

## **BILL ANALYSIS**

C.S.H.B. 2590  
By: McCall  
Financial Institutions  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current law, the definition of "holder" as it relates to motor vehicle transaction contracts is ambiguous, which has led to questions as to what entities are defined as a "holder" for purposes of the law.

Dealers often finance the negative equity in a consumer's trade-in vehicle into the ultimate lien on a new vehicle. If this negative equity is not itemized, some consumers believe that they owe a much smaller amount than is ultimately included in their auto loan.

Currently, foreign and domestic vehicles are treated differently by dealers. This statute was written when there was a pertinent distinction between the sale of domestic and foreign vehicles. Foreign and domestic vehicles are now comparable for financing purposes.

Lien holders sometimes withhold information about payoff amount or do not respond promptly to a request for payout information from a consumer. Under current state law, it is not explicitly stated that a retail seller must pay off the outstanding balance on a traded-in vehicle. As such, some dealers do not pay the outstanding liens on vehicles received in a trade deal. The previous owner may unknowingly default on a loan or miss payments by no fault of their own. Under the Finance Code, specific fees that automobile dealers are authorized to charge are itemized.

C.S.H.B. 2590 amends the Finance Code to address these issues regulated by the Office of Consumer Credit Commissioner.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2590 amends the Finance Code by clarifying the definition of a "holder" as a retail seller, or assignee or transferee of a retail installment contract. C.S.H.B. 2590 removes the distinction between foreign and domestic motor vehicles where that distinction relates to add-on charges assessed under the Finance Code. C.S.H.B. 2590 also changes the number of days treated as a full month from 15 days to 16 days.

C.S.H.B. 2590 specifies a retail seller may include money advanced under Subsection (b) in a retail installment contract only if it is included as an itemized charge. C.S.H.B. 2590 requires the holder to respond within a reasonable time, as determined by the Commissioner, by providing the information or a reasonable means to obtain it. The holder may require the retail buyer to verify the requester's identity before responding to a request.

C.S.H.B. 2590 requires a retail seller to pay in full the outstanding balance of a vehicle traded in not later than the 20th working day after the date that the retail installment contract is signed by the retail buyer and the retail buyer receives delivery of the motor vehicle; and the retail seller receives delivery of the motor vehicle traded in and the necessary and appropriate documents to transfer title from the buyer.

## **EFFECTIVE DATE**

January 1, 2008.

## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 2590 alters the definition of a holder to specify a "holder" as a retail seller or the assignee or transferee of a retail installment contract. C.S.H.B. 2590 no longer defines "holder" as the holder of a contract even after the contract as been assigned or transferred to another party.

C.S.H.B. 2590 renumbers previous Section 3 to be Section 2. Section 2 removes the distinction between foreign and domestic motor vehicles where that distinction relates to add-on charges assessed under the Finance Code. C.S.H.B. 2590 also changes the number of days treated as a full month from 15 days to 16 days. This section is unaltered from the original bill.

C.S.H.B. 2590 renumbers the previous Section 2 to be Section 3. Section 3 amends the Finance Code by adding Subsection (d) to 348.404. The new subsection provides that a retail seller may include money owed on a prior vehicle in the new retail installment contract only if it included as an itemized charged.

C.S.H.B. 2590 requires that a holder of a contract respond within a reasonable amount of time as determined by the Commissioner, rather than require that the holder of a contract respond to a payoff amount request within three days. The holder may provide this information or a reasonable means to obtain it. The holder may request identity verification before providing payoff information. A buyer is entitled to one statement or payoff quotation without charge during a six-month period; otherwise, a holder may charge not more than one dollar for any additional requests.

C.S.H.B. 2590 requires a seller to pay off the balance owed on a trade in within a specified period of time. The substitute alters the number of days from 20 days to 20 working days. The substitute also removes language requiring payoff when a contract becomes enforceable, and replaces it with specific direction that the contract must be paid off within 20 working days of when the contract is signed by buyer, the buyer receives delivery of the vehicle, and the seller receives delivery of the trade-in and necessary documents to transfer title from the buyer.

C.S.H.B. 2590 changes the effective date which was September 1, 2007 in the original bill. The new effective date is January 1, 2008.