

By: Solomons

H.B. No. 3621

A BILL TO BE ENTITLED

AN ACT

relating to certain charges included in a motor vehicle installment agreement.

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

SECTION 1. Section 348.006, Finance Code, is amended to read as follows:

Sec. 348.006. PRINCIPAL BALANCE; INCLUSION OF DOCUMENTARY FEE. (a) The principal balance under a retail installment contract is computed by:

(1) adding:

(A) the cash price of the motor vehicle;

(B) each amount included in the retail installment contract for an itemized charge; and

(C) subject to Subsection (c), a documentary fee for services rendered for or on behalf of the retail buyer in ~~[preparing]~~ handling~~[r]~~ and processing documents relating to the motor vehicle sale ~~[and to the closing of the retail installment transaction]~~; and

(2) subtracting from the results under Subdivision (1) the amount of the retail buyer's down payment in money, goods, or both.

(b) The computation of the principal balance may include an amount authorized under Section 348.404(b).

(c) For a documentary fee to be included in the principal

1 balance of a retail installment contract:

2 (1) the retail seller must charge the documentary fee
3 to cash buyers and credit buyers;

4 (2) the documentary fee may not exceed [~~\$50 for a motor~~
5 ~~vehicle retail installment contract or~~] a reasonable amount for the
6 documentary services agreed to by the retail seller and retail
7 buyer [~~for a heavy commercial vehicle retail installment contract~~];
8 and

9 (3) the buyer's order and the retail installment
10 contract must include:

11 (A) a statement of the amount of the documentary
12 fee; and

13 (B) in reasonable proximity to the place in each
14 where the amount of the documentary fee is disclosed, the following
15 notice in type that is bold-faced, capitalized, underlined, or
16 otherwise conspicuously set out from surrounding written material:

17 "A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE
18 IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING
19 DOCUMENTS [~~AND PERFORMING SERVICES~~] RELATING TO THE [~~CLOSING OF A~~]
20 SALE. A DOCUMENTARY FEE MAY NOT EXCEED [~~\$50 FOR A MOTOR VEHICLE~~
21 ~~CONTRACT OR~~] A REASONABLE AMOUNT AGREED TO BY THE PARTIES [~~FOR A~~
22 ~~HEAVY COMMERCIAL VEHICLE CONTRACT~~]. THIS NOTICE IS REQUIRED BY
23 LAW."

24 (d) A retail seller shall post the documentary fee notice
25 prescribed in Subsection (c) so that it is clearly visible in each
26 place where a vehicle sale is finalized and include the notice in
27 each retail installment agreement. The notice must be conspicuous,

1 in bold-faced type, and capitalized or underlined. If the language
2 primarily used in an oral sales presentation is not the same as the
3 language in which the retail installment contract is written, the
4 retail seller shall furnish to the retail buyer a written statement
5 containing the notice set out in Subsection (c)(3)(B) in the
6 language primarily used in the oral sales presentation.

7 (e) The commissioner may review the amount of a documentary
8 fee for reasonableness. In determining whether a fee charged by a
9 retail seller is reasonable, the commissioner may consider the
10 resources required by the retail seller to perform the retail
11 seller's duties under state and federal law with respect to the
12 handling and processing of documents relating to the sale and
13 financing of a motor vehicle. If the commissioner determines that a
14 documentary fee charged is not reasonable, then the commissioner
15 may require that the documentary fee charged be reduced or
16 suspended.

17 (f) A documentary fee charged in accordance with this
18 section before September 1, 2009, is considered reasonable for
19 purposes of this section.

20 (g) This section does not:

21 (1) create a private right of action; or

22 (2) require that the commissioner approve a specific
23 documentary fee amount before a retail seller charges the fee.

24 (h) The finance commission may adopt rules, including rules
25 relating to the standards for a reasonableness determination or
26 disclosures, necessary to enforce this section. A rule adopted
27 under this subsection may not require a retail seller to submit to

1 the commissioner for prior approval the amount of a documentary fee
2 that the retail seller intends to charge under this section.

3 (i) The commissioner has exclusive jurisdiction to enforce
4 this section.

5 SECTION 2. This Act takes effect September 1, 2009.