

27 Sec. 397.006. REQUIRED DEBT CANCELLATION AGREEMENT

1 LANGUAGE. A debt cancellation agreement must state:

2 (1) the contact information of the lessor, the holder,
3 and any administrator of the agreement;

4 (2) the name and address of the lessee;

5 (3) the cost and term of the debt cancellation
6 agreement;

7 (4) the procedure the lessee must follow to obtain
8 benefits under the terms of the debt cancellation agreement,
9 including a telephone number and address where the lessee may
10 provide notice under the debt cancellation agreement;

11 (5) the period during which the lessee is required to
12 notify the lessor, the holder, or any administrator of the
13 agreement, of any potential loss under the debt cancellation
14 agreement for total loss or theft of the covered vehicle;

15 (6) that in order to make a claim, the lessee must
16 provide or complete some or all of the following documents and
17 provide those documents to the lessor, the holder, or any
18 administrator of the agreement:

19 (A) a debt cancellation request form;

20 (B) proof of loss and settlement payment from the
21 lessee's primary comprehensive, collision, or uninsured or
22 underinsured motorist policy or other parties' liability insurance
23 policy for the settlement of the insured total loss of the covered
24 vehicle;

25 (C) verification of the lessee's primary
26 insurance deductible;

27 (D) a copy of any police report filed in

1 connection with the total loss or theft of the covered vehicle; and

2 (E) a copy of the damage estimate;

3 (7) that documentation not described by Subdivision
4 (6) may be required by the lessor, the holder, or any administrator
5 of the agreement to substantiate the loss or determine the amount of
6 debt to be canceled;

7 (8) that notwithstanding the collection of the
8 documents under Subdivision (6), on reasonable advance notice the
9 lessor, the holder, or any administrator of the agreement may
10 inspect the lessee's covered vehicle;

11 (9) that the lessor or holder will cancel all or part
12 of the lessee's obligation as provided in the debt cancellation
13 agreement on the occurrence of total loss or theft of the covered
14 vehicle;

15 (10) the method to be used to calculate refunds;

16 (11) the method for calculating the amount to be
17 canceled under the debt cancellation agreement on the occurrence of
18 total loss or theft of a covered vehicle;

19 (12) that purchase of a debt cancellation agreement is
20 not required for the lessee to obtain an extension of credit and
21 will not be a factor in the credit approval process;

22 (13) that in order to cancel the debt cancellation
23 agreement and receive a refund, the lessee must provide a written
24 request to cancel to the lessor, the holder, or any administrator of
25 the agreement;

26 (14) that if total loss or theft of the covered vehicle
27 has not occurred, the lessee has 30 days from the date of the lease

1 or the issuance of the debt cancellation agreement, whichever is
2 later, or a longer period as provided under the debt cancellation
3 agreement, to cancel the debt cancellation agreement and receive a
4 full refund; and

5 (15) that the lessor will cancel certain amounts under
6 the debt cancellation agreement for total loss or theft of a covered
7 vehicle, in the following or substantially similar language: "YOU
8 WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS LEASE IN THE CASE OF A
9 TOTAL LOSS OR THEFT OF THE COVERED VEHICLE AS STATED IN THE DEBT
10 CANCELLATION AGREEMENT."

11 Sec. 397.007. ADDITIONAL REQUIREMENTS FOR DEBT
12 CANCELLATION AGREEMENTS. (a) If a lessee purchases a debt
13 cancellation agreement, the lessor must provide to the lessee a
14 true and correct copy of the agreement not later than the 10th day
15 after the date of the lease.

16 (b) A holder must comply with the terms of a debt
17 cancellation agreement not later than the 60th day after the date of
18 receipt of all necessary information required by the holder or
19 administrator of the agreement to process the request.

20 (c) A debt cancellation agreement may not knowingly be
21 offered by a lessor if:

22 (1) the lease is already protected by gap insurance;
23 or

24 (2) the purchase of the debt cancellation agreement is
25 required for the lessee to obtain the extension of credit.

26 (d) This section does not apply to a debt cancellation
27 agreement offered in connection with the lease of a commercial

1 vehicle.

2 (e) The sale of a debt cancellation agreement must be for a
3 single payment.

4 (f) A holder that offers a debt cancellation agreement must
5 report the sale of and forward money received on all such agreements
6 to any designated party as prescribed in any applicable
7 administrative services agreement, contractual liability policy,
8 other insurance policy, or other specified program documents.

9 (g) Money received or held by a holder or any administrator
10 of a debt cancellation agreement and belonging to an insurance
11 company, holder, or administrator under the terms of a written
12 agreement must be held by the holder or administrator in a fiduciary
13 capacity.

14 (h) A lessor that negotiates a debt cancellation agreement
15 and subsequently assigns the lease shall maintain documents or data
16 relating to the agreement that come into the lessor's possession.

17 Sec. 397.008. REFUND FOR DEBT CANCELLATION AGREEMENTS. (a)
18 A refund or credit of the debt cancellation agreement fee must be
19 based on the earliest date of:

20 (1) the prepayment of the lease in full before the
21 original maturity date;

22 (2) a demand by the holder for payment in full of the
23 unpaid balance or acceleration;

24 (3) a request by the lessee for cancellation of the
25 debt cancellation agreement; or

26 (4) the total denial of a debt cancellation request
27 based on one of the exclusions listed in Section 397.005, except in

1 the case of a partial loss of the covered vehicle.

2 (b) The refund or credit for the debt cancellation agreement
3 can be rounded to the nearest whole dollar. A refund or credit is
4 not required if the amount of the refund or credit calculated is
5 less than \$5.

6 (c) If total loss or theft has not occurred, the lessee may
7 cancel the debt cancellation agreement not later than the 30th day
8 after the date of the lease or the issuance of the debt cancellation
9 agreement, whichever is later, or a later date as provided under the
10 debt cancellation agreement. On cancellation, the holder or any
11 administrator of the agreement shall refund or credit the entire
12 debt cancellation agreement fee. A lessee may not cancel the debt
13 cancellation agreement and subsequently receive any benefits under
14 the agreement.

15 (d) A holder may in good faith rely on a computation by any
16 administrator of the agreement of the balance waived, unless the
17 holder has knowledge that the computation is not correct. If a
18 computation by the administrator of the balance waived is not
19 correct, the holder must within a reasonable time of learning that
20 the computation is incorrect make the necessary corrections or
21 cause the corrections to be made to the lessee's account. This
22 subsection does not prevent the holder from obtaining reimbursement
23 from the administrator or another responsible for the debt
24 cancellation agreement or computation.

25 (e) If the debt cancellation agreement terminates due to the
26 early termination of the lease, the holder shall, not later than the
27 60th day after the date the debt cancellation agreement terminates:

1 (1) refund or credit an appropriate amount of the debt
2 cancellation agreement fee; or

3 (2) cause to be refunded or credited an appropriate
4 amount of the debt cancellation agreement fee by providing written
5 instruction to the appropriate person.

6 (f) The holder shall maintain records of any refund or
7 credit of an amount of a debt cancellation agreement fee made under
8 Subsection (e) and provide electronic access to those records until
9 the later of the fourth anniversary of the date of the lease or the
10 second anniversary of the date of the refund or credit.

11 Sec. 397.009. REMEDY. If the attorney general reasonably
12 believes that a person is violating or is about to violate this
13 chapter, the attorney general may bring an action in the name of
14 this state against the person to restrain or enjoin the person from
15 violating this chapter.

16 SECTION 5. This Act takes effect September 1, 2017.