

## **BILL ANALYSIS**

C.S.H.B. 3659  
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Pensions, Investments & Financial Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law fails to address the relationship between advertised price and cash price as the terms relate to a motor vehicle retail installment transaction. It is important to clearly define these terms because the cash price is the foundation upon which a retail installment contract is built and, in the absence of such clarity, at least one court has held that the cash price is established by advertised price, regardless of whether a buyer has ever even seen the advertised price. This holding is not reflective of the reality of motor vehicle sales transactions, as the actual cash price is often undetermined until the buyer and seller reach an accord. The imposition of a standard that advertised price equals cash price fails to account for this reality and may have the effect of preventing the common practice of price negotiation in motor vehicle sales.

Current law also does not expressly consider the situation in which a motor vehicle purchaser wishes to trade in a leased vehicle and incorporate the amount owed in the lease into a retail installment agreement associated with the purchase. This is a standard practice in a vehicle trade-in, where the purchaser's interest in the traded vehicle is established by a retail installment purchase agreement rather than by a lease agreement.

C.S.H.B. 3659 establishes that, for the purposes of motor vehicle installment sales, the advertised price does not necessarily establish a cash price. The bill also authorizes a retail seller, in connection with a retail installment transaction, to advance money to retire the retail buyer's outstanding obligation under a motor vehicle lease contract, a credit transaction for the purchase of a motor vehicle, or another credit or retail installment transaction.

### **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. 3659 amends the Finance Code to establish that, for the purposes of motor vehicle installment sales, the advertised price does not necessarily establish a cash price. The bill authorizes a retail seller, in connection with a retail installment transaction, to advance money to retire the retail buyer's outstanding obligation under a motor vehicle lease contract, a credit transaction for the purchase of a motor vehicle, or another credit or retail installment transaction.

### **EFFECTIVE DATE**

September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 3659 differs from the original by establishing that, for the purposes of motor vehicle installment sales, the advertised price does not necessarily establish a cash price, whereas the

original provides that for such a purpose the cash price is either the amount negotiated by a retail buyer and retail seller or an advertised price, but only if the advertisement states that the advertised price is the same as the cash price.

C.S.H.B. 3659 differs from the original by specifying that a retail seller may advance money to retire the retail buyer's outstanding obligation under a motor vehicle lease contract, a credit transaction for the purchase of a motor vehicle, or another retail installment transaction, whereas the original authorized such advance of money to retire the retail buyer's outstanding obligation under a lease contract or another credit or retail installment transaction without specifying the object of the lease contract or credit transaction.

C.S.H.B. 3659 removes a provision in the original setting the late filing fee for obtaining a regulated loan license after the date it is required at \$2,000 if the application for the license is filed not later than the 180th day after the date the license is required.