

SUBJECT: Financing an automobile club membership in a non-real property loan

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 6 ayes — Solomons, McCall, Flynn, Guillen, Orr, Riddle

0 nays

1 absent — Chavez

WITNESSES: For — Neil W. Marting, American Traveler Motor Club; (*Registered, but did not testify*: Mandy Balch, The American Traveler Motor Club; Tom Bond, Citigroup; Eric Glenn, HSBC - North America; Deborah Polan, Texas Financial Services Association)

Against — None

On — Leslie Pettijohn, Consumer Credit Commissioner

BACKGROUND: Transportation Code, ch. 722, defines automobile clubs and sets forth the requirements for these clubs. Consumers can join automobile clubs that provide various services such as towing, theft protection, emergency roadside assistance, and limited forms of insurance. The purchase price of such a club membership currently cannot be financed in a non-real property loan contract.

DIGEST: CSHB 1088 would allow an authorized lender to offer, at a reasonable rate, an automobile club membership and finance the charge for this membership in a non-real property loan. The approval of the loan could not be conditioned upon the borrower's purchase of such a membership, and the borrower would be entitled to cancel the transaction for a full refund before the 31st day following the date the loan was made. The lender would provide the borrower a notice to this effect, and the commissioner would be required to adopt a rule for disclosing this information in Spanish and ensuring the form conformed to plain language and readability requirements. The borrower would have to provide the lender with a written acknowledgement of intent to purchase the membership.

The bill would take effect September 1, 2005 and would apply only to loan contracts made on or after that date.

**SUPPORTERS
SAY:**

CASHB 1088 would allow a regulated lender to finance an automobile club membership as part of a loan for a non-real property purchase, such as an automobile or consumer appliance. Many individuals forego purchasing automobile club memberships because they cannot afford to make lump sum payments for the membership. Yet such memberships are valuable to most drivers because the average car on American roads is approximately eight years old and subject to unexpected breakdowns. The bill would give consumers, particularly lower-income consumers, the opportunity to take advantage of the safety and other benefits that these memberships afford.

CASHB 1088 would protect consumers who felt pressured to buy the membership or later realized that they did not need the membership by allowing borrowers to cancel within 31 days for a full refund. The borrower also would be informed of the right to cancel the agreement through a disclosure in plain language in Spanish or English. The same disclosure would prevent borrowers from feeling pressured to buy a product to help their loan approval, since it would express that the lender could not make loan approval contingent on the purchase of a membership. Finally, the Consumer Credit Commissioner would have the ability to enforce whether or not the rate was reasonable, so no consumer would have to pay unnecessarily high charges for the service.

These club memberships are highly valuable and provide services that far exceed the benefits offered in roadside assistance packages that sometimes accompany a vehicle purchase. Also, the membership follows the purchaser and not the vehicle, so automobile club memberships do not duplicate other roadside assistance packages. The bill would give consumers access to an automobile club membership that they otherwise might not have been able to afford without financing, and it would not force them to buy any product they did not perceive as a good value. Texas should join the other 47 states that offer such an option to consumers.

**OPPONENTS
SAY:**

By allowing automobile club memberships to be financed in conjunction with a loan, this bill would put lenders in a position to pressure consumers into buying a service under the impression that it might aid in loan approval. The loan approval portion of a purchasing decision often is the most stressful for consumers and the point at which they are most

vulnerable. While the bill would require that loan approval not be contingent upon a membership purchase, the lender would earn a percentage from each membership it financed, providing an incentive for the lender to apply pressure for borrowers to purchase them.

Lenders may indeed provide written notice and disclosure, but this would not assure that borrowers read or understood it or that this information would be sufficient to protect buyers from the misleading claims and pressure tactics employed by some salespeople. Many consumers already possess some form of roadside assistance that comes with their vehicle purchase, and obtaining an automobile club membership may duplicate many services they already have.

NOTES:

The bill as originally filed would not have applied to unregulated lenders.

The 78th Legislature in 2003 approved HB 1380 by Thompson, which would have added the capability to sell automobile memberships with non-real property loans. It also would have allowed the sale of additional products, including various forms of insurance, plans, memberships, and service contracts. The governor vetoed HB 1380, saying that it would not have protected consumers from unreasonable interest rates.