

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 957
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Business & Commerce
4/22/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

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

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Licensing and Regulation in SECTION 3 (Section 35.721, Business and Commerce Code), of this bill.

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 Section 35.72(c), Business and Commerce Code, to authorize a rental-purchase agreement to contain a provision requiring the purchase of a loss damage waiver.

SECTION 3. 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 periodic charge for the loss damage waiver. Prohibits the periodic charge for a 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 may 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.

(g) Prohibits a merchant from selling a loss damage waiver unless the merchant meets certain requirements.

(h) Authorizes the Texas Department of Licensing and Regulation to charge a merchant a fee for registration under Subsection (g) in an amount designed to recover the department's costs in issuing the registration, set the amount of the registration fee by rule, and by rule adopt procedures for applying for registration under Subsection (g).

(i) Requires the commissioner of the Texas Department of Licensing and Regulation to enforce this section and to investigate any consumer complaint concerning the amount of loss damage waiver fees charged by a merchant.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Amends As Filed S.B. 957 by adding amendments to Section 35.72(c) Business and Commerce Code.

Amends As Filed S.B. 957 by adding Subsections (g), (h), and (i) to the proposed language of Section 35.271, Business and Commerce Code.