

By: Hopson

H.B. No. 3338

A BILL TO BE ENTITLED

AN ACT

relating to debt cancellation contract agreements

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 348.001, Finance Code, is amended by adding (11) to read as follows:

Sec. 348.001. DEFINITIONS. In this chapter:

(1) "Buyer's order" means a nonbinding, preliminary written computation relating to the purchase in a retail installment transaction of a motor vehicle that describes specifically:

(A) the motor vehicle being purchased; and

(B) each motor vehicle being traded in.

(2) "Heavy commercial vehicle" means:

(A) a truck or truck tractor that:

(i) has a gross vehicular weight of 19,000 pounds or more; and

(ii) is not used primarily for personal, family, or household use; or

(B) a trailer or semi trailer designed for use in combination with a vehicle described by Paragraph (A).

(3) "Holder" means:

(A) a retail seller; or

(B) if a retail installment contract or the outstanding balance under the contract is sold or otherwise

1 transferred, the person to whom it is sold or otherwise  
2 transferred.

3 (3-a) "Motor home" means a motor vehicle that is  
4 designed to provide temporary living quarters and that:

5 (A) is built on a motor vehicle chassis as an  
6 integral part of or a permanent attachment to the chassis; and

7 (B) contains at least four of the following  
8 independent life support systems that are permanently installed and  
9 designed to be removed only for repair or replacement and that meet  
10 the standards of the American National Standards Institute,  
11 Standards for Recreational Vehicles:

12 (i) a cooking facility with an on-board  
13 fuel source;

14 (ii) a gas or electric refrigerator;

15 (iii) a toilet with exterior evacuation;

16 (iv) a heating or air-conditioning system  
17 with an on-board power or fuel source separate from the vehicle  
18 engine;

19 (v) a potable water supply system that  
20 includes at least a sink, a faucet, and a water tank with an  
21 exterior service supply connection; or

22 (vi) a 110-125 volt electric power supply.

23 (4) "Motor vehicle" means an automobile, motor home,  
24 truck, truck tractor, trailer, semi trailer, or bus designed and  
25 used primarily to transport persons or property on a highway. The  
26 term includes a commercial vehicle or heavy commercial  
27 vehicle. The term does not include:

1 (A) a boat trailer;

2 (B) a vehicle propelled or drawn exclusively by  
3 muscular power;

4 (C) a vehicle that is designed to run only on  
5 rails or tracks; or

6 (D) machinery that is not designed primarily for  
7 highway transportation but may incidentally transport persons or  
8 property on a public highway.

9 (5) "Retail buyer" means a person who purchases or  
10 agrees to purchase a motor vehicle from a retail seller in a retail  
11 installment transaction.

12 (6) "Retail installment contract" means one or more  
13 instruments entered into in this state that evidence a retail  
14 installment transaction. The term includes a chattel mortgage, a  
15 conditional sale contract, a security agreement, and a document  
16 that evidences a bailment or lease described by Section 348.002.  
17 The term does not include a buyer's order.

18 (7) "Retail installment transaction" means a  
19 transaction in which a retail buyer purchases a motor vehicle from a  
20 retail seller other than principally for the purpose of resale and  
21 agrees with the retail seller to pay part or all of the cash price in  
22 one or more deferred installments.

23 (8) "Retail seller" means a person in the business of  
24 selling motor vehicles to retail buyers in retail installment  
25 transactions.

26 (9) "Time price differential" means the total amount  
27 added to the principal balance to determine the balance of the

1 retail buyer's indebtedness under a retail installment contract.

2 (10-a) "Towable recreation vehicle" means a  
3 nonmotorized vehicle that:

4 (A) was originally designed and manufactured  
5 primarily to provide temporary human habitation in conjunction with  
6 recreational, camping, or seasonal use;

7 (B) is titled and registered with the Texas  
8 Department of Transportation as a travel trailer through a county  
9 tax assessor-collector;

10 (C) is permanently built on a single chassis;

11 (D) contains at least one life support system;

12 and

13 (E) is designed to be towable by a motor vehicle.

14 (11) "Debt Cancellation Agreement" means a retail  
15 installment contract term or a contractual arrangement modifying a  
16 retail installment contract term under which a retail seller or  
17 holder agrees to cancel all or part of an obligation of the retail  
18 buyer to repay an extension of credit from the retail seller or  
19 holder upon the occurrence of a specified event and does not offer  
20 to pay a specified amount upon determinable contingencies. The  
21 agreement shall not be considered a product of insurance.

22 SECTION 2. Amend 348, Finance Code, is amended by adding  
23 Section 348.124 as follows:

24 Sec. 348.124. AGREEMENTS REGARDING DEBT CANCELLATION  
25 AGREEMENTS. In connection with a loan made under this chapter, a  
26 lender may offer to the borrower a debt cancellation agreement, as  
27 defined by Section 348.001(11) of this chapter. A lender shall not

1 require a borrower to purchase a debt cancellation agreement in  
2 order to obtain the loan.

3 SECTION 3. Amend 348.208, Finance Code, is amended by  
4 adding (6) and amending (c) as follows:

5 Sec. 348.208. CHARGES FOR OTHER INSURANCE AND FORMS OF  
6 PROTECTION INCLUDED IN RETAIL INSTALLMENT CONTRACT. (a) A retail  
7 buyer and retail seller may agree in a retail installment contract  
8 to include a charge for insurance coverage that is:

9 (1) for a risk of loss or liability reasonably related  
10 to:

11 (A) the motor vehicle;

12 (B) the use of the motor vehicle; or

13 (C) goods or services that:

14 (i) are related to the motor vehicle; and

15 (ii) may ordinarily be insured with a motor  
16 vehicle;

17 (2) written on policies or endorsement forms  
18 prescribed or approved by the commissioner of insurance; and

19 (3) ordinarily available in policies or endorsements  
20 offered to the public.

21 (b) A retail installment contract may include as a separate  
22 charge an amount for:

23 (1) motor vehicle property damage or bodily injury  
24 liability insurance;

25 (2) mechanical breakdown insurance;

26 (3) participation in a motor vehicle theft protection  
27 plan;

1           (4) insurance to reimburse the retail buyer for the  
2 amount computed by subtracting the proceeds of the buyer's basic  
3 collision policy on the motor vehicle from the amount owed on the  
4 vehicle if the vehicle has been rendered a total loss; ~~[or]~~

5           (5) a warranty or service contract relating to the  
6 motor vehicle~~[.]~~ ;

7           (6) a debt cancellation agreement.

8           (c) Notwithstanding any other law, service contracts and  
9 debt cancellation agreements sold by a retail seller of a motor  
10 vehicle to a retail buyer are not subject to Chapter 101 or 226,  
11 Insurance Code.

12          SECTION 4. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2009.