

## **BILL ANALYSIS**

Senate Research Center

S.B. 1248  
By: Carona  
Business & Commerce  
3/22/2013  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under Section 345.251 (Documentary Fee for Certain Vehicles), Finance Code, a retail seller may charge a retail buyer a documentary fee to recoup costs associated with preparing documents relating to the sale of boats, motorcycles, and other recreational vehicles. Dealers use documentary fees to offset costs involved with producing and fulfilling registration and licensing requirements, title documents, loan documents, insurance coverage facilitation, and sales tax collection and remission. Motor vehicle dealers can charge a similar fee pursuant to Chapter 348 (Motor Vehicle Installment Sales), Finance Code; however in 2009, the legislature removed the \$50 maximum fee for motor vehicle dealers that is still applicable to boat or motorcycle dealers.

If a boat or motorcycle dealer charges a documentary fee, the Finance Code requires that it be disclosed as a separate itemized charge accompanied with a statutorily-required disclosure. In addition, current law sets a documentary fee maximum amount of \$50 per transaction for such dealers. This ceiling was codified in Chapter 345 (Retail Installment Sales) of the Finance Code in 1997, and it has not been adjusted to reflect current business costs.

S.B. 1248 replaces the \$50 ceiling with the requirement that a boat or motorcycle dealer documentary fee may not exceed a reasonable amount agreed to by the retail seller and retail buyer for the documentary services and may not exceed a maximum amount set by the Finance Commission of Texas from time to time.

As proposed, S.B. 1248 amends current law relating to an amount charged by a dealer in connection with the sale of certain recreational vehicles and boats.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 1 (Section 345.251, Finance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 345.251, Finance Code, as follows:

Sec. 345.251. DOCUMENTARY FEE FOR CERTAIN VEHICLES. (a) Authorizes a retail seller to charge a documentary fee for services rendered to, for, or on behalf of a retail buyer in handling and processing documents relating to the sale of a motorcycle, motor-driven cycle, moped, all-terrain vehicle, boat, boat motor, boat trailer, or towable recreational vehicle.

Deletes existing text authorizing a retail seller to charge a documentary fee for services rendered to, for, or on behalf of a retail buyer in preparing and closing a retail installment transaction involving, a motorcycle, motor-driven cycle, moped, all-terrain vehicle, boat, boat motor, boat trailer, or towable recreational vehicle.

(b) Provides that if a documentary fee is charged under this section the fee:

(1) Makes no changes to this subdivision;

(2) is prohibited from exceeding a reasonable amount agreed to by the retail seller and retail buyer for the documentary services and is prohibited from exceeding a maximum amount set by the Finance Commission of Texas from time to time, rather than is prohibited from exceeding \$50; and

(3) is required to be disclosed on the buyer's order or retail installment contract as a separate itemized charge.

(c) Requires that a preliminary worksheet 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 include in reasonable proximity to the place on the document where the documentary fee is disclosed the amount of the fee and a certain notice in a certain format. Makes conforming changes to the required content of that notice.

(d) Authorizes the commission to adopt rules necessary to implement and enforce this section.

SECTION 2. Effective date: September 1, 2013.