

SUBJECT: Increasing late charges under a rental-purchase agreement

COMMITTEE: Financial Institutions — favorable, without amendment

VOTE: 5 ayes — Solomons, McCall, Flynn, Guillen, Orr
0 nays
2 absent — Chavez, Riddle

SENATE VOTE: On final passage, April 7 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 1726:*)
For — Mamie Salazar-Harper, Texas Association of Rental Agencies;
(*Registered, but did not testify:* Kelly Sayre, Texas Association of Rental Agencies)
Against — None

BACKGROUND: Regulations governing the rental-purchase industry were implemented in 1985. The rental-purchase industry rents furniture, appliances, electronics, and other merchandise to customers and permits the customer to purchase the merchandise according to agreed upon terms.

DIGEST: SB 709 would increase the maximum permissible late fee or reinstatement charge in a rental-purchase agreement to the lesser of 10 percent of the delinquent payment or \$10. The minimum payment would be increased from \$2 to \$5.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005. It would only pertain to rental-purchase agreements entered into on or after the effective date.

SUPPORTERS SAY: Because rental companies do not report delinquent payers to credit agencies, late charges and reinstatement fees are the only deterrent to late payment. The rental-purchase industry has changed tremendously over the past 20 years, and the overall value of rental merchandise and average

payments have doubled. The industry has evolved from renting low-end appliances to renting high-end appliances, furniture, state-of-the-art electronics, and heavy equipment. Current late payment penalties do not account for the increase in the value of rental-purchase items.

The industry has not had a fee increase in 20 years, and the increase in fees proposed in SB 709 would update fees to reflect the rate of inflation. The minimum \$2 late fee does not even cover the \$5 cost of sending a certified letter to a delinquent payer. In addition, late fees are applied to each contract and not assessed on an item-by-item basis. Given that an individual renting a low-cost item typically would rent that item in conjunction with others, an individual rarely would be paying a late fee for a single, low-cost piece of merchandise.

**OPPONENTS
SAY:**

While the rental-purchase industry has begun to rent more expensive items, rental-purchase companies still routinely rent low-end appliances and other less costly items. Because the minimum fee for a delinquent payment would be \$5, a customer who entered into a contract to make \$10 payments would be charged a fee equal to 50 percent of the payment. Such fees would be exorbitant. While it is understandable that the industry should be permitted to charge higher penalties for more expensive merchandise, the minimum late fee should not be increased so that such fees could be adjusted appropriately for lower value items.

NOTES:

The companion bill, HB 1726 by Guillen, was set on the General State Calendar for May 11, but the House took no action on the bill.