BILL ANALYSIS

Senate Research Center

H.B. 2965
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Business & Commerce
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Insurance premium finance companies and insurance premium finance agreements are governed by Subtitle E, Title 5, Insurance Code. An "insurance premium finance company" is defined by Section 651.051, Insurance Code, as a person engaged in the business of making loans by entering into premium finance agreements with the insured or prospective insured or the business of acquiring premium finance agreements from insurance agents or brokers or from other insurance premium finance companies, or an insurance agent or broker making loans who holds premium finance agreements made and delivered by insureds that are payable to the agent or broker or to the agent's or broker's order.

A "premium finance agreement" is an agreement by which an insured or prospective insured promises to pay an insurance premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent in payment of the premiums on an insurance contract.

Many larger premium finance companies securitize their receivables under premium finance agreements by selling them to a bank, trust, or some other form of special purpose vehicle. However, in all cases, the original premium finance company retains the obligation to service the premium finance agreements, such as disbursing loan proceeds, monthly billing, cancellation and collection. The financial entity which accepts the agreements performs no function which affects the insured. However, the current definition of an "insurance premium finance company" is so broad as to require a license from entities which merely accept premium finance agreements, but do not in any way service them or have any relationship with the insured.

Section 651.158, Insurance Code, authorizes an insured to prepay the balance due under an insurance premium finance agreement at any time before the maturity of the final installment of the balance on the agreement. When a prepayment is made, an insured may be entitled to a refund. The premium finance insurance company is required to refund any credit for prepayment which is $1.00 or more, but it is not required to make any refund in an amount less than $1.00. An analysis of the cost of issuing refund checks performed by one company indicates that its total cost for refunding all checks under $5.00 issued in 2004 significantly exceeded the total amount of the refunds paid, and that more than 25 percent of the refund checks were never cashed at all.

H.B. 2965 eliminates the requirement that a person or entity who merely purchases or otherwise acquires a premium finance agreement from a licensee is required to secure a license if the licensee retains the right and responsibility for servicing it as required by the Insurance Code. In addition, H.B. 2965 increases the amount of the credit for prepayment of a premium finance agreement over which the insured is entitled to a refund from $1.00 to $5.00.

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 651.051, Insurance Code, as follows:

Sec. 651.051. LICENSE REQUIRED. (a) Creates this subsection from existing text.

(b) Provides that this subchapter does not apply to a person who purchases or otherwise acquires a premium finance agreement from a licensee if the licensee retains the right to service the agreement and to collect payments due under the agreement and remains responsible for servicing the premium finance agreement in compliance with this chapter.

SECTION 2. Amends Section 651.158, Insurance Code, to provide that if the amount of the credit for repayment is less than $5, rather than $1, the insured is not entitled to a refund credit.

SECTION 3. Effective date: upon passage or September 1, 2005.