

BILL ANALYSIS

C.S.H.B. 2639

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Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that the administrator of a debt cancellation product relating to a retail installment contract is in the best position to dispose of any fee refund obligation that arises as a consequence of such a debt cancellation agreement. C.S.H.B. 2639 seeks to provide for this arrangement.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2639 amends the Finance Code to revise provisions relating to debt cancellation agreements for certain retail vehicle installment sales. The bill clarifies that the party receiving the debt cancellation fee holds such fee in a fiduciary capacity until it has been forwarded to the designated party as prescribed in any applicable debt cancellation agreement program documents. The bill also defines "debt cancellation agreement fee" as the amount charged for a debt cancellation agreement made in connection with a retail installment contract.

C.S.H.B. 2639, with respect to refunds for debt cancellation agreements that are canceled or that are terminated early:

- revises the refund requirement for a canceled or terminated agreement to:
 - require the administrator of the agreement to refund or cause to be refunded the appropriate amount of the debt cancellation agreement fee to the retail buyer or forward to the holder of the retail installment contract such amount to be applied as a credit under the retail installment contract; and
 - remove the requirement that the holder of the agreement ensure the refund is made; and
- revises the recordkeeping requirement for such refunds to require the administrator of the debt cancellation agreement to maintain or cause to be maintained such records and to remove the holder of the retail installment contract as the entity responsible for such maintenance.

C.S.H.B. 2639 requires the holder, in the event of (i) the prepayment of the retail installment contract in full before the original maturity date; (ii) a demand by the holder for payment in full of the unpaid balance or acceleration; or (iii) a request by the retail buyer to the holder for

cancellation of the debt cancellation agreement, to notify the administrator of the agreement in writing, including by electronic means, of the early termination or cancellation of the debt cancellation agreement not later than the 30th day after the date of the occurrence of such prepayment, the demand, or the request for cancellation, as applicable. The bill terminates such a holder's liability to any person for a refund of the debt cancellation agreement fee, or any part of the fee, if the holder provides such notice within the 30-day period.

C.S.H.B. 2639 requires the holder of a retail installment contract to maintain records of a debt cancellation agreement until the fourth anniversary of the date of the contract.

C.S.H.B. 2639 repeals Sections 354.007(d) and (f), Finance Code.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL TO SUBSTITUTE

While C.S.H.B. 2639 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the entity that is required to refund the applicable amount of the debt cancellation agreement fee for an agreement that is canceled or terminated early or to forward the applicable fee amount to be applied as a credit under the contract, from the recipient of the fee to the administrator of the agreement. The substitute makes the same change in relation to the entity required to maintain records of any such refund or credit. The substitute clarifies that the administrator may cause the applicable fee amount to be refunded and may cause the records to be maintained as an alternative to actually performing the refund and maintenance duties.

The substitute includes a provision that requires the holder of the retail installment contract to notify the administrator of a debt cancellation agreement of the early termination or cancellation of the agreement under certain conditions, sets a deadline for such notification, and terminates the holder's liability to any person for a refund of the agreement fee if the holder provides such notice within the required time frame.