

1-1 By: Solomons (Senate Sponsor - Carona) H.B. No. 3621
1-2 (In the Senate - Received from the House May 12, 2009;
1-3 May 13, 2009, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 19, 2009, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 7, Nays 0; May 19, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3621 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain charges included in a motor vehicle installment
1-11 agreement.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 348.006, Finance Code, is amended to
1-14 read as follows:

1-15 Sec. 348.006. PRINCIPAL BALANCE; INCLUSION OF DOCUMENTARY
1-16 FEE. (a) The principal balance under a retail installment contract
1-17 is computed by:

1-18 (1) adding:

1-19 (A) the cash price of the motor vehicle;

1-20 (B) each amount included in the retail
1-21 installment contract for an itemized charge; and

1-22 (C) subject to Subsection (c), a documentary fee
1-23 for services rendered for or on behalf of the retail buyer in
1-24 ~~[preparing,] handling[,]~~ and processing documents relating to the
1-25 motor vehicle sale ~~[and to the closing of the retail installment~~
1-26 ~~transaction]; and~~

1-27 (2) subtracting from the results under Subdivision (1)
1-28 the amount of the retail buyer's down payment in money, goods, or
1-29 both.

1-30 (b) The computation of the principal balance may include an
1-31 amount authorized under Section 348.404(b).

1-32 (c) For a documentary fee to be included in the principal
1-33 balance of a retail installment contract:

1-34 (1) the retail seller must charge the documentary fee
1-35 to cash buyers and credit buyers;

1-36 (2) the documentary fee may not exceed:

1-37 (A) \$100 ~~[\$50]~~ for a motor vehicle retail
1-38 installment contract other than a contract for a commercial
1-39 vehicle, [or] a reasonable amount agreed to by the retail seller and
1-40 retail buyer for the documentary services; or

1-41 (B) for a [heavy] commercial vehicle retail
1-42 installment contract, an amount agreed to in writing by the retail
1-43 seller and retail buyer; and

1-44 (3) except for a buyer's order or retail installment
1-45 contract for a commercial vehicle, the buyer's order and the retail
1-46 installment contract must include:

1-47 (A) a statement of the amount of the documentary
1-48 fee; and

1-49 (B) in reasonable proximity to the place in each
1-50 where the amount of the documentary fee is disclosed, the following
1-51 notice in type that is bold-faced, capitalized, underlined, or
1-52 otherwise conspicuously set out from surrounding written material:

1-53 "A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE
1-54 IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING
1-55 DOCUMENTS ~~[AND PERFORMING SERVICES]~~ RELATING TO THE ~~[CLOSING OF A]~~
1-56 ~~SALE. A DOCUMENTARY FEE MAY NOT EXCEED [\$50 FOR A MOTOR VEHICLE~~
1-57 ~~CONTRACT OR] A REASONABLE AMOUNT AGREED TO BY THE PARTIES [FOR A~~
1-58 ~~HEAVY COMMERCIAL VEHICLE CONTRACT]. THIS NOTICE IS REQUIRED BY~~
1-59 ~~LAW."~~

1-60 (d) A retail seller shall post the documentary fee notice
1-61 prescribed in Subsection (c) so that it is clearly visible in each
1-62 place where a vehicle sale is finalized. If the language primarily
1-63 used in an oral sales presentation is not the same as the language

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

2-5 (e) The commissioner may review the amount of a documentary
2-6 fee for reasonableness. In determining whether a fee charged by a
2-7 retail seller is reasonable, the commissioner may consider the
2-8 resources required by the retail seller to perform the retail
2-9 seller's duties under state and federal law with respect to the
2-10 handling and processing of documents relating to the sale and
2-11 financing of a motor vehicle. If the commissioner determines that a
2-12 documentary fee charged is not reasonable, the commissioner may
2-13 require that the documentary fee charged be reduced or suspended.

2-14 (f) A documentary fee charged in accordance with this
2-15 section before September 1, 2009, is considered reasonable for
2-16 purposes of this section.

2-17 (g) This section does not:

2-18 (1) create a private right of action; or

2-19 (2) require that the commissioner approve a specific
2-20 documentary fee amount before a retail seller charges the fee.

2-21 (h) The finance commission may adopt rules, including rules
2-22 relating to the standards for a reasonableness determination or
2-23 disclosures, necessary to enforce this section. A rule adopted
2-24 under this subsection may not require a retail seller to submit to
2-25 the commissioner for prior approval the amount of a documentary fee
2-26 that the retail seller intends to charge under this section.

2-27 (i) The commissioner has exclusive jurisdiction to enforce
2-28 this section.

2-29 (j) Subsections (d), (e), and (h) do not apply with respect
2-30 to a retail installment transaction for the purchase of a
2-31 commercial vehicle.

2-32 SECTION 2. To the extent of conflict and regardless of the
2-33 relative dates of enactment, this Act prevails over any other bill,
2-34 including House Bill 4361 and Senate Bill 1965, enacted by the 81st
2-35 Legislature, Regular Session, 2009.

2-36 SECTION 3. This Act takes effect September 1, 2009.

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