

1-1 By: Thompson, et al. (Senate Sponsor - Harris) H.B. No. 1380
1-2 (In the Senate - Received from the House May 12, 2003;
1-3 May 13, 2003, read first time and referred to Committee on Business
1-4 and Commerce; May 23, 2003, reported favorably by the following
1-5 vote: Yeas 8, Nays 0, 1 present not voting; May 23, 2003, sent to
1-6 printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to certain products offered in connection with a consumer
1-10 loan.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subchapter I, Chapter 342, Finance Code, is
1-13 amended by adding Section 342.4021 to read as follows:

1-14 Sec. 342.4021. PRODUCTS OFFERED IN CONNECTION WITH LOAN.
1-15 (a) Contemporaneously with or subsequent to a loan made under
1-16 Subchapter E, an authorized lender may offer, subject to all
1-17 applicable insurance laws of this state, including agent licensing
1-18 requirements, policy form requirements, and refunding methods, one
1-19 or more of the following types of noncredit insurance and other
1-20 products:

- 1-21 (1) life insurance;
- 1-22 (2) disability income insurance;
- 1-23 (3) accident insurance;
- 1-24 (4) loss of income insurance;
- 1-25 (5) mechanical breakdown insurance;
- 1-26 (6) home security plans and club memberships;
- 1-27 (7) automobile security plans and automobile club
1-28 memberships; and
- 1-29 (8) service contracts.

1-30 (b) The lender:
1-31 (1) shall provide the borrower with the option of
1-32 purchasing any of the products under Subsection (a) separately; and
1-33 (2) may not require the purchase of any of the products
1-34 under Subsection (a) as a condition for approval of the loan.

1-35 (c) The cost of noncredit insurance or another product under
1-36 Subsection (a) may be collected from the borrower only if:

1-37 (1) the purchase of the noncredit insurance or product
1-38 is not a condition for approval of the loan;

1-39 (2) the borrower provides written acknowledgment of
1-40 the borrower's intent to purchase the noncredit insurance or
1-41 product;

1-42 (3) the borrower is entitled to cancel the transaction
1-43 and receive a full refund of the purchase price:

1-44 (A) before the 31st day after the date of the
1-45 notice under Subdivision (4), for a transaction other than a
1-46 service contract; or

1-47 (B) as provided by Chapter 1304, Occupations
1-48 Code, for a service contract;

1-49 (4) the borrower is provided a separate notice stating
1-50 that:

1-51 (A) the product is not credit insurance;
1-52 (B) the purchase of the product is not a
1-53 condition for loan approval;

1-54 (C) the borrower is entitled to cancel the
1-55 purchase and receive a full refund of the purchase price:

1-56 (i) before the 31st day after the date of
1-57 the notice under Subdivision (4), for a transaction other than a
1-58 service contract; or

1-59 (ii) as provided by Chapter 1304,
1-60 Occupations Code, for a service contract; and

1-61 (D) if the borrower chooses to finance the
1-62 purchase of the product, the borrower will pay a finance charge on
1-63 the cost of the product;

1-64 (5) the notice required by Subdivision (4) includes a

2-1 separate section that states the mailing address of the insurance
2-2 company or vendor of the product and that may be detached and
2-3 returned to the insurance company or vendor permitting the customer
2-4 to cancel the purchase and receive a full cash refund; and

2-5 (6) any benefit payable as a result of the ownership of
2-6 the noncredit insurance or product will be paid directly to the
2-7 borrower or the borrower's designated representative.

2-8 (d) An authorized lender may include in the loan contract
2-9 the cost for noncredit insurance or another product under
2-10 Subsection (a).

2-11 (e) An authorized lender may not charge or collect an amount
2-12 for a type of noncredit insurance or other product that is not
2-13 specified in Subsection (a).

2-14 (f) The cost of noncredit insurance and other products
2-15 purchased under this chapter, and any gain or advantage received by
2-16 an authorized lender or an employee, officer, director, general or
2-17 other agent, affiliate, or associate of the lender as a result of a
2-18 charge for noncredit insurance or other products authorized under
2-19 this chapter, is not considered a further or other charge or amount
2-20 received in connection with a loan made under this chapter.

2-21 (g) The commissioner shall:

2-22 (1) adopt a rule providing for Spanish language
2-23 disclosure of the information required in Subsection (c); and

2-24 (2) establish a form for the disclosure conforming to
2-25 the plain language and readability requirements applicable to a
2-26 loan contract under Section 341.502.

2-27 SECTION 2. Section 342.410, Finance Code, is amended to
2-28 read as follows:

2-29 Sec. 342.410. PAYMENT FOR INSURANCE OR OTHER PRODUCT FROM
2-30 LOAN PROCEEDS. A lender, including an officer, agent, or employee
2-31 of the lender, who offers credit [~~accepts~~] insurance, noncredit
2-32 insurance, or another product as permitted by [~~under~~] this
2-33 subchapter [~~as protection for a loan~~]:

2-34 (1) may deduct the premium or identifiable charge for
2-35 the credit insurance, the premium for the noncredit insurance, and
2-36 the charge for the other product from the proceeds of the loan; and

2-37 (2) shall pay the deducted amounts to the insurance
2-38 company writing the insurance or the vendor of the other product.

2-39 SECTION 3. Section 342.502(b), Finance Code, is amended to
2-40 read as follows:

2-41 (b) On a loan subject to Subchapter E or a secondary
2-42 mortgage loan subject to Subchapter G a lender may assess and
2-43 collect from the borrower an amount incurred by the lender for:

2-44 (1) court costs;

2-45 (2) attorney's fees assessed by a court, in addition to
2-46 those provided by Section 342.307;

2-47 (3) a fee authorized by law for filing, recording, or
2-48 releasing in a public office a security for a loan;

2-49 (4) a reasonable amount spent for repossessing,
2-50 storing, preparing for sale, or selling any security;

2-51 (5) a fee for recording a lien on or transferring a
2-52 certificate of title to a motor vehicle offered as security for a
2-53 loan made under this chapter; or

2-54 (6) the [~~a~~] premium or an identifiable charge received
2-55 in connection with the sale of credit insurance, the premium
2-56 received in connection with the sale of noncredit insurance, and
2-57 the charge for any other product authorized under this chapter.

2-58 SECTION 4. The change in law made by this Act applies only
2-59 to a loan contract made on or after the effective date of this Act.
2-60 A loan contract made before the effective date of this Act is
2-61 governed by the law in effect when the loan contract was made, and
2-62 the former law is continued in effect for that purpose.

2-63 SECTION 5. This Act takes effect September 1, 2003.

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