

By: Thompson

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 or G, 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) extended service contracts.

(b) The lender shall provide the borrower with the option of purchasing any of the products under Subsection (a) separately.

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

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

5 (2) the borrower provides written acknowledgment of
6 the borrower's intent to purchase the noncredit insurance or
7 product;

8 (3) before the 31st day after the date of the notice
9 under Subdivision (4), the borrower is entitled to cancel the
10 transaction and receive a full refund of the purchase price;

11 (4) the borrower is provided a separate notice stating
12 that:

13 (A) the product is not credit insurance;

14 (B) the purchase of the product is not a
15 condition for loan approval;

16 (C) the borrower has 30 days from the date the
17 borrower receives the notice to cancel the purchase and receive a
18 full refund of the purchase price; and

19 (D) if the borrower chooses to finance the
20 purchase of the product, the borrower will pay a finance charge on
21 the cost of the product;

22 (5) the notice required by Subdivision (4) includes a
23 separate section that states the mailing address of the insurance
24 company or vendor of the product and that may be detached and
25 returned to the insurance company or vendor permitting the customer
26 to cancel the purchase and receive a full cash refund; and

27 (6) any benefit payable as a result of the ownership of

1 the noncredit insurance or product will be paid directly to the
2 borrower or the borrower's designated representative.

3 (d) An authorized lender may include in the loan contract
4 the cost for noncredit insurance or another product under
5 Subsection (a).

6 (e) An authorized lender may not charge or collect an amount
7 for a type of noncredit insurance or other product that is not
8 specified in Subsection (a) unless the commissioner authorizes the
9 charge or collection.

10 (f) The cost of noncredit insurance and other products
11 purchased under this chapter, and any gain or advantage received by
12 an authorized lender or an employee, officer, director, general or
13 other agent, affiliate, or associate of the lender as a result of a
14 charge for noncredit insurance or other products authorized under
15 this chapter, is not considered a further or other charge or amount
16 received in connection with a loan made under this chapter.

17 (g) The commissioner shall adopt a rule providing for
18 Spanish language disclosure of the information required in
19 Subsection (c).

20 SECTION 2. Section 342.410, Finance Code, is amended to
21 read as follows:

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

27 (1) may deduct the premium [~~or identifiable charge~~]

1 for the credit insurance, the premium for the noncredit insurance,
2 and the charge for the other product from the proceeds of the loan;
3 and

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

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

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

11 (1) court costs;

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

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

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

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

21 (6) the [~~a~~] premium [~~or an identifiable charge~~]
22 received in connection with the sale of credit insurance, the
23 premium received in connection with the sale of noncredit
24 insurance, and the charge for any other product authorized under
25 this chapter.

26 SECTION 4. The change in law made by this Act applies only
27 to a loan contract made on or after the effective date of this Act.

1 A loan contract made before the effective date of this Act is
2 governed by the law in effect when the loan contract was made, and
3 the former law is continued in effect for that purpose.

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