

**SUBJECT:** Revising refund procedures for terminated debt cancellation agreements

**COMMITTEE:** Pensions, Investments and Financial Services — committee substitute recommended

**VOTE:** 6 ayes — Anchia, Parker, Perez, Rogers, Slawson, Vo  
0 nays  
3 absent — Capriglione, Muñoz, Stephenson

**WITNESSES:** For — David Shurtz, EECU and Credit Union Coalition Of Texas;  
(*Registered, but did not testify:* Melodie Durst, Credit Union Coalition of Texas; Mark Vane, Guaranteed Asset Protection Alliance)  
Against — None  
On — (*Registered, but did not testify:* Matthew Nance, Office of Consumer Credit Commissioner)

**BACKGROUND:** Finance Code sec. 354.007 governs refunds for debt cancellation agreements for certain retail vehicle installment sales. Under this section, if a debt cancellation agreement terminates due to the early termination of a contract, the holder shall, not later than the 60th day after the debt cancellation agreement terminates, refund, credit, or cause to be refunded or credited an appropriate amount of the debt cancellation agreement fee. The holder must ensure that a refund or credit is made by the 60th day after the date the debt cancellation agreement terminates, and the holder must maintain records of any refund or credit and provide access to the records for a certain amount of time.  
  
Concerns have been raised that regulatory requirements result in credit unions having to provide oversight of another industry's duties with respect to refunds and credit provided under terminated debt cancellation agreements. There have been calls to clarify which party to these agreements is responsible for making a refund and which party should

provide written notice when a debt cancellation agreement is terminated early.

DIGEST: CSHB 4277 would revise provisions under the Finance Code that govern the refund process for certain debt cancellation agreements.

The bill would specify that if an agreement terminated due to the early termination of the contract, a holder who was a retail seller who had not assigned or transferred the contract would be subject to certain requirements. Such a holder would have to cause an appropriate amount of the debt cancellation fee to be refunded or credited by providing written instruction by the 30th day after the date the agreement terminated to the administrator of the agreement.

If the debt cancellation agreement terminated due to the early termination of a contract, a holder, other than a holder who was a retail seller who had not assigned or transferred the contract, would be required to:

- refund or credit an appropriate amount of the debt cancellation fee by the 60th day after the debt cancellation agreement terminated; or
- cause an appropriate amount of the agreement fee to be refunded or credited by providing written instruction by the 30th day after the date the agreement terminated to the administrator of the agreement or the retail seller, as appropriate.

The administrator of the agreement or retail seller, only after receiving the written instructions required by the bill, would have to ensure that a refund or credit of an appropriate amount was made in accordance with current law and maintain certain records.

The changes in law made by the bill would be procedural and would not require the refiling of forms to implement.

The bill would take effect September 1, 2021.