HOUSE RESEARCH ORGANIZATION bill analysis | 5/14/2007 | SB 382 Carona (Taylor) (CSSB 382 by Eiland)

SUBJECT: Notice requirements for refunds of credit insurance premiums

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Smithee, T. Smith, Taylor, Eiland, Hancock, Thompson, Vo

0 nays

2 absent — Martinez, Woolley

SENATE VOTE: On final passage, April 12 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Credit insurance is life or accident and health insurance sold in connection with a credit transaction to cover payments that become due on a transaction if a debtor becomes disabled or dies.

Under Insurance Code, sec. 1153.202, if the underlying debt or the insurance terminates before the scheduled maturity date, a refund of any amount paid by or charged to the debtor for insurance must be paid or credited promptly to the person entitled to the refund. The formula used to calculate this refund, which typically is called "unearned premium," must be filed with and approved by the insurance commissioner. A refund is not required if the refund amount is less than $3.

DIGEST: CSSB 382 would require that individual or group credit insurance policies include a written notice stating that if the underlying debt or insurance terminated before the originally scheduled termination date of the insurance, the debtor would be entitled to a refund of unearned premium. No later than 60 days after the termination of the insurance, the holder of the underlying debt instrument would have to notify the insurer of the termination of the debt, which notice would include the name and address of the insured and the payoff date of the underlying debt. The unearned premium would have to be paid by or charged to the debtor no later than 30 days after the receipt of this notice.

The bill would indemnify an insurer from any claim or action for failure to refund any unearned premium by an insured who did not provide this notification.

The bill would take effect September 1, 2007, and would apply to policies delivered, issued, or renewed after January 1, 2008.

SUPPORTERS SAY:

CSSB 382 would make it easier for credit insurance companies to find out when a loan has been prepaid or refinanced so that the company can return unearned premium to consumers, as required under current law. Insurance companies typically are not notified when a loan is paid off early or refinanced, so they have no way of knowing that a consumer is entitled to a refund of unearned premium.

The Attorney General's Office has accused American National Insurance Company of withholding unearned premiums when the company simply did not know that an unearned premium was due. CSSB 382 would not affect existing lawsuits, but would help prevent such litigation in the future by making it clear that it is the debt holder's responsibility to notify the insurer when a loan is prepaid or refinanced and unearned premium is due.

OPPONENTS SAY:

No apparent opposition.

NOTES:

The committee substitute specified that a debtor would be entitled to a refund of unearned premium and reduced the notification period from 90 to 60 days. The committee substitute also added language indemnifying insurers from lawsuits in which a holder did not follow the notice procedures established in the bill.