

## **BILL ANALYSIS**

C.S.H.B. 2559

By: Truitt

Pensions, Investments & Financial Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Over the years, amendments to the Finance Code have resulted in numerous exceptions providing special rules that apply to either commercial or consumer transactions, but not both. As a result, some provisions apply only to commercial transactions, some apply only to consumer transactions, and some apply to both but include exceptions for one or the other.

C.S.H.B. 2559 seeks to clarify the law relating to commercial and consumer motor vehicle retail installment contracts and make future changes to these laws simpler to draft and incorporate into statute by moving provisions that apply to commercial transactions into a new chapter of the Finance Code.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Finance Commission of Texas in SECTIONS 1 and 17 of this bill.

### **ANALYSIS**

C.S.H.B. 2559 amends the Finance Code, in a provision providing definitions for purposes of provisions relating to motor vehicle installment sales, removes the explicit definitions of "commercial vehicle" and "heavy commercial vehicle" and instead defines those terms by reference to the provisions specifically governing commercial motor vehicle installments as added by the bill. The bill establishes that a retail installment transaction in which a retail buyer purchases a motor vehicle that is a commercial vehicle is not subject to provisions relating to motor vehicle installment sales and is subject to provisions relating to commercial vehicle installment sales added by the bill if the retail installment contract states that it is subject to those commercial vehicle installment sales provisions.

C.S.H.B. 2559 includes an agreement described by provisions relating to commercial motor vehicle installment sales among those agreements in which interest rates are capped at the applicable weekly ceiling and makes a person who contracts for, charges, or receives under a contract for a commercial motor vehicle installment sale a rate or amount of time price differential that exceeds the maximum applicable rate or authorized amount subject to a penalty for the violation.

C.S.H.B. 2559 establishes a presumption that a motor vehicle that is not described as a commercial vehicle characterized by gross vehicle weight, owned by a business entity, and part of a fleet or that is of a type typically used for personal, family, or household use, as determined by finance commission rule, is not a commercial vehicle. The bill authorizes a retail seller or holder, if a retail buyer represents in writing that a motor vehicle is not for personal, family, or household use or that the vehicle is for commercial use, to rely on that representation unless the retail seller or holder has actual knowledge that the representation is not true. The bill establishes that a bailment or lease of a commercial vehicle is a retail installment transaction if the bailee or lessee contracts to pay as compensation for use of the vehicle an amount that is substantially

equal to or exceeds the value of the vehicle and on full compliance with the bailment or lease is bound to become the owner or, for no or nominal additional consideration, has the option to become the owner of the vehicle. The bill establishes that an agreement for the lease of a commercial vehicle does not create a retail installment transaction by merely providing that the rental price is permitted or required to be adjusted under the agreement as determined by the amount realized on the sale or other disposition of the vehicle, as provided by Transportation Code provisions relating to sale or security interest not created by certain vehicle leases.

C.S.H.B. 2559 specifies certain conditions that may exist but that do not result in a transaction's exclusion as a retail installment transaction. The bill establishes that the cash price is the price at which the retail seller offers in the ordinary course of business to sell for cash the goods or services that are subject to the transaction, that an advertised price does not necessarily establish a cash price, and that the cash price does not include any finance charge. The bill authorizes the cash price, at the retail seller's option, to include the prices of accessories, sales-related services, and service contracts; taxes; and license, title, and registration fees. The bill specifies what constitutes an itemized charge in a retail installment contract and authorizes certain amounts to be included as an itemized charge or in the cash price in a retail installment contract for a commercial vehicle. The bill requires a contract and a debt cancellation agreement, if a charge for that agreement is included in the contract, to each conspicuously disclose that the debt cancellation agreement is optional. The bill establishes that a charge for a debt cancellation agreement is not a charge for insurance and the sale, provision, or waiving of a balance owed or other action relating to a debt cancellation agreement is not considered insurance or engaging in the business of insurance. The bill establishes the procedure for computing the principal balance under a retail installment.

C.S.H.B. 2559 establishes that the bill's provisions governing commercial motor vehicle installment sales apply to a retail installment transaction for a commercial vehicle if the retail installment contract states that such provisions apply; clarifies the applicability of other law under certain conditions and the limitations on the effect of the provisions governing commercial vehicle installment sales; and establishes that the bill's provisions governing commercial vehicle installment sales that define specific rates and amounts of charges and require certain credit disclosures to be made control over any contrary law of this state respecting those subjects. The bill also establishes the extent to which other provisions in the Finance Code and the Business & Commerce Code or a common law principle apply to a commercial vehicle installment transaction and exempts such a transaction from insurance pricing provisions of the Insurance Code. The bill establishes that if a disclosure requirement of the bill's provisions and one of a federal law, including a regulation or an interpretation of federal law, are inconsistent or conflict, federal law controls and the inconsistent or conflicting disclosures required by the bill's provisions need not be given.

C.S.H.B. 2559 authorizes inclusion of information not required by the bill's provisions in a retail installment contract and establishes that items required by the bill's provisions to be in a retail installment contract are not required to be stated in the order set forth in the bill's provisions.

C.S.H.B. 2559 authorizes a retail seller and prospective retail buyer to enter into a conditional delivery agreement under which the retail seller allows the prospective buyer the use and benefit of a commercial vehicle for a specified term and sets out provisions governing such conditional agreements.

C.S.H.B. 2559 specifies the formula for computing the earned time price differential under the true daily earnings method and establishes that under this method payments are credited at the time received, with payments received before the scheduled installment date resulting in a greater reduction in the unpaid principal balance than otherwise scheduled, and payments received after the scheduled installment date resulting in less of a reduction in the unpaid principal balance than otherwise scheduled; that partial payments are applied first to time price differential with any remainder applied to the unpaid principal balance; and that accrued but

unpaid time price differential is not added to the unpaid principal balance or compounded.

C.S.H.B. 2559 requires a retail installment contract for each retail installment transaction in which the retail buyer is purchasing a commercial vehicle, authorizes a retail installment contract to be more than one document, and sets out the general form and content requirements for such contracts.

C.S.H.B. 2559 prohibits a retail installment contract from being conditioned on the subsequent assignment of the contract to a holder. The bill establishes that a contract provision in violation of this prohibition is void; that the bill's provisions do not affect the validity of other contract provisions that may be given effect without the voided provision, and to that extent those provisions of the contract are severable; that such prohibition does not create a private right of action; and that the consumer credit commissioner has exclusive jurisdiction to enforce these provisions.

C.S.H.B. 2559 authorizes a retail installment contract to provide for any amount of time price differential or for any rate of time price differential not exceeding a yield permitted under the applicable provisions set out by the bill. The bill authorizes the time price differential to be computed using the precomputed earnings method, scheduled installment earnings method, or true daily earnings method.

C.S.H.B. 2559 authorizes a retail installment contract that is payable in substantially equal successive monthly installments beginning one month after the date of the contract to provide for a time price differential that does not exceed the specified add-on charge on the principal balance for each type of new or used commercial vehicle. The bill establishes that the time price differential is computed on the original principal balance under the retail installment contract from the date of the contract until the maturity of the final installment, notwithstanding that the balance is payable in installments. The bill provides for a proportional decrease or increase in the amount of the maximum time price differential computed if the retail installment contract is payable for a period that is shorter or longer than a year or is for an amount that is less or greater than \$100. The bill authorizes consideration of 16 or more days of a month as a full month for the purpose of such computation. The bill authorizes a retail installment contract, as an alternative to the maximum rate or amount authorized for a time price differential for such a contract or a time differential for another contract to provide for a rate or amount of time price differential that does not exceed the rate or amount authorized for an optional rate ceiling. The bill authorizes a retail installment contract that is payable other than in substantially equal successive monthly installments or the first installment of which is not payable one month from the date of the contract to provide for a time price differential that does not exceed an amount that provides the same effective return as if the contract were payable in substantially equal successive monthly installments beginning one month from the date of the contract.

C.S.H.B. 2559 authorizes the inclusion in a retail installment contract of provisions for the collection of delinquency charges or interest for a default in payment of an installment and for the payment of charges such as attorney's fees, court costs and disbursements, and reasonable out-of-pocket expenses for the collection of debt.

C.S.H.B. 2559 prohibits a retail installment contract from authorizing the holder to accelerate the maturity of all or a part of the amount owed under the contract unless the retail buyer is in default in the performance of any of the buyer's obligations; the holder believes in good faith that the prospect of the buyer's payment or performance is impaired; or the retail buyer or an affiliate of the retail buyer is in default in its obligations under another financing agreement or leasing agreement held by the same holder or an affiliate of the holder.

C.S.H.B. 2559 requires a retail seller to deliver to the retail buyer a copy of the retail installment contract as accepted by the retail seller or mail to the retail buyer at the address shown on the retail installment contract a copy of the retail installment contract as accepted by the retail seller.

The bill entitles a retail buyer who has not received delivery of the commercial vehicle, until the retail seller delivers a copy of the contract, to rescind the contract, receive a refund of all payments made under or in contemplation of the contract, and receive the return of all goods traded in to the retail seller under or in contemplation of the contract or, if those goods cannot be returned, to receive the value of those goods.

C.S.H.B. 2559 requires any retail buyer's acknowledgment of delivery of a copy of the retail installment contract to be in at least 10-point type that is boldfaced, capitalized, or underlined or otherwise conspicuously set out from the surrounding written material and to appear directly above the buyer's signature. The bill establishes that any retail buyer's acknowledgment under these provisions is, in an action or proceeding by or against a holder of the contract who was without knowledge to the contrary when the holder purchased it, conclusive proof of the following: the copy was delivered to the buyer; the contract did not contain a blank space that was required to have been completed when the contract was signed by the buyer; and compliance with applicable provisions of law.

C.S.H.B. 2559 authorizes the holder, on request by a retail buyer, to agree to one or more amendments to the retail installment contract to extend or defer the scheduled due date of all or a part of one or more installments or to renew, restate, or reschedule the unpaid balance under the contract. The bill authorizes the holder, if a retail installment contract is amended to defer all or a part of one or more installments for not longer than three months, to collect from the retail buyer certain specified charges for deferral of the installment.

C.S.H.B. 2559 authorizes the holder, if the unpaid balance of a retail installment contract is extended, renewed, restated, or rescheduled, to collect an amount computed on the principal balance of the amended contract for the term of the amended contract at the time price differential for a retail installment contract that is applicable after reclassifying the commercial vehicle by its model year at the time of the amendment and sets out the formula for computing the principal balance of the amended contract. The bill establishes certain exceptions to the application of the bill's provisions relating to charges for a contract extension, renewal, restatement, or rescheduling.

C.S.H.B. 2559 requires an amendment to a retail installment contract to be confirmed in a writing signed by the retail buyer and requires the holder to deliver a copy of the confirmation to the buyer or to mail a copy of the confirmation to the buyer at the buyer's most recent address shown on the records of the holder. The bill establishes that after amendment the retail installment contract is the original contract and each amendment to the original contract. The bill authorizes a retail buyer to prepay a retail installment contract in full at any time before maturity and establishes these provisions prevail over a conflicting provision of the contract.

C.S.H.B. 2559 entitles a retail buyer to receive a refund credit for a monthly installment contract or other contract, as applicable, if the buyer prepays a retail installment contract, other than a retail installment contract in which the time price differential is computed using the true daily earnings method, in full or if the holder of such contract demands payment of the contract's unpaid balance in full before the final installment is due and the time price differential is computed using the precomputed earnings method or the scheduled installment earnings method.

C.S.H.B. 2559 sets out the formula for computing the amount of a refund credit on the prepayment of a retail installment contract that is payable in substantially equal successive monthly installments beginning one month after the date of the contract with respect to whether the contract is for a commercial vehicle or a heavy commercial vehicle. The bill sets out provisions for computing the minimum amount of the refund on contracts using the scheduled installment earnings method.

C.S.H.B. 2559 authorizes the retail buyer and holder of the contract, after a demand for payment in full under a retail installment contract, to agree to reinstate the contract and amend the

contract in accordance with the bill's provisions relating to amendment of retail installment contracts.

C.S.H.B. 2559 authorizes a holder to require a retail buyer to insure the commercial vehicle purchased under a retail installment transaction and accessories and related goods subject to the holder's security interest; authorizes the holder to offer to provide insurance on such a commercial vehicle, accessories, and related goods subject to the holder's security interest, regardless of whether the holder requires a retail buyer to insure the commercial vehicle; and sets out provisions applicable to such property insurance.

C.S.H.B. 2559 authorizes a holder to require a retail buyer to provide credit life insurance and credit health and accident insurance; to offer to provide credit life insurance and credit health and accident insurance, regardless of whether the holder requires a retail buyer to provide credit life insurance and credit health and accident insurance; to offer involuntary unemployment insurance to the buyer at the time the contract is negotiated or executed; and to include the cost of any such insurance provided, and a policy or agent fee charged in connection with such insurance, as a separate charge in the contract. The bill establishes caps on the total amount of the policies of credit life insurance and on the total amount of the policies of credit health and accident insurance in force on one retail buyer on one retail installment contract.

C.S.H.B. 2559 requires the holder, if insurance is required in connection with a retail installment contract, to give to the retail buyer a written statement, with or as part of the contract or separately, that clearly and conspicuously states that insurance is required in connection with the contract and the buyer as an option may furnish the required insurance through an existing policy of insurance owned or controlled by the buyer or an insurance policy obtained through an insurance company authorized to do business in Texas. The bill requires the retail installment contract or a separate writing, if liability insurance coverage for bodily injury and property damage caused to others is not included in a retail installment contract, to contain a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included.

C.S.H.B. 2559 authorizes the holder, if a retail buyer fails to present to the holder reasonable evidence that the buyer has obtained or maintained a coverage required by the retail installment contract, to obtain substitute insurance coverage that is substantially equal to or more limited than the coverage required and to add the amount of the premium advanced for the substitute insurance to the unpaid balance of the contract. The bill sets out provisions relating to the substitute insurance coverage. The bill authorizes the inclusion of charges for other insurance and forms of protection as separate charges in a retail installment contract.

C.S.H.B. 2559 requires the holder, if insurance for which a charge is included in or added to a retail installment contract is canceled, adjusted, or terminated, at the holder's option, to apply the amount of the refund for unearned insurance premiums received by the holder to replace required insurance coverage or credit the refund to the final maturing installments of the retail installment contract. The bill requires the holder, if the amount to be applied or credited is more than the amount unpaid on the retail installment contract, to refund to the retail buyer the difference between those amounts unless the amount of the refund is less than \$1. The bill establishes that any gain or advantage to the holder or the holder's employee, officer, director, agent, general agent, affiliate, or associate from insurance or the provision or sale of insurance is not an additional charge or additional time price differential in connection with a retail installment contract except as specifically provided.

C.S.H.B. 2559 authorizes a retail buyer and holder to agree to add to the unpaid balance of a retail installment contract premiums for insurance policies obtained after the date of the retail installment transaction for coverages of the types allowed in a retail installment contract, including premiums for the renewal of a policy included in the contract. The bill requires such a policy of insurance to comply with the applicable requirements specified for such insurance.

C.S.H.B. 2559 establishes that if a premium is added to the unpaid balance of a retail installment contract, the rate applicable to the time price differential agreed to in the retail installment contract remains in effect and must be applied to the new unpaid balance, or the contract may be rescheduled in accordance with the bill's provisions relating to charges for deferring installment and for other amendment of a retail installment contract, without reclassifying the commercial vehicle by its year model at the time of the amendment. The bill prohibits the financing entity, if a retail installment contract presented to a financing entity for acceptance includes any insurance coverage, from requiring directly or indirectly, as a condition of its agreement to finance the commercial vehicle, that the retail buyer purchase the insurance coverage from a particular source.

C.S.H.B. 2559 authorizes a person to acquire a retail installment contract or an outstanding balance under a contract from another person on the terms, including the price, to which they agree. The bill establishes that a person acquiring or assigning a retail installment contract, or any balance under a contract, does not have a duty to disclose to any other person the terms on which a contract or balance under a contract is acquired or assigned. The bill establishes that notice to a retail buyer of an assignment or negotiation of a retail installment contract or an outstanding balance under the contract or a requirement that the retail seller be deprived of dominion over payments on a retail installment contract or over the commercial vehicle if returned to or repossessed by the retail seller is not necessary for a written assignment or negotiation of the contract or balance to be valid as against a creditor, subsequent purchaser, pledgee, mortgagee, or lien claimant of the retail seller. The bill establishes that unless a retail buyer has notice of the assignment or negotiation of the buyer's retail installment contract or an outstanding balance under the contract, a payment by the buyer to the most recent holder known to the buyer is binding on all subsequent holders.

C.S.H.B. 2559 prohibits a retail seller from promising to pay, paying, or otherwise tendering cash to a retail buyer as a part of a retail installment transaction unless specifically authorized by law. The bill authorizes a retail seller to pay, promise to pay, or tender cash or another thing of value to the product's manufacturer, distributor, or retail buyer if the payment, promise, or tender is made to participate in a financial incentive program offered by the vehicle's manufacturer or distributor to the buyer. The bill authorizes a retail seller, in connection with a retail installment transaction, to advance money to retire an amount owed against a motor vehicle used as a trade-in or a motor vehicle owned by the buyer that has been declared a total loss by the buyer's insurer or the retail buyer's outstanding obligation under a motor vehicle lease contract, a credit transaction for the purchase of a motor vehicle, or another retail installment transaction and to finance repayment of that money in a retail installment contract. The bill authorizes a retail seller to pay in cash to the retail buyer any portion of the net cash value of a motor vehicle owned by the buyer and used as a trade-in in a transaction involving the sale of a commercial vehicle.

C.S.H.B. 2559 requires the holder of a retail installment contract, on written request of a retail buyer, to give or send to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under the contract. The bill entitles a retail buyer to one statement during a six-month period without charge and caps the charge for each additional requested statement at \$1. The bill requires a holder of a retail installment contract to give the retail buyer a written receipt for each cash payment.

C.S.H.B. 2559 establishes that the holder of a retail installment contract who gives the retail buyer or the buyer's designee outstanding balance information relating to the contract is bound by that information and required to honor that information for a reasonable time. The bill requires the holder, if the retail buyer or the buyer's designee tenders to the holder as payment in full an amount derived from that outstanding balance information, to accept the amount as payment in full and to release the holder's lien against the commercial vehicle within a reasonable time not later than the 10th day after the date on which the amount is tendered. The bill requires a retail seller to pay in full the outstanding balance of a vehicle traded in to the retail

seller as part of the retail installment transaction by a specific deadline. The bill establishes that a holder who violates provisions relating to outstanding balance information and payment in full is liable to the retail buyer or the buyer's designee and specifies the computation of the amount of the holder's liability.

C.S.H.B. 2559 prohibits a retail installment contract from containing a power of attorney to confess judgment in Texas or an assignment of wages; from authorizing certain acts of repossession; and from providing for a waiver of the retail buyer's rights of action against the holder or a person acting on the holder's behalf for an illegal act committed in the collection of payments or the repossession of the commercial vehicle or from providing that the retail buyer agrees not to assert against the holder a claim or defense arising out of the sale. The bill establishes that an act or agreement of the retail buyer before or at the time of the making of a retail installment contract or a purchase under the contract does not waive any provision relating to commercial vehicle installment sales.

C.S.H.B. 2559 authorizes a retail buyer, with the written consent of the holder, to transfer at any time the buyer's equity in the commercial vehicle subject to the retail installment contract to another person and authorizes the holder to charge for the transfer an amount up to \$25 for a commercial vehicle that is not a heavy commercial vehicle or \$50 for a heavy commercial vehicle.

C.S.H.B. 2559 requires a person who acts as a holder to be an authorized lender or a credit union or to hold a license issued under the bill's provisions or provisions relating to motor vehicle installment sales. The bill requires a person who is required to hold a license under the bill's provisions to ensure that each office at which retail installment transactions are made, serviced, held, or collected is licensed or otherwise authorized to make, service, hold, or collect retail installment transactions in accordance with the bill's provisions and applicable rules. The bill prohibits a person from using any device, subterfuge, or pretense to evade the application of license requirements.

C.S.H.B. 2559 establishes license application requirements, including payment to the consumer credit commissioner of an investigation fee and a license fee. The bill requires the commissioner, on the filing of an application and payment of the required fees, to conduct an investigation to determine whether to issue the license and establishes grounds for approval or denial of an application, including due process provisions for a denial. The bill sets out provisions for the disposition of fees on denial of application, license fees, and the expiration of a license on a failure to pay the annual license fee. The bill sets out conditions for the suspension or revocation of a license, the reinstatement of a suspended license and issuance of a new license after a revocation, and the surrender of a license. The bill establishes that the suspension, revocation, or surrender of a license does not affect the obligation of a contract between the license holder and a retail buyer entered into before the suspension, revocation, or surrender. The bill establishes that surrender of a license does not affect the license holder's civil or criminal liability for an act committed before surrender. The bill requires approval of the commissioner for a license to be transferred or assigned.

C.S.H.B. 2559 authorizes the finance commission to adopt rules to enforce the bill's provisions and requires the consumer credit commissioner to recommend proposed rules to the commission.

C.S.H.B. 2559 authorizes the consumer credit commissioner or the commissioner's representative to investigate the records, including books, accounts, papers, and correspondence, of a person, including a license holder, who the commissioner has reasonable cause to believe is violating the bill's provisions, regardless of whether the person claims to not be subject to those provisions, to discover a violation or to obtain required information. The bill authorizes the consumer credit commissioner and the Texas Department of Motor Vehicles to share information, including criminal history information, relating to a person licensed under the bill's provisions to ensure consistent enforcement of law and minimization of regulatory burdens. The

bill establishes that information otherwise confidential remains confidential after it is shared under these provisions.

C.S.H.B. 2559 defines the following terms for purposes of provisions governing commercial motor vehicle installment sales: "commercial vehicle," "conditional delivery agreement," "debt cancellation agreement," "heavy commercial vehicle," "holder," "net cash value," "precomputed earnings method," "retail buyer," "retail installment contract," "retail installment transaction," "retail seller," "scheduled installment earnings method," "time price differential," and "true daily earnings method." The bill provides for the meaning of "motor vehicle" by reference. The bill makes conforming changes, including a change in a rulemaking provision related to fees for licensing and examination, as applicable, under the bill's provisions.

C.S.H.B. 2559 amends the Government Code to entitle the consumer credit commissioner to obtain from the Department of Public Safety (DPS) criminal history record information that relates to a person who is an applicant for or holder of a license required for commercial motor vehicle installment sales.

C.S.H.B. 2559 amends the Occupations Code to authorize a service contract to provide for identity recovery, if the service contract is financed under provisions governing commercial motor vehicle installment sales, and expands the definition of "identity recovery service contract" to include an agreement that is financed through a retail installment contract under such provisions. The bill includes the inspection or copying of any document, record, vehicle, part, or other item regulated under provisions governing commercial motor vehicle installment sales as a reason for which a DPS officer may enter the premises of a person engaging in a business or activity regulated under those provisions for the purpose of tracing or locating a stolen motor vehicle on those premises. The bill authorizes a vehicle protection product to also include identity recovery, if the vehicle protection is financed under those provisions.

C.S.H.B. 2559 amends the Tax Code to redefine "total consideration" by excluding the value of a motor vehicle taken by a seller as all or a part of the consideration for sale of another motor vehicle, including any cash payment to the buyer under incentive program provisions of the law governing commercial motor vehicle retail installment sales.

C.S.H.B. 2559 amends the Transportation Code to make a conforming change.

C.S.H.B. 2559 amends the Water Code to redefine "lender" to include an entity that is registered with the Office of Consumer Credit Commissioner pursuant to provisions governing commercial motor vehicle installment sales if the entity is regularly engaged in the business of extending credit and if extending credit represents the majority of the entity's total business activity.

C.S.H.B. 2559 repeals the following provisions of the Finance Code:

- Section 348.007(a-2), as added by Chapter 238 (S.B. 1965), Acts of the 81st Legislature, Regular Session, 2009
- Section 348.007(a-2), as added by Chapter 676 (H.B. 2438), Acts of the 81st Legislature, Regular Session, 2009
- Section 348.0051
- Section 348.006(j)
- Section 348.120(c)
- Sections 348.208(d), (e), and (f)

### **EFFECTIVE DATE**

September 1, 2011.



## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2559 omits a provision included in the original removing a commercial vehicle and a heavy commercial vehicle from the term "motor vehicle," as that term is defined for purposes of statutory provisions governing motor vehicle installment sales. The substitute contains a provision not included in the original, in a statutory provision providing definitions for purposes of provisions governing motor vehicle installment sales, removing the explicit definitions of "commercial vehicle" and "heavy commercial vehicle" and instead defining those terms by reference to the provisions specifically governing commercial motor vehicle installments as added by the bill.

C.S.H.B. 2559 differs from the original by establishing that a retail installment transaction for the purchase of a commercial vehicle is not subject to provisions governing motor vehicle installment sales and is subject to provisions governing commercial vehicle installment sales on the condition that the contract states that it is subject to those commercial vehicle provisions, whereas the original establishes that such a transaction is subject to provisions governing commercial vehicle installment sales unless the contract states that it is subject to provisions governing motor vehicle installment sales.

C.S.H.B. 2559 differs from the original, in the definitions under the provisions governing commercial motor vehicle installment sales, by defining "commercial vehicle" and "heavy commercial vehicle," whereas the original, in those provisions, defines those terms by reference. The substitute includes a provision not included in the original defining "motor vehicle" by reference. The substitute includes a provision not included in the original expanding the definition of "precomputed earnings method" to add the retail buyer's agreement to pay the total of payments that includes both the contract's principal balance and the time price differential.

C.S.H.B. 2559 differs from the original by establishing that an agreement for the lease of a commercial vehicle does not create a retail installment transaction by merely providing that the rental price is permitted or required to be adjusted under the agreement as determined under certain Transportation Code provisions relating to sale or security interest not created by certain vehicle leases, whereas the original establishes that a transaction subject to such Transportation Code provisions is not a retail installment transaction. The substitute contains a provision not included in the original adding certain advances or payments under an incentive program or for a trade-in vehicle to the other authorized itemized charges. The substitute contains a provision not included in the original, in a provision listing certain additional amounts that may be included as an itemized charge or in the cash price, specifying that those amounts are included in a retail installment contract for a commercial vehicle.

C.S.H.B. 2559 differs from the original by establishing that the bill's provisions governing commercial motor vehicle installment sales apply to a retail installment transaction for a commercial vehicle if the retail installment contract states that such provisions apply and that if the contract does not make that statement, then the provisions governing motor vehicle installment contract sales apply, whereas the original establishes that provisions governing commercial motor vehicle installment sales apply only to a retail installment transaction in which a retail buyer purchases a commercial vehicle and that, if the contract states that it is subject to provisions governing motor vehicle installment contract sales, then those provisions apply.

C.S.H.B. 2559 contains a provision not included in the original establishing the applicability of the Uniform Electronic Transactions Act to a commercial vehicle installment transaction. The substitute differs from the original by requiring a person who files an appeal of the consumer credit commissioner's determination regarding the amount of money to be paid by the retail seller to the retail buyer for a trade-in motor vehicle under certain circumstances to pay a deposit to secure the payment of the costs of the hearing, whereas the original applies that requirement to

a person who requests such an appeal.

C.S.H.B. 2559 omits a provision included in the original authorizing a retail installment contract and any notices, disclosures, or other documents and signatures to be in an electronic or magnetic medium. The substitute contains provisions not included in the original governing refunds on contracts using the scheduled installment earnings method applicable to certain retail installment contracts that include precomputed time price differential and incorporating provisions related to the schedule installment earnings method in other provisions where applicable. The substitute omits provisions included in the original that set out provisions governing the amount of refund credit on other contracts.

C.S.H.B. 2559 omits a provision included in the original authorizing substitute insurance coverage obtained by a holder, if the retail buyer fails to present evidence of coverage required by the contract, to be written by a surplus lines insurer eligible to provide the insurance under certain conditions. The substitute differs from the original by exempting service contracts and debt cancellation agreements sold by a retail seller of a commercial vehicle to a retail buyer from Insurance Code provisions relating to unauthorized insurance or unauthorized and independently procured insurance premium tax, whereas the original exempts such contracts or agreements that are sold or provided by the retail seller.

C.S.H.B. 2559 differs from the original, in a provision establishing the effect of adding a premium to a contract, by authorizing a rescheduling of the contract in accordance with the bill's provisions relating to charges for deferring installment and for other amendment of a retail installment contract, whereas the original authorizes a rescheduling under those provisions and also under other provisions relating to contract amendments, confirmation of amendments, and the status of a contract after amendment.

C.S.H.B. 2559 differs from the original, in a provision establishing that a person acquiring or assigning a retail installment contract or any balance under a contract does not have a duty to disclose the terms on which a contract or balance under a contract is acquired or assigned, by including the consideration for the acquisition or assignment among those terms not subject to mandatory disclosure, whereas the original does not expand the terms exempt from disclosure to include such consideration.

C.S.H.B. 2559 differs from the original by authorizing a retail seller to pay in cash to the retail buyer any portion of the net cash value of a motor vehicle used as a trade-in in a transaction involving the sale of a commercial vehicle, whereas the original makes that provision applicable to the sale of another motor vehicle.

C.S.H.B. 2559 contains a provision not included in the original adding the alternative of a license issued under provisions relating to motor vehicle installment sales to the types of licenses that a person may obtain to fulfill the license requirements for acting as a holder.

C.S.H.B. 2559 omits a provision included in the original authorizing the commissioner to suspend or revoke a license, after notice and hearing, if the commissioner finds that the license holder failed to pay an examination fee.

C.S.H.B. 2559 omits a provision included in the original repealing Section 348.0015, Finance Code. The substitute differs from the original in nonsubstantive ways by using language reflective of certain bill drafting conventions.