

BILL ANALYSIS

Senate Research Center
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H.B. 2746
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires auto lenders to ensure that fee refunds associated with the early termination of a debt cancellation agreement are made by a third party over which the auto lenders have no control or oversight. Clarification is needed in the law with respect to each applicable party's obligations regarding such refunds.

H.B. 2746 corrects the inequitable burden placed on auto lenders by requiring the debt cancellation agreement administrator or the administrator and the retail seller to timely refund debt cancellation agreement fees following the early termination of the contract and upon receiving written instruction in proportion to the amount received by the administrator and retail seller.

H.B. 2746 amends current law relating to requirements related to refunds and credit provided under terminated debt cancellation agreements.

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 354.007, Finance Code, by amending Subsections (e), (f), and (g) and adding Subsection (e-1), as follows:

(e) Requires a holder who is a retail seller who has not assigned or transferred the contract, if the debt cancellation agreement terminates due to the early termination of the contract, to:

(1) creates this subdivision from existing text; or

(2) cause to be refunded or credited an appropriate amount of the debt cancellation agreement fee by providing written instruction not later than the 30th day after the date the debt cancellation agreement terminates, including by electronic means, to the administrator of the agreement, rather than to the appropriate person.

(e-1) Requires a holder, other than a holder described by Subsection (e), if the debt cancellation agreement terminates due to the early termination of the contract, to:

(1) not later than the 60th day after the date the debt cancellation agreement terminates refund or credit an appropriate amount of the debt cancellation agreement fee; or

(2) cause to be refunded or credited an appropriate amount of the debt cancellation agreement fee by providing written instruction not later than the 30th day after the date the debt cancellation agreement terminates, including by electronic means, to the administrator of the agreement and the retail seller.

(f) Requires the administrator of the agreement or the administrator of the agreement and the retail seller, as applicable, not later than the 30th day after receiving the written instructions specified under Subsection (e)(2) or (e-1)(2), to provide a refund or credit of an amount of a debt cancellation agreement fee proportional to the amount received by the administrator and retail seller under the agreement. Deletes existing text requiring the holder to ensure that a refund or credit of an amount of a debt cancellation agreement fee made by another person under Subsection (e)(2) is made not later than the 60th day after the date the debt cancellation agreement terminates.

(g) Requires the administrator of the agreement and the retail seller, rather than the holder, to maintain records of any refund or credit of an amount of a debt cancellation agreement fee made under Subsection (e) or (e-1) and provide electronic access to those records until the later of the fourth anniversary of the date of the contract or the second anniversary of the date of the refund or credit.

SECTION 2. Provides that the changes in law made by this Act to Section 354.007 (Refund for Debt Cancellation Agreements), Finance Code, are procedural only and do not require the refiling of forms to implement.

SECTION 3. Effective date: September 1, 2023.