

BILL ANALYSIS

Senate Research Center

S.B. 1429
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DIGEST AND PURPOSE

Currently, nationally chartered banks offer debt cancellation and suspension contracts, which are considered a part of the loan itself, not insurance. These contracts allow a lender to either cancel the debt in the event of a death, or suspend payments in the event of a health problem, disability, or certain other events. Federal law authorizes nationally chartered banks to offer these services, and under parity rules, state commercial and savings banks have similar authority. However, Texas law does not conform with the authorization provided by preemption.

Currently, lenders also offer gap waiver contracts and service contracts to their auto loan customers. These loans are authorized for auto dealers to offer directly under Section 348.208 (Charges for Other Insurance and Forms of Protection Included in Retail Installment Contract), Finance Code. Direct lenders can offer these contracts to their customers, but cannot finance them directly. Instead, the lender makes the loan for an increased amount and the borrower then has the option of using the additional funds to purchase the gap waiver or a service contract.

As proposed, S.B. 1429 authorizes debt cancellation, debt suspension, gap waiver, and service contracts to be offered in regulated consumer loans. This bill limits gap waiver and service contracts to consumer loans that are not secured by vehicles. S.B. 1429 also prohibits a lender from requiring the purchase of these products and requires the lender to provide a disclosure based on consumer protection law explaining that fact. This bill also provides that income on these products is not considered interest on the loan.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Finance Commission in SECTION 1 (Section 342.4021, Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 342I, Finance Code, by adding Section 342.4021, as follows:

Sec. 342.4021. DEBT CANCELLATION AND DEBT SUSPENSION AGREEMENTS, GAP WAIVER AGREEMENTS, SERVICE CONTRACTS. (a) Authorizes a lender to offer to the borrower certain agreements at the time the loan is made, on a loan made under this chapter that is subject to Section 342.201(d) (Maximum Interest Charge), Finance Code.

(b) Prohibits a lender from requiring a borrower to accept or provide an agreement or contract under Subsection (a).

(c) Requires the lender, prior to offering the products authorized in this section, to provide a disclosure comparable to that provided in Section 305 of the Gramm-Leach-Bliley Act, informing the borrower that purchase of the product is not required in order to obtain the credit. Requires the disclosure to inform the borrower, as applicable, that the product is not a deposit or other obligation of, or guaranteed by, the insured depository institution and the product is not insured by the Federal Deposit Insurance Corporation or any other agency of the United States, the depository financial institution, or an affiliate of the institution.

(d) Requires the Finance Commission to issue rules implementing paragraph [sic]
(c).

SECTION 2. Amends Section 342.411, Finance Code, as follows:

Section. 342.411. INSURANCE OR OTHER PRODUCT GAIN NOT INTEREST.
Includes other products with insurance as a source of gain or advances. Makes a
conforming change.

SECTION 3. Effective date: upon passage or September 1, 2003.