

BILL ANALYSIS

Senate Research Center

H.B. 2139
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Business & Commerce
5/10/2001
Committee Report (Amended)

DIGEST AND PURPOSE

Under current Texas law, a retail buyer and retail seller may agree in a motor vehicle retail installment contract to include a separate charge for a debt cancellation agreement which is insurance coverage that reimburses the retail buyer with the amount of the difference between the proceeds of the buyer's basic collision insurance policy on the motor vehicle and the remaining amount owed on the vehicle, if the vehicle has been rendered a total loss. H.B. 2139 provides that a debt cancellation agreement or waiver included in a retail installment contract is not insurance or an insurance product or service and that a separate charge for the debt cancellation agreement or waiver may be included in a retail installment contract.

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 348.208, Finance Code, by redesignating Subsection (c) as added by Chapter 1559, Acts of the 76th Legislature, Regular Session, 1999, as Subsection (d) and by adding Subsection (e), as follows:

(e) Authorizes a retail installment contract to include as a separate charge an amount for a debt cancellation agreement or waiver by which, if the motor vehicle is rendered a total loss, the holder agrees to cancel indebtedness on the contract in an amount computed by subtracting the proceeds of the retail buyer's basic collision insurance policy on the motor vehicle from the amount remaining unpaid under the contract. Authorizes a holder, in addition to other liability incurred under the debt cancellation agreement or waiver, to agree to waive the deductible amount, if any, the retail buyer is required to pay under the policy. Provides that a debt cancellation agreement or waiver included in a retail installment contract as provided by this subsection is not insurance or an insurance product or service and is not subject to regulation by the commissioner of insurance or the Texas Department of Insurance.

(f) Provides that any debt canceled pursuant to an agreement authorized by Finance Code Section 348.208(e) by a retail seller that is a dealer licensed under Chapter 503, Transportation Code, or any affiliate of such seller, who extends credit under a retail installment contract to a purchaser of a used motor vehicle sold by the motor vehicle dealer, or an affiliate of such dealer with a direct to indirect interest in the retail installment contract, is entitled to credit or reimbursement for the motor vehicle sales tax paid on the portion of the debt that has been determined to be worthless and actually charged off for federal income tax purposes; or the remaining unpaid balance of the sales price of the motor vehicle after the motor vehicle is repossessed under a retail installment contract or debt cancellation agreement.

(g) Provides that for purposes of Subsection (f), affiliate means any entity or entities that would be classified as a member of a group under 26 U.S.C. Section 1504 or 1563.

SECTION 2. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Amends as Filed H.B. 2139 by adding newly proposed Subsections (f) and (g).