

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 707
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Business & Commerce
3/14/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, there are no rules regulating collateral protection insurance, which some creditors require debtors to obtain and list the creditor as the beneficiary should something happen to the collateral. C.S.S.B. 707 establishes rules for creditors to ensure collateral is insured against loss.

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 Title 4A, Finance Code, by adding Chapter 307, as follows:

CHAPTER 307. COLLATERAL PROTECTION INSURANCE SUBCHAPTER A. GENERAL PROVISIONS

Sec. 307.001. DEFINITIONS. Defines “collateral,” “collateral protection insurance,” “credit agreement,” “credit transaction,” “creditor,” “debtor,” and “title insurance.”

[Reserves Sec. 307.002-307.050 for expansion.]

SUBCHAPTER B. REQUIREMENTS FOR COLLATERAL PROTECTION INSURANCE

Sec. 307.051. COLLATERAL PROTECTION INSURANCE. Sets forth the specific definition of collateral protection insurance (insurance).

Sec. 307.052. CREDITOR DUTIES. (a) Authorizes a creditor who requires insurance that is paid for directly or indirectly by a debtor to place insurance under certain conditions.

(b) Requires the creditor, not later than the 31st day after the date the insurance is charged to the debtor, to mail to each debtor a notice containing certain information, by prepaid, first class mail, to the last known address on file with the creditor.

(c) Requires the creditor to mail the notice required under Subsection (b) to each person who is a cosigner or guarantor to the debt, if the last known address of that person differs from the last known address of the debtor.

(d) Authorizes the creditor to delegate the notice requirements under Subsections (b) and (c) to the insurer or the insurer’s agent.

(e) Sets forth specific requirements for the notice required by Subsection (b).

(f) Requires the creditor to take certain actions if the required notice to any debtor, cosigner, or

guarantor is returned to the creditor undelivered.

(g) Provides that the terms for payment of the costs of the insurance, including interest and any other charges actually incurred that the creditor may impose in connection with the placement of the insurance, must include certain items.

Sec. 307.053. AMORTIZATION OF DEBT. Requires the creditor, if any form of amortization is used by the creditor, to send to each debtor notice of the terms of amortization and any change in the debtor's periodic statement.

Sec. 307.054. CANCELLATION OF COLLATERAL PROTECTION INSURANCE. Authorizes a debtor to, at any time, cause the cancellation of insurance by providing proper evidence to the creditor that the debtor has obtained insurance as required by the credit agreement. Requires the creditor, if the debtor provides proper evidence that the debtor had insurance on the collateral as required by the credit agreement on or before the date the insurance is effective and that the debtor continues to have insurance on the collateral as required by the credit agreement, to cancel the insurance that is purchased and prohibits the creditor from charging the debtor any costs, interest, or other charges in connection with the insurance.

Sec. 307.055. REFUND OF UNEARNED PREMIUMS. Requires the amount of unearned premiums, as computed in a certain manner, to be refunded to the creditor on the date the insurance is canceled or expires. Requires the creditor, not later than the 14th day after the creditor receives the refund, to distribute a refund of unearned premiums by any method selected by the creditor, including certain methods.

Sec. 307.056. CHOICE OF CARRIER. Authorizes insurance to be placed with an insurer that is authorized to write insurance in this state or an eligible surplus lines insurer selected by the creditor. Requires the insurance to be evidenced by an individual policy or a certificate of insurance.

Sec. 307.057. CREDITOR LIABILITY. (a) Provides that a creditor, its insurer or the insurer's agent that places insurance in substantial compliance with the terms of this chapter is not directly or indirectly liable to a debtor, cosignor, guarantor, or any other person in connection with the placement of the insurance.

(b) Provides that this chapter does not impose a fiduciary relationship between the creditor and debtor. Provides that placement of insurance is for the principal purpose of protecting the interest of the creditor if the debtor fails to insure collateral as required by the credit agreement.

(c) Provides that a creditor is not required under this chapter to purchase insurance or to otherwise insure collateral. Provides that a creditor is not liable to a debtor or any other person for failing to purchase insurance, failing to purchase a certain amount or level of coverage of insurance, or purchasing insurance that protects only the interests of the creditor or less than all the interest of the debtor. Provides that this chapter does not create a cause of action for damages on behalf of a debtor or any other person in connection with the placement of insurance.

Sec. 307.058. RIGHTS OF CREDITOR AND DEBTOR. (a) Provides that the obligations and rights of the creditor and debtor with respect to the collateral under Chapters 1 through 9, Business & Commerce Code, are not affected by this chapter.

(b) Provides that this chapter does not impair other remedies, rights, or options available to a creditor under any law, rule, regulation, ruling, court order, or agreement.

(c) Provides that this chapter does not impair or alter other requirements of this code or other law that may apply to a credit transaction.

SECTION 2. Amends the heading of Chapter 341D, Finance Code, to read as follows:

SUBCHAPTER D. ADVERTISING REQUIREMENTS

SECTION 3. Repealer: Section 341.302 (Collateral Protection Insurance Paid by Debtor), Finance Code.

SECTION 4. Effective date: September 1, 2001.
Makes application of this Act prospective.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Amends As Filed S.B. 707 as follows:

Sec. 307.051. Adds failure of a debtor to obtain insurance covering the collateral to the specific definition of collateral protection insurance (insurance). Adds the provision that the term of a insurance policy may not be, under certain circumstances, greater than 12 months.

Sec. 307.052. Removes the provision that the debtor is required to purchase the insurance from certain insurers that are approved by the creditor. Includes the requirement that the debtor, if required by the creditor, deliver to the creditor a copy of the policy. Makes a conforming change.

Sec. 307.055. Provides clarification for how the computations in the Texas Automobile Rules and Rating Manual apply to differing types of collateral.