

By: Creighton

H.B. No. 3210

A BILL TO BE ENTITLED

AN ACT

relating to the documentary fee charged in retail installment transactions for the sale of certain vehicles.

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

SECTION 1. Section 345.251, Finance Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (e), (f), (g), (h), (i), and (j) to read as follows:

(a) A retail seller may charge a documentary fee for services rendered to, for, or on behalf of a retail buyer in ~~[preparing,]~~ handling~~[,]~~ and processing documents relating to the sale under~~[, and closing]~~ a retail installment transaction of ~~[involving,]~~ a motorcycle, motor-driven cycle, moped, all-terrain vehicle, boat, boat motor, boat trailer, or towable recreational vehicle.

(b) If a documentary fee is charged under this section the fee:

- (1) must be charged to cash buyers and credit buyers;
- (2) may not exceed a reasonable amount ~~[\$50]~~; and
- (3) must be disclosed on the retail installment contract as a separate itemized charge.

(c) A preliminary work sheet on which a sale price is computed and that is shown to the retail buyer, an order from the buyer, or a retail installment contract must include in reasonable proximity to the place on the document where the documentary fee is

1 disclosed:

2 (1) the amount of the fee; and

3 (2) the following notice in type that is boldfaced
4 ~~[bold-faced]~~, capitalized, or underlined or otherwise
5 conspicuously set out from the surrounding written material:

6 "A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A
7 DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE
8 CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND
9 PERFORMING SERVICES RELATING TO THE CLOSING OF A SALE.
10 A DOCUMENTARY FEE MAY NOT EXCEED A REASONABLE AMOUNT
11 [\$50]. THIS NOTICE IS REQUIRED BY LAW."

12 (e) A retail seller shall post the notice prescribed in
13 Subsection (c) in a prominent place at the location where a vehicle
14 sale is finalized.

15 (f) Prior to increasing the maximum amount of the
16 documentary fee the retail seller charges, a retail seller shall
17 provide written notice to the commissioner of the maximum amount of
18 the documentary fee the retail seller intends to charge. The
19 commissioner may review the amount of a documentary fee for
20 reasonableness. In determining whether a fee charged by a retail
21 seller is reasonable, the commissioner may consider the resources
22 required by the retail seller to perform the retail seller's duties
23 under state and federal law with respect to the handling and
24 processing of documents relating to the sale and financing of a
25 vehicle described under Subsection (a). If the commissioner
26 determines that a documentary fee charged is not reasonable, the
27 commissioner may require that the documentary fee charged be

1 reduced or suspended.

2 (g) A documentary fee charged in accordance with this
3 section before September 1, 2011, is considered reasonable for
4 purposes of this section.

5 (h) This section does not:

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

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

9 (i) The finance commission may adopt rules, including rules
10 relating to the standards for a reasonableness determination or
11 disclosures, necessary to enforce this section. A rule adopted
12 under this subsection may not require a retail seller to submit to
13 the commissioner for prior approval the amount of a documentary fee
14 that the retail seller intends to charge under this section.

15 (j) The commissioner has exclusive jurisdiction to enforce
16 this section.

17 SECTION 2. This Act takes effect September 1, 2011.