

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. If the language primarily  
27 used in an oral sales presentation is not the same as the language

1 in which the retail installment contract is written, the retail  
2 seller shall furnish to the retail buyer a written statement  
3 containing the notice set out in Subsection (c)(3)(B) in the  
4 language primarily used in the oral sales presentation.

5 (e) The commissioner may review the amount of a documentary  
6 fee for reasonableness. If the commissioner determines that a  
7 documentary fee charged is not reasonable, then the commissioner  
8 may require that the documentary fee charged be reduced or  
9 suspended.

10 (f) The Finance Commission may adopt rules, including rules  
11 relating to the standards for a reasonableness determination or  
12 disclosures, to enforce this section.

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