

BILL ANALYSIS

Senate Research Center
81R34896 E

C.S.H.B. 3621
By: Solomons (Carona)
Transportation & Homeland Security
5/19/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The maximum amount an automobile dealer can charge as a documentary fee for preparing and processing the documents associated with the sale of a motor vehicle, including remittance of the sales and motor vehicle tax to the state, has remained at \$50 since 1993. Since that time the federal government has mandated that automobile dealers establish certain procedures that, among other things, develop technical, administrative, and physical safeguards to protect customer information. The additional costs of these government mandates have been absorbed by automobile dealers.

C.S.H.B. 3621 removes the \$50 cap on the documentary fee for documentary services relating to a motor vehicle retail installment contract and instead prohibits the fee from exceeding a reasonable amount for the handling and processing of documents related to a motor vehicle sale. The bill authorizes the consumer credit commissioner to review the amount of a documentary fee for reasonableness and, if the fee is unreasonable, to require that the documentary fee charged be reduced or suspended.

C.S.H.B. 3621 amends current law relating to certain charges included in a motor vehicle installment agreement.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 1 (Section 348.006, Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 348.006, Finance Code, as follows:

Sec. 348.006. PRINCIPAL BALANCE; INCLUSION OF DOCUMENTARY FEE. (a) Provides that the principal balance under a retail installment contract is computed by adding, subject to Subsection (c), a documentary fee for services rendered for or on behalf of the retail buyer in handling and processing, rather than preparing, handling, and processing, documents relating to the motor vehicle sale, rather than the motor vehicle and to the closing of the retail installment transaction.

(b) Makes no changes to this subsection.

(c) Provides that for a documentary fee to be included in the principal balance of a retail installment contract:

(1) Makes no changes to this subdivision;

(2) the documentary fee is prohibited from exceeding \$100, rather than \$50, for a motor vehicle retail installment contract other than a contract for a commercial vehicle, a reasonable amount agreed to by the retail seller and retail buyer for the documentary services, or for a commercial vehicle retail installment contract, rather than a heavy commercial vehicle retail installment contract, an amount agreed to in writing by the retail seller and retail buyer; and

(3) except for a buyer's order or retail installment contract for a commercial vehicle, the buyer's order and the retail installment contract are required to include in reasonable proximity to the place in each where the amount of the documentary fee is disclosed, a notice in type that is bold-faced, capitalized, underlined, or otherwise conspicuously set out from surrounding written material. Sets forth the required language of the notice. Makes a nonsubstantive change.

(d) Requires a retail seller to post the documentary fee notice prescribed in Subsection (c) so that it is clearly visible in each place where a vehicle sale is finalized.

(e) Authorizes the consumer credit commissioner (commissioner) to review the amount of a documentary fee for reasonableness. Authorizes the commissioner, in determining whether a fee charged by a retail seller is reasonable, to consider the resources required by the retail seller to perform the retail seller's duties under state and federal law with respect to the handling and processing of documents relating to the sale and financing of a motor vehicle. Authorizes the commissioner, if the commissioner determines that a documentary fee charged is not reasonable, to require that the documentary fee charged be reduced or suspended.

(f) Provides that a documentary fee charged in accordance with this section before September 1, 2009, is considered reasonable for purposes of this section.

(g) Provides that this section does not create a private right of action, or require that the commissioner approve a specific documentary fee amount before a retail seller charges the fee.

(h) Authorizes the finance commission to adopt rules, including rules relating to the standards for a reasonableness determination or disclosures, necessary to enforce this section. Prohibits a rule adopted under this subsection from requiring a retail seller to submit to the commissioner for prior approval the amount of a documentary fee that the retail seller intends to charge under this section.

(i) Provides that the commissioner has exclusive jurisdiction to enforce this section.

(j) Provides that Subsections (d), (e), and (h) do not apply with respect to a retail installment transaction for the purchase of a commercial vehicle.

SECTION 2. Provides that to the extent of conflict and regardless of the relative dates of enactment, this Act prevails over any other bill, including H.B. 4361 and S.B. 1965, enacted by the 81st Legislature, Regular Session, 2009.

SECTION 3. Effective date: September 1, 2009.