

**SUBJECT:** Revising optional fees for handling documents in motor vehicle sales

**COMMITTEE:** Pensions, Investments and Financial Services — favorable, without amendment

**VOTE:** 7 ayes — Truitt, Anderson, Flynn, Hernandez, Parker, Veasey, Woolley  
0 nays  
2 absent — Anchia, Hopson

**WITNESSES:** For — Victor Vandergiff, Vandergriff Auto Group and Texas Association of Automobile Dealers Association  
  
Against — None  
  
On — (*Registered, but did not testify*: Leslie Pettijohn, Sealy Hutchings, Office of Consumer Credit Commissioner)

**BACKGROUND:** Finance Code, sec. 348.006 outlines regulations for the principal balance under a retail installment contract for a motor vehicle and optional documentary fees that may accompany the motor vehicle sale. The documentary fee can be charged for services rendered for or on behalf of the buyer in preparing, handling, and processing documents relating to the motor vehicle and to the closing of the retail installment transaction.

Under current law, the documentary fee is limited to \$50 for a motor vehicle retail installment contract or a reasonable amount agreed to by the seller and buyer for a heavy commercial vehicle retail installment contract.

The buyer's order and retail installment contract must include the statement of the amount of the documentary fee and a conspicuously placed notice of the documentary fee close to where the fee is disclosed. The notice outlines that the documentary fee is a voluntary fee for document handling and may not exceed \$50 for a motor vehicle contract or a reasonable amount agreed to by parties for a heavy commercial vehicle contract.

DIGEST:

HB 3621 would amend Finance Code, sec. 348.006 to state that the optional documentary fee was for the handling and processing of documents related to a motor vehicle sale. The bill would remove the \$50 limit for the documentary fee for a motor vehicle retail installment contract and instead would have the fee determined by agreement between the seller and buyer for documentary services performed by the seller.

The bill would require that retail sellers post the amended documentary fee notice so that it was clearly visible in each place where a vehicle sale was finalized.

The consumer credit commissioner could review the amount of a documentary fee for reasonableness. If the fee were determined by the commissioner not to be reasonable, the commissioner could require that the charged fee be reduced or suspended. The Finance Commission could adopt rules to enforce provisions for documentary fees, including standards for determining reasonableness.

The bill would take effect September 1, 2009.

SUPPORTERS  
SAY:

HB 3621 would remove an arbitrary statutory cap on the fee to handle documents in a motor vehicle sale. Processing documents in a car sale is an increasingly onerous service that auto dealers handle for their customers. As such, the fee for service should more realistically reflect the amount of time and effort that goes into handling documents related to the purchase of a new or used vehicle.

HB 3621 would allow Texas to join the majority of the states that do not have a limit on document fees and would provide a fair solution in letting the marketplace establish a reasonable price for this valuable service. The bill also would provide safeguards for consumers against potential abuse by allowing the consumer credit commissioner to determine whether or not an established fee was reasonable and would provide for reductions or suspension of the fee. Any cost associated with regulating document fees would be offset by increased fees that regulatory agencies would collect.

OPPONENTS  
SAY:

By removing the statutorily imposed limit on document fees, HB 3621 would place an additional burden on consumers through higher fees or force them to complete the cumbersome paperwork themselves in an effort to avoid the higher fees. The bill also would be an additional regulatory

burden for the state in determining whether the document fees were reasonable.

NOTES:

Rep. Geren plans to offer a floor amendment that would exempt from a documentary fee a buyer's order or retail installment contract for a commercial vehicle.

A similar bill, HB 3194 by Flynn, which would increase the document fee to \$100, was referred to the Pensions, Investments and Financial Services Committee on March 18.