

SUBJECT:           Allowing certain insurance fees to be financed in retail installment loans

COMMITTEE:       Financial Institutions — committee substitute recommended

VOTE:             8 ayes — Averitt, Solomons, Denny, Grusendorf, Hopson, Menendez, Pitts, Wise  
  
                      0 nays  
  
                      1 absent — Marchant

WITNESSES:       For — Hector DeLeon, Service Life and Casualty Insurance Co.; Mike Pollard, Texas Association of Life and Health Insurers; *Registered but did not testify*: Jay Thompson, Texas Association of Life and Health Insurers  
  
                      Against — Birny Birnbaum; Rob Schneider, Consumers Union  
  
                      On — David Durden, Texas Department of Insurance; Leslie Pettijohn, Office of the Consumer Credit Commissioner

BACKGROUND:     Finance Code, sec. 348.202 allows the retail seller of a motor vehicle sold under an installment loan, or a person who acquires that loan, to offer for sale or to require the buyer also to purchase (1) insurance that would pay off the installment loan in the event of the buyer's death (credit life insurance), and/or (2) insurance that would pay the loan installments while the buyer could not work for health reasons (credit health insurance) or while the buyer was involuntarily unemployed. The section also allows the cost of the insurance to be financed as part of the installment loan agreement.

DIGEST:           CSHB 1684 would allow an administrative fee that is paid to the insurer or insurance agent for writing the policy also to be financed under the installment agreement.  
  
                      The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS  
SAY:

CSHB 1684 is needed if insurance products such as credit life and credit health insurance are going to be available to consumers who want them. Currently, the rates for this insurance are so low that insurers cannot compensate vehicle dealers for selling the policies and doing the paperwork to process them and still make a profit on the policies. On the other hand, some surveys show that 40 percent of consumers want this insurance (especially those without other life insurance) because it protects their credit ratings and, in the event of their death, their heirs, by paying off loans that they no longer can pay. By allowing these policy fees to be financed, CSHB 1684 would simplify installment transactions for consumers and allow all costs of the vehicle to be rolled the loan.

The bill would not change the insurer's authority to charge policy and agent fees permitted under Insurance Code, art. 21.35B (4) and (5). It simply would allow fees that are already authorized to be financed with the rest of the insurance costs. Under the Finance Code, these agent or policy fees must be disclosed to the buyer in the contract as an itemized charge.

OPPONENTS  
SAY:

CSHB 1684 would undercut the Department of Insurance's ratemaking authority. The department has taken the position that policy or agent fees are not allowed on credit life and credit health insurance policies because the costs that those fees represent were taken into consideration in the ratemaking process. Because the bill would provide that the costs of insurance *and* the policy or agent fees could be made part of the installment loan, it would imply that the fees would not be the same as or included in the costs of the insurance premiums, thereby undermining the department's position. Moreover, by allowing financing of policy or agent fees on credit life and credit health insurance, the bill would imply that such fees are permissible. This too could undercut the department's position against the fees.

By supporting the insurer's use of such fees, the bill could sanction charges that could cost consumers hundreds of millions of dollars. No industry standard, insurance department rate, or statute governs the amount insurers can charge for policy or agent fees, so no one knows for sure the size of the fees that this bill would allow to be financed. Although some say the fees could be about \$50, the Department of Insurance has discovered cases in which the policy fees were 17 times that of the premiums allowed for the

insurance. Policy fees for other insurance products, such as car and home insurance, range from \$40 to \$200. Also, insurers might use the fees, which are unregulated and paid to the dealers, to compete among themselves to have the vehicle dealers sell their products, thus driving up the fees.

In view of these factors, CSHB 1684 could increase consumers' cost of vehicle installment loans significantly. By allowing the cost to be added to the installment loans, the bill could do this without buyers being fully aware of the charges.

NOTES:

The committee substitute altered the caption of the bill as filed by deleting the word "finance."

The companion bill, SB 1076 by Carona, has been referred to the Senate Business and Commerce Committee.