HOUSE RESEARCH ORGANIZATION bill analysis 5/23/1999

SB 1076
Carona
(Thompson)

SUBJECT: Allowing lenders to offer and finance noncredit insurance and other products

COMMITTEE: Insurance — favorable, with amendment

VOTE: 6 ayes — Smithee, Eiland, G. Lewis, Olivo, Thompson, Wise

1 nay — Burnam

2 absent — J. Moreno, Seaman

SENATE VOTE: On final passage, April 15 — voice vote (Truan - nay)

WITNESSES: None

BACKGROUND: The Finance Code, Chapter 342, Subchapter G and Art. 5069-3A.701-716, VTCS allow a lender to offer various types of credit insurance to borrowers in conjunction with a loan involving a cash advance of $100 or more. The types of insurance that can be offered include credit life insurance, credit health and accident insurance, and involuntary unemployment insurance. The premiums for the insurance can be deducted from the proceeds of the loan.

Lenders can offer noncredit insurance and other products to borrowers, but current law does not allow these offers to be made in conjunction with a loan and the premium or other cost cannot be financed along with the loan.

DIGEST: SB 1076, as amended, would amend the Finance Code to allow a lender to offer noncredit insurance and other products to borrowers, including:

- life insurance;
- disability insurance;
- accident insurance;
- loss of income insurance;
- mechanical breakdown insurance;
- home security plans and club memberships;
- automobile security plans and automobile club memberships; and
- extended service contracts.

The cost for the insurance or other product could only be collected from the borrower if:

- the purchase of the insurance or other product was not a condition for approval or the loan and this fact was clearly disclosed in writing to the borrower;
- the borrower provided written acknowledgment of the borrower's intent to purchase the insurance or product;
- the borrower had 30 days to cancel the transaction and received a full refund of the purchase price; and
- separate notice was provided to the borrower that the product was not credit insurance, the borrower had 30 days to cancel and get the full refund, and that the borrower was paying a finance charge if the purchase of the product was financed.

The lender would be able to deduct the premiums for noncredit insurance and charges for other products from the proceeds of the loan. This would allow the borrower to finance the cost of the noncredit insurance and other products. The borrower would have to have the option to purchase any of the products separately.

The lender's offer of noncredit insurance or other products would be subject to all applicable insurance laws, as well as all applicable insurance laws on refunds, and the charge or collection of the cost would have to be authorized by the commissioner of insurance. The cost and any other gain or advantage to the lender and its representatives would not be considered a further or other charge or amount received in connection with the loan.

SB 1076 would take effect September 1, 1999, and apply only to loan contracts made on or after the effective date. For loan contracts made before the effective date, the previous law still would apply.

SUPPORTERS SAY:

SB 1076 would give consumers more options. Consumers would be able to finance insurance and other products at the time they receive their loan proceeds. The bill would encourage consumers to consider their insurance needs and enable them to get insurance that they could not afford otherwise by financing the premium.

Consumers would not have to buy any additional insurance or products as a condition of approval for their loans. The offer and sale of noncredit insurance and other products by lenders would be subject to all the protections in current law and state regulation.

The Legislature should trust consumers to make their own decisions and not limit their choices by keeping lenders from offering noncredit insurance and premium financing.

OPPONENTS SAY:

Noncredit insurance sold by lenders often is higher priced and provides less coverage than comparable insurance available from other sources. The nature of competition in this market actually raises prices since insurers compete for contracts with lenders by offering higher commissions to lenders and that, in turn, raises the overall premium cost for the consumer.

Consumers are extremely vulnerable to coercion while loan applications are being considered because consumers do not want to be turned down for the loan. Regardless of any warnings, many consumers might buy insurance and other products from lenders under the belief that these purchases were required for loan approval.

OTHER OPPONENTS SAY:

Some consumers may already have insurance that might overlap with insurance sold by a lender. The bill should provide some counseling for the borrower to determine what coverage is actually necessary and what the cost should be for that coverage.

The bill would not require the lender to disclose the premium or cost for the noncredit insurance or other product. It also would not require the lender to reveal how much that premium or cost would increase the finance cost. Both of these protections should be required so that consumers know the full extent of their purchases.

NOTES:

The committee amendment would remove the required notice to the borrower that benefits would be paid directly to the borrower or the borrower's designated representative. In place of that notice, the amendment would require separate notice to the borrower that:

- the product was not credit insurance;
- the purchase of the product was not a condition for loan approval;

! the borrower had 30 days from the time notice was received to cancel the purchase and receive a full refund; and
! the borrower was paying a finance charge if the purchase of the product was financed.

The amendment would require the borrower to have the option of purchasing any of the products separately. It would make insurance laws regarding refunding methods applicable to the offer of noncredit insurance or other products.