

BILL ANALYSIS

C.S.H.B. 4277
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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Credit unions across the state have raised concerns regarding regulatory requirements that result in the credit union's oversight of another industry's duties with respect to refunds and credit provided under terminated debt cancellation agreements. There have been calls to clarify which party to these agreements is responsible for making a refund and which should provide written notice in the event a debt cancellation agreement terminates early. C.S.H.B. 4277 seeks to address this issue by clarifying certain matters regarding the refunds and credit.

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. 4277 amends the Finance Code to revise procedures with respect to the refund process for a debt cancellation agreement for certain retail vehicle installment sales on the termination of the agreement due to the early termination of the contract by doing the following:

- clarifying that a retail seller who has not assigned or transferred an applicable retail installment contract is required to cause to be refunded or credited an appropriate amount of the agreement fee by providing written instruction not later than the 30th day after the termination date, including by electronic means, to the administrator of the agreement; and
- requiring any other holder to cause to be refunded or credited the same amount by the same method to the administrator of the agreement or retail seller.

C.S.H.B. 4277 conditions the requirement for the administrator of the agreement or retail seller to ensure that a refund or credit is made by not later than the 60th day after the termination date on the administrator or seller receiving the written instructions. The bill replaces the requirement for a retail seller or applicable assignee or transferee to maintain and provide access to records of any refund or credit of an amount of the fee with a requirement for the administrator of the agreement or retail seller that effectuated the refund to maintain and provide such access.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4277 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a specification absent from the original that the retail seller required to cause to be refunded or credited the fee is a retail seller who has not assigned or transferred the contract. The substitute includes a requirement absent from the original for the written instructions to be provided not later than the 30th day after the termination.

The original required a holder other than a retail seller, on the early termination of the agreement, to refund or credit the fee, or cause the fee to be refunded or credited, not later than the 30th day after the early termination date, whereas the substitute requires a holder who is not a retail seller who has not assigned or transferred the contract to refund or credit the fee not later than the 60th day after the termination date.

The original required the administrator of the agreement or retail seller to ensure that a refund or credit is made not later than the 60th day after the early termination date, whereas the substitute conditions that requirement on the administrator or seller receiving the requisite written instructions.

Whereas the original replaced the requirement for a retail seller or applicable assignee or transferee to maintain and provide access to records of any refund or credit of an amount of the fee with a requirement for the administrator of the agreement or retail seller to do so, the substitute instead replaces that requirement with a requirement for the administrator of the agreement or retail seller that effectuated the refund to maintain and provide access to records of any refund or credit of an amount of the fee.