

BILL ANALYSIS

Senate Research Center
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H.B. 2339
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many authorized "trade-in credit agreements" to be offered in connection with motor vehicle retail installment contracts. These agreements provide a credit to be applied toward the purchase or lease of a vehicle from the same dealer upon the trade-in of a vehicle that is damaged but not rendered a total loss as a result of a collision accident. This bill would protect motor vehicle buyers in Texas against the diminished value of a vehicle as a result of damage due to a collision accident by providing for such agreements.

H.B. 2339 amends current law relating to trade-in credit agreements offered in connection with certain motor vehicle retail installment contracts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 348.001, Finance Code, by adding Subdivision (11) to define "trade-in credit agreement."

SECTION 2. Amends Section 348.005, Finance Code, to provide that an amount in a retail installment contract is an itemized charge if the amount is not included in the cash price and is the amount of certain authorized charges, including trade-in credit agreements.

SECTION 3. Amends Subchapter B, Chapter 348, Finance Code, by adding Section 348.125, as follows:

Sec. 348.125. TRADE-IN CREDIT AGREEMENTS OFFERED IN CONNECTION WITH RETAIL INSTALLMENT CONTRACTS. (a) Authorizes a retail seller, at the time a retail installment contract is executed, to offer to sell to a retail buyer a trade-in credit agreement or similarly named agreement.

(b) Provides that a trade-in credit agreement is not considered an insurance product.

(c) Requires a retail seller, to ensure the faithful performance of the retail seller's obligations to a retail buyer under a trade-in credit agreement, to be insured under a contractual liability reimbursement policy approved by the commissioner of insurance and issued for the benefit of Texas residents.

(d) Requires a retail seller, in addition to other disclosures required by state or federal law, if a retail seller offers to a retail buyer a trade-in credit agreement, to give the retail buyer at the time the retail installment contract is executed a copy of the written trade-in credit agreement and written notice that the retail buyer:

(1) is not required to purchase the trade-in credit agreement as a condition for approval of the retail installment contract;

(2) is entitled to cancel the trade-in credit agreement before the 31st day after the date the retail installment contract is executed and receive a full refund;

(3) may terminate the trade-in credit agreement at any time on or after the 31st day after the date the retail installment contract is executed and receive a pro rata refund minus any applicable cancellation fee which may not exceed \$50; and

(4) has been provided a clear and concise disclosure of the amount of the credit available during the term of the trade-in credit agreement.

(e) Prohibits the amount charged for a trade-in credit agreement offered in connection with a retail installment contract from exceeding five percent of the cash price of the motor vehicle that is the subject of the retail installment contract, including any attached accessories and excluding the price of certain services.

(f) Requires that a trade-in credit agreement require the retail buyer to provide proof of insurance settlement documents in order to obtain the credit. Prohibits a trade-in credit agreement from requiring the retail buyer to provide any other documentation in order to obtain the credit.

(g) Requires that a retail seller, if the retail seller enters a trade-in credit agreement with a retail buyer, comply with the terms of the trade-in credit agreement in connection with the purchase or lease of a subsequent motor vehicle. Requires a retail seller to provide any credit required under a trade-in credit agreement at the time of the purchase or lease of a subsequent motor vehicle.

(h) Requires that the benefit to be provided in connection with a trade-in credit agreement bear a reasonable relationship to the amount charged for the trade-in credit agreement and the amount, term, and conditions of the retail installment contract.

SECTION 4. Amends Sections 348.208(b) and (c), Finance Code, as follows:

(b) Authorizes a retail installment contract to include as a separate charge an amount for a trade-in credit agreement, among certain other items, and makes nonsubstantive changes.

(c) Provides that, notwithstanding any other law, service contracts, debt cancellation agreements, and trade-in credit agreements, rather than service contracts and debt cancellation agreements, sold by a retail seller of a motor vehicle to a retail buyer are not subject to Chapter 101 (Unauthorized Insurance) or 226 (Unauthorized and Independently Procured Insurance Premium Tax), Insurance Code.

SECTION 5. Effective date: September 1, 2017.