

By: Flynn

H.B. No. 1233

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the documentary fee charged in connection with the sale
3 of certain recreational vehicles and boats.

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

5 SECTION 1. Section 345.251, Finance Code, is amended to
6 read as follows:

7 Sec. 345.251. DOCUMENTARY FEE FOR CERTAIN VEHICLES. (a) A
8 retail seller may charge a documentary fee for services rendered
9 to, for, or on behalf of a retail buyer in [~~preparing,~~] handling[~~,~~]
10 and processing documents relating to the sale of [~~, and closing a~~
11 ~~retail installment transaction involving,~~] a motorcycle,
12 motor-driven cycle, moped, all-terrain vehicle, boat, boat motor,
13 boat trailer, or towable recreational vehicle.

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

16 (1) must be charged to cash buyers and credit buyers;
17 (2) may not exceed a reasonable amount agreed to by the
18 retail seller and retail buyer for the documentary services [~~\$50~~];
19 and

20 (3) must be disclosed on the buyer's order or retail
21 installment contract as a separate itemized charge.

22 (c) A preliminary work sheet on which a sale price is
23 computed and that is shown to the retail buyer, an order from the
24 buyer, or a retail installment contract must include in reasonable

1 proximity to the place on the document where the documentary fee is
2 disclosed:

- 3 (1) the amount of the fee; and
4 (2) the following notice in type that is bold-faced,
5 capitalized, or underlined or otherwise conspicuously set out from
6 the surrounding written material:

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

14 (d) A retail seller shall post the documentary fee notice
15 prescribed by Subsection (c) so that the notice is clearly visible
16 in each place where a sale of a vehicle or other good described by
17 Subsection (a) is finalized. If the language primarily used in an
18 oral sales presentation is not the same as the language in which the
19 retail installment contract is written, the retail seller shall
20 furnish to the retail buyer a written statement containing the
21 notice set out in Subsection (c) in the language primarily used in
22 the oral sales presentation.

23 (e) Before increasing the maximum amount of the documentary
24 fee the retail seller charges, a retail seller shall provide
25 written notice to the commissioner of the maximum amount of the
26 documentary fee the retail seller intends to charge. The
27 commissioner may review the amount of a documentary fee for

1 reasonableness. In determining whether a fee charged by a retail
2 seller is reasonable, the commissioner may consider the resources
3 required by the retail seller to perform the retail seller's duties
4 under state and federal law with respect to the handling and
5 processing of documents relating to the sale and financing of a
6 motorcycle, motor-driven cycle, moped, all-terrain vehicle, boat,
7 boat motor, boat trailer, or towable recreational vehicle. If the
8 commissioner determines that a documentary fee charged is not
9 reasonable, the commissioner may require that the documentary fee
10 charged be reduced or suspended.

11 (f) A documentary fee charged in accordance with this
12 section before September 1, 2013, is considered reasonable for
13 purposes of this section.

14 (g) This section does not:

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

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

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

24 (i) The commissioner has exclusive jurisdiction to enforce
25 this section.

26 SECTION 2. This Act takes effect September 1, 2013.