

BILL ANALYSIS

Senate Research Center
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S.B. 957
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Business & Commerce
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DIGEST AND PURPOSE

Currently, the Business & Commerce Code subchapter concerning rental-purchase agreements does not address loss damage waivers. As proposed, S.B. 957 provides consumer protections for certain loss damage waiver 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 35.71, Business & Commerce Code, as follows:

Sec. 35.71. DEFINITIONS. Defines "Loss damage waiver."

SECTION 2. Amends Chapter 35F, Business & Commerce Code, by adding Section 35.721 as follows:

Sec. 35.721. LOSS DAMAGE WAIVER. (a) Authorizes a consumer, in addition to other charges permitted by this subchapter, to contract for a loss damage waiver. Provides that a loss damage waiver is not insurance.

(b) Prohibits a merchant from selling a loss damage waiver unless the consumer agrees to the waiver in writing at or before the time the rental-purchase agreement is executed. Prohibits a merchant from imposing or requiring the purchase of a loss damage waiver as a mandatory charge.

(c) Provides that a loss damage waiver can exclude loss or damage to the merchandise caused by moisture, scratches, mysterious disappearance, vandalism, abandonment of the merchandise or any other damage intentionally caused by the consumer or that results from the consumer's willful or wanton misconduct or negligence.

(d) Requires a loss damage waiver agreement to include a statement of the total charge for the loss damage waiver. Requires the loss damage waiver amount from exceeding certain specified amounts.

(e) Requires the loss damage waiver agreement display a certain specified notice.

(f) Prohibits oral or written representations from being made by an employee or agent of the merchant that contradict the provisions of this section. Provides that no coercive language or action to be used by an employee or agent of the merchant in an attempt to persuade a consumer to purchase a loss damage waiver. Requires that for the purposes of this subsection, if the consumer has declined a loss damage waiver, further

statements or questions by an employee or agent of the merchant making reference to the loss damage waiver, other than a statement that the waiver has been declined, made in conjunction with a review of the rental-purchase agreement to be deemed coercive.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2001.