

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:

5 (A) [\$50] for a motor vehicle retail installment
6 contract other than a contract for a commercial vehicle, ~~[or]~~ a
7 reasonable amount agreed to by the retail seller and retail buyer
8 for the documentary services; or

9 (B) for a ~~[heavy]~~ commercial vehicle retail
10 installment contract, an amount agreed to in writing by the retail
11 seller and retail buyer; and

12 (3) except for a buyer's order or retail installment
13 contract for a commercial vehicle, the buyer's order and the retail
14 installment contract must include:

15 (A) a statement of the amount of the documentary
16 fee; and

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

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

1 (d) A retail seller shall post the documentary fee notice
2 prescribed in Subsection (c) so that it is clearly visible in each
3 place where a vehicle sale is finalized. If the language primarily
4 used in an oral sales presentation is not the same as the language
5 in which the retail installment contract is written, the retail
6 seller shall furnish to the retail buyer a written statement
7 containing the notice set out in Subsection (c)(3)(B) in the
8 language primarily used in the oral sales presentation.

9 (e) Prior to increasing the maximum amount of the
10 documentary fee the retail seller charges, a retail seller shall
11 provide written notice to the commissioner of the maximum amount of
12 the documentary fee the retail seller intends to charge. The
13 commissioner may review the amount of a documentary fee for
14 reasonableness. In determining whether a fee charged by a retail
15 seller is reasonable, the commissioner may consider the resources
16 required by the retail seller to perform the retail seller's duties
17 under state and federal law with respect to the handling and
18 processing of documents relating to the sale and financing of a
19 motor vehicle. If the commissioner determines that a documentary
20 fee charged is not reasonable, the commissioner may require that
21 the documentary fee charged be reduced or suspended.

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

25 (g) This section does not:

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

27 (2) require that the commissioner approve a specific

1 documentary fee amount before a retail seller charges the fee.

2 (h) The finance commission may adopt rules, including rules
3 relating to the standards for a reasonableness determination or
4 disclosures, necessary to enforce this section. A rule adopted
5 under this subsection may not require a retail seller to submit to
6 the commissioner for prior approval the amount of a documentary fee
7 that the retail seller intends to charge under this section.

8 (i) The commissioner has exclusive jurisdiction to enforce
9 this section.

10 (j) Subsections (d), (e), and (h) do not apply with respect
11 to a retail installment transaction for the purchase of a
12 commercial vehicle.

13 SECTION 2. To the extent of conflict and regardless of the
14 relative dates of enactment, this Act prevails over any other bill,
15 including House Bill 4361 and Senate Bill 1965, enacted by the 81st
16 Legislature, Regular Session, 2009.

17 SECTION 3. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 3621 was passed by the House on May 11, 2009, by the following vote: Yeas 146, Nays 0, 3 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3621 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3621 on May 31, 2009, by the following vote: Yeas 143, Nays 1, 1 present, not voting.

Chief Clerk of the House

H.B. No. 3621

I certify that H.B. No. 3621 was passed by the Senate, with amendments, on May 25, 2009, by the following vote: Yeas 30, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3621 on June 1, 2009, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor