

By: Thompson of Harris

H.B. No. 2339

A BILL TO BE ENTITLED

AN ACT

relating to trade-in credit agreements offered in connection with certain motor vehicle retail installment contracts.

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

SECTION 1. Section 348.001, Finance Code, is amended by adding Subdivision (11) to read as follows:

(11) "Trade-in credit agreement" means a contractual arrangement under which a retail seller agrees to provide a specified amount as a motor vehicle trade-in credit for the diminished value of the motor vehicle that is the subject of the retail installment contract in connection with which the trade-in credit agreement is offered if the motor vehicle is damaged but not rendered a total loss as a result of a collision accident, with the credit to be applied toward the purchase or lease of a different motor vehicle from the retail seller or an affiliate of the retail seller. A trade-in credit agreement is a separate agreement from a retail installment contract and is not a term of the retail installment contract.

SECTION 2. Section 348.005, Finance Code, is amended to read as follows:

Sec. 348.005. ITEMIZED CHARGE. An amount in a retail installment contract is an itemized charge if the amount is not included in the cash price and is the amount of:

(1) fees for registration, certificate of title, and

1 license and any additional registration fees charged by a deputy as
2 authorized by rules adopted under Section 520.0071, Transportation
3 Code;

4 (2) any taxes;

5 (3) fees or charges prescribed by law and connected
6 with the sale or inspection of the motor vehicle; and

7 (4) charges authorized for insurance, service
8 contracts, warranties, automobile club memberships, trade-in
9 credit agreements, or a debt cancellation agreement by Subchapter
10 C.

11 SECTION 3. Subchapter B, Chapter 348, Finance Code, is
12 amended by adding Section 348.125 to read as follows:

13 Sec. 348.125. TRADE-IN CREDIT AGREEMENTS OFFERED IN
14 CONNECTION WITH RETAIL INSTALLMENT CONTRACTS. (a) A retail seller
15 may, at the time a retail installment contract is executed, offer to
16 sell to a retail buyer a trade-in credit agreement or similarly
17 named agreement.

18 (b) A trade-in credit agreement is not considered an
19 insurance product.

20 (c) To ensure the faithful performance of a retail seller's
21 obligations to a retail buyer under a trade-in credit agreement,
22 the retail seller must be insured under a contractual liability
23 reimbursement policy approved by the commissioner of insurance and
24 issued for the benefit of Texas residents.

25 (d) In addition to other disclosures required by state or
26 federal law, if a retail seller offers to a retail buyer a trade-in
27 credit agreement, the retail seller shall give the retail buyer at

1 the time the retail installment contract is executed a copy of the
2 written trade-in credit agreement and written notice that the
3 retail buyer:

4 (1) is not required to purchase the trade-in credit
5 agreement as a condition for approval of the retail installment
6 contract;

7 (2) is entitled to cancel the trade-in credit
8 agreement before the 31st day after the date the retail installment
9 contract is executed and receive a full refund;

10 (3) may terminate the trade-in credit agreement at any
11 time on or after the 31st day after the date the retail installment
12 contract is executed and receive a pro rata refund minus any
13 applicable cancellation fee which may not exceed \$50; and

14 (4) has been provided a clear and concise disclosure
15 of the amount of the credit available during the term of the
16 trade-in credit agreement.

17 (e) The amount charged for a trade-in credit agreement
18 offered in connection with a retail installment contract may not
19 exceed five percent of the cash price of the motor vehicle that is
20 the subject of the retail installment contract, including any
21 attached accessories and excluding the price of services related to
22 the sale, the price of service contracts, taxes, and fees for
23 license, title, and registration.

24 (f) A trade-in credit agreement must require the retail
25 buyer to provide proof of insurance settlement documents in order
26 to obtain the credit. A trade-in credit agreement may not require
27 the retail buyer to provide any other documentation in order to

1 obtain the credit.

2 (g) If a retail seller enters a trade-in credit agreement
3 with a retail buyer, the retail seller must comply with the terms of
4 the trade-in credit agreement in connection with the purchase or
5 lease of a subsequent motor vehicle. A retail seller must provide
6 any credit required under a trade-in credit agreement at the time of
7 the purchase or lease of a subsequent motor vehicle.

8 (h) The benefit to be provided in connection with a trade-in
9 credit agreement must bear a reasonable relationship to the amount
10 charged for the trade-in credit agreement and the amount, term, and
11 conditions of the retail installment contract.

12 SECTION 4. Sections 348.208(b) and (c), Finance Code, are
13 amended to read as follows:

14 (b) A retail installment contract may include as a separate
15 charge an amount for:

16 (1) motor vehicle property damage or bodily injury
17 liability insurance;

18 (2) mechanical breakdown insurance;

19 (3) participation in a motor vehicle theft protection
20 plan;

21 (4) insurance to reimburse the retail buyer for the
22 amount computed by subtracting the proceeds of the buyer's basic
23 collision policy on the motor vehicle from the amount owed on the
24 vehicle if the vehicle has been rendered a total loss;

25 (5) a warranty or service contract relating to the
26 motor vehicle;

27 (6) an identity recovery service contract; [~~or~~]

1 (7) a debt cancellation agreement if the agreement is
2 included as a term of a retail installment contract under Section
3 [348.124](#); or

4 (8) a trade-in credit agreement.

5 (c) Notwithstanding any other law, service contracts, ~~and~~
6 debt cancellation agreements, and trade-in credit agreements sold
7 by a retail seller of a motor vehicle to a retail buyer are not
8 subject to Chapter [101](#) or [226](#), Insurance Code.

9 SECTION 5. This Act takes effect September 1, 2017.