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H.B. No. 1380

A BILL TO BE ENTITLED

AN ACT

relating to certain products offered in connection with a consumer loan.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter I, Chapter 342, Finance Code, is amended by adding Section 342.4021 to read as follows:

Sec. 342.4021. PRODUCTS OFFERED IN CONNECTION WITH LOAN.

(a) Contemporaneously with or subsequent to a loan made under Subchapter E, an authorized lender may offer, subject to all applicable insurance laws of this state, including agent licensing requirements, policy form requirements, and refunding methods, one or more of the following types of noncredit insurance and other products:

(1) life insurance;

(2) disability income insurance;

(3) accident insurance;

(4) loss of income insurance;

(5) mechanical breakdown insurance;

(6) home security plans and club memberships;

(7) automobile security plans and automobile club memberships; and

(8) service contracts.

(b) The lender:

(1) shall provide the borrower with the option of

1 purchasing any of the products under Subsection (a) separately; and

2 (2) may not require the purchase of any of the products
3 under Subsection (a) as a condition for approval of the loan.

4 (c) The cost of noncredit insurance or another product under
5 Subsection (a) may be collected from the borrower only if:

6 (1) the purchase of the noncredit insurance or product
7 is not a condition for approval of the loan;

8 (2) the borrower provides written acknowledgment of
9 the borrower's intent to purchase the noncredit insurance or
10 product;

11 (3) the borrower is entitled to cancel the transaction
12 and receive a full refund of the purchase price:

13 (A) before the 31st day after the date of the
14 notice under Subdivision (4), for a transaction other than a
15 service contract; or

16 (B) as provided by Chapter 1304, Occupations
17 Code, for a service contract;

18 (4) the borrower is provided a separate notice stating
19 that:

20 (A) the product is not credit insurance;

21 (B) the purchase of the product is not a
22 condition for loan approval;

23 (C) the borrower is entitled to cancel the
24 purchase and receive a full refund of the purchase price:

25 (i) before the 31st day after the date of
26 the notice under Subdivision (4), for a transaction other than a
27 service contract; or

1 (ii) as provided by Chapter 1304,
2 Occupations Code, for a service contract; and

3 (D) if the borrower chooses to finance the
4 purchase of the product, the borrower will pay a finance charge on
5 the cost of the product;

6 (5) the notice required by Subdivision (4) includes a
7 separate section that states the mailing address of the insurance
8 company or vendor of the product and that may be detached and
9 returned to the insurance company or vendor permitting the customer
10 to cancel the purchase and receive a full cash refund; and

11 (6) any benefit payable as a result of the ownership of
12 the noncredit insurance or product will be paid directly to the
13 borrower or the borrower's designated representative.

14 (d) An authorized lender may include in the loan contract
15 the cost for noncredit insurance or another product under
16 Subsection (a).

17 (e) An authorized lender may not charge or collect an amount
18 for a type of noncredit insurance or other product that is not
19 specified in Subsection (a).

20 (f) The cost of noncredit insurance and other products
21 purchased under this chapter, and any gain or advantage received by
22 an authorized lender or an employee, officer, director, general or
23 other agent, affiliate, or associate of the lender as a result of a
24 charge for noncredit insurance or other products authorized under
25 this chapter, is not considered a further or other charge or amount
26 received in connection with a loan made under this chapter.

27 (g) The commissioner shall:

1 (1) adopt a rule providing for Spanish language
2 disclosure of the information required in Subsection (c); and

3 (2) establish a form for the disclosure conforming to
4 the plain language and readability requirements applicable to a
5 loan contract under Section 341.502.

6 SECTION 2. Section 342.410, Finance Code, is amended to
7 read as follows:

8 Sec. 342.410. PAYMENT FOR INSURANCE OR OTHER PRODUCT FROM
9 LOAN PROCEEDS. A lender, including an officer, agent, or employee
10 of the lender, who offers credit [~~accepts~~] insurance, noncredit
11 insurance, or another product as permitted by [~~under~~] this
12 subchapter [~~as protection for a loan~~]:

13 (1) may deduct the premium or identifiable charge for
14 the credit insurance, the premium for the noncredit insurance, and
15 the charge for the other product from the proceeds of the loan; and

16 (2) shall pay the deducted amounts to the insurance
17 company writing the insurance or the vendor of the other product.

18 SECTION 3. Section 342.502(b), Finance Code, is amended to
19 read as follows:

20 (b) On a loan subject to Subchapter E or a secondary
21 mortgage loan subject to Subchapter G a lender may assess and
22 collect from the borrower an amount incurred by the lender for:

23 (1) court costs;

24 (2) attorney's fees assessed by a court, in addition to
25 those provided by Section 342.307;

26 (3) a fee authorized by law for filing, recording, or
27 releasing in a public office a security for a loan;

1 (4) a reasonable amount spent for repossessing,
2 storing, preparing for sale, or selling any security;

3 (5) a fee for recording a lien on or transferring a
4 certificate of title to a motor vehicle offered as security for a
5 loan made under this chapter; or

6 (6) the [a] premium or an identifiable charge received
7 in connection with the sale of credit insurance, the premium
8 received in connection with the sale of noncredit insurance, and
9 the charge for any other product authorized under this chapter.

10 SECTION 4. The change in law made by this Act applies only
11 to a loan contract made on or after the effective date of this Act.
12 A loan contract made before the effective date of this Act is
13 governed by the law in effect when the loan contract was made, and
14 the former law is continued in effect for that purpose.

15 SECTION 5. This Act takes effect September 1, 2003.