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BILL ANALYSIS

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Senate Bill 509 (Substitute S-2 as passed by the Senate)

Sponsor: Senator Michael O'Brien

Committee: Commerce and Technology

Date Completed: 2-1-90

RATIONALE

With the public's increasing interest in leasing motor vehicles, there has been some concern that consumers be advised of all their financial obligations to the lessor should the leased vehicle be damaged in an accident, vandalized, or stolen. For example, a consumer may not realize that there could be a difference between the early termination payoff balance (amount owed on the lease) on the vehicle as determined by the lessor and its actual cash value as determined by the insurer of the vehicle. Further, the consumer may not realize that he or she could be responsible for paying that difference, which can be a considerable amount particularly if the car is new and expensive and the accident or theft occurs in the first year when the vehicle's value depreciates the most. To help provide greater protection for lessees of motor vehicles, it has been suggested that lessors be required to inform consumers of the possibility of a discrepancy between the outstanding balance on a lease and a vehicle's cash value, and the consumer's obligation to pay the difference.

CONTENT

The bill would create a new act to require that lease contracts involving motor vehicles include statements pertaining to the early termination payoff balance and actual cash value of the vehicle. Specifically, the bill would require that a lease contract for a motor vehicle contain a statement in a separate paragraph advising the lessee that the

early termination payoff balance of the motor vehicle as determined by the lessor could be different from the actual cash value of the motor vehicle as determined by the insurer of the vehicle.

If, under the terms of the contract, the lessee were required to pay to the lessor the difference between the early termination payoff balance as determined by the lessor and the actual cash value as determined by the insurer, a specific statement explaining this fact would have to be included in the lease contract immediately after the statement advising of the possible difference between the payoff balance and actual cash value. A space for the lessee's signature or initials would have to appear next to the statement and the lessee would have to sign or initial in the space, indicating that he or she had read the statement about paying the difference between cash value and payoff balance and understood its content. If a lessor failed to provide the notice required by the bill or failed to obtain the lessee's signature or initials and the lessor had invoked the terms of the contract requiring the lessee to pay to the lessor the difference between the early termination payoff balance and the actual cash value, the lessor would be subject to a civil action brought by the lessee. If successful in the civil action, the lessee could recover actual damages or \$250, whichever was greater, together with reasonable attorney's fees. Actual damages could not exceed the difference between the early termination payoff balance and the actual cash value.

S.B. 509 (2-1-90)

If a lessee did not agree to sign a lease contract in the space provided next to the required notice, the lessor could refuse to lease a motor vehicle to the lessee.

The bill would apply to lease contracts for a motor vehicle for more than 30 days.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

The bill would provide greater protection to consumers by ensuring that they were advised of all their financial obligations to the lessor should a motor vehicle that they have leased be damaged or stolen.

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