

1-1 By: Thompson of Harris H.B. No. 2339  
 1-2 (Senate Sponsor - Zaffirini)  
 1-3 (In the Senate - Received from the House May 5, 2017;  
 1-4 May 5, 2017, read first time and referred to Committee on Business  
 1-5 & Commerce; May 17, 2017, reported favorably by the following vote:  
 1-6 Yeas 8, Nays 0; May 17, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED  
 1-19 AN ACT

1-20 relating to trade-in credit agreements offered in connection with  
 1-21 certain motor vehicle retail installment contracts.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 348.001, Finance Code, is amended by  
 1-24 adding Subdivision (11) to read as follows:

1-25 (11) "Trade-in credit agreement" means a contractual  
 1-26 arrangement under which a retail seller agrees to provide a  
 1-27 specified amount as a motor vehicle trade-in credit for the  
 1-28 diminished value of the motor vehicle that is the subject of the  
 1-29 retail installment contract in connection with which the trade-in  
 1-30 credit agreement is offered if the motor vehicle is damaged but not  
 1-31 rendered a total loss as a result of a collision accident, with the  
 1-32 credit to be applied toward the purchase or lease of a different  
 1-33 motor vehicle from the retail seller or an affiliate of the retail  
 1-34 seller. A trade-in credit agreement is a separate agreement from a  
 1-35 retail installment contract and is not a term of the retail  
 1-36 installment contract.

1-37 SECTION 2. Section 348.005, Finance Code, is amended to  
 1-38 read as follows:

1-39 Sec. 348.005. ITEMIZED CHARGE. An amount in a retail  
 1-40 installment contract is an itemized charge if the amount is not  
 1-41 included in the cash price and is the amount of:

1-42 (1) fees for registration, certificate of title, and  
 1-43 license and any additional registration fees charged by a deputy as  
 1-44 authorized by rules adopted under Section 520.0071, Transportation  
 1-45 Code;

1-46 (2) any taxes;

1-47 (3) fees or charges prescribed by law and connected  
 1-48 with the sale or inspection of the motor vehicle; and

1-49 (4) charges authorized for insurance, service  
 1-50 contracts, warranties, automobile club memberships, trade-in  
 1-51 credit agreements, or a debt cancellation agreement by Subchapter  
 1-52 C.

1-53 SECTION 3. Subchapter B, Chapter 348, Finance Code, is  
 1-54 amended by adding Section 348.125 to read as follows:

1-55 Sec. 348.125. TRADE-IN CREDIT AGREEMENTS OFFERED IN  
 1-56 CONNECTION WITH RETAIL INSTALLMENT CONTRACTS. (a) A retail seller  
 1-57 may, at the time a retail installment contract is executed, offer to  
 1-58 sell to a retail buyer a trade-in credit agreement or similarly  
 1-59 named agreement.

1-60 (b) A trade-in credit agreement is not considered an  
 1-61 insurance product.

2-1 (c) To ensure the faithful performance of a retail seller's  
 2-2 obligations to a retail buyer under a trade-in credit agreement,  
 2-3 the retail seller must be insured under a contractual liability  
 2-4 reimbursement policy approved by the commissioner of insurance and  
 2-5 issued for the benefit of Texas residents.

2-6 (d) In addition to other disclosures required by state or  
 2-7 federal law, if a retail seller offers to a retail buyer a trade-in  
 2-8 credit agreement, the retail seller shall give the retail buyer at  
 2-9 the time the retail installment contract is executed a copy of the  
 2-10 written trade-in credit agreement and written notice that the  
 2-11 retail buyer:

2-12 (1) is not required to purchase the trade-in credit  
 2-13 agreement as a condition for approval of the retail installment  
 2-14 contract;

2-15 (2) is entitled to cancel the trade-in credit  
 2-16 agreement before the 31st day after the date the retail installment  
 2-17 contract is executed and receive a full refund;

2-18 (3) may terminate the trade-in credit agreement at any  
 2-19 time on or after the 31st day after the date the retail installment  
 2-20 contract is executed and receive a pro rata refund minus any  
 2-21 applicable cancellation fee which may not exceed \$50; and

2-22 (4) has been provided a clear and concise disclosure  
 2-23 of the amount of the credit available during the term of the  
 2-24 trade-in credit agreement.

2-25 (e) The amount charged for a trade-in credit agreement  
 2-26 offered in connection with a retail installment contract may not  
 2-27 exceed five percent of the cash price of the motor vehicle that is  
 2-28 the subject of the retail installment contract, including any  
 2-29 attached accessories and excluding the price of services related to  
 2-30 the sale, the price of service contracts, taxes, and fees for  
 2-31 license, title, and registration.

2-32 (f) A trade-in credit agreement must require the retail  
 2-33 buyer to provide proof of insurance settlement documents in order  
 2-34 to obtain the credit. A trade-in credit agreement may not require  
 2-35 the retail buyer to provide any other documentation in order to  
 2-36 obtain the credit.

2-37 (g) If a retail seller enters a trade-in credit agreement  
 2-38 with a retail buyer, the retail seller must comply with the terms of  
 2-39 the trade-in credit agreement in connection with the purchase or  
 2-40 lease of a subsequent motor vehicle. A retail seller must provide  
 2-41 any credit required under a trade-in credit agreement at the time of  
 2-42 the purchase or lease of a subsequent motor vehicle.

2-43 (h) The benefit to be provided in connection with a trade-in  
 2-44 credit agreement must bear a reasonable relationship to the amount  
 2-45 charged for the trade-in credit agreement and the amount, term, and  
 2-46 conditions of the retail installment contract.

2-47 SECTION 4. Sections 348.208(b) and (c), Finance Code, are  
 2-48 amended to read as follows:

2-49 (b) A retail installment contract may include as a separate  
 2-50 charge an amount for:

2-51 (1) motor vehicle property damage or bodily injury  
 2-52 liability insurance;

2-53 (2) mechanical breakdown insurance;

2-54 (3) participation in a motor vehicle theft protection  
 2-55 plan;

2-56 (4) insurance to reimburse the retail buyer for the  
 2-57 amount computed by subtracting the proceeds of the buyer's basic  
 2-58 collision policy on the motor vehicle from the amount owed on the  
 2-59 vehicle if the vehicle has been rendered a total loss;

2-60 (5) a warranty or service contract relating to the  
 2-61 motor vehicle;

2-62 (6) an identity recovery service contract; ~~or~~

2-63 (7) a debt cancellation agreement if the agreement is  
 2-64 included as a term of a retail installment contract under Section  
 2-65 348.124; or

2-66 (8) a trade-in credit agreement.

2-67 (c) Notwithstanding any other law, service contracts, ~~and~~  
 2-68 debt cancellation agreements, and trade-in credit agreements sold  
 2-69 by a retail seller of a motor vehicle to a retail buyer are not

3-1 subject to Chapter 101 or 226, Insurance Code.

3-2 SECTION 5. This Act takes effect September 1, 2017.

3-3 \* \* \* \* \*