

SUBJECT: Charging a documentary fee during the sale of certain vehicles

COMMITTEE: Investments and Financial Services — committee substitute recommended

VOTE: 6 ayes — Flynn, Anderson, Burkett, Laubenberg, Longoria, Phillips
0 nays
1 absent — Villarreal

WITNESSES: For — Darryl Hurst, Boating Trades Association of Texas; Sarah Kee, Texas Motorcycle Dealers Association; (*Registered, but did not testify:* James Booth, Texas Motorcycle Dealers Associations; John Kuhl, Boating Trades Association of Texas; Royce Poinsett, Texas Motorcycle Dealers Association)

Against — None

On — Leslie Pettijohn, Office of the Consumer Credit Commissioner

BACKGROUND: Finance Code, sec. 345.251 allows a retailer of motorcycles, boats, and other recreational vehicles to charge a fee of \$50 or less to customers for preparing and handling documents and performing services related to the closing of a retail installment transaction.

The fee must be disclosed as an itemized charge on the retail installment contract, and the retailer must provide conspicuous, written notice as part of the transaction that a documentary fee is not official, not required by law, and cannot exceed \$50.

DIGEST: HB 1233 would remove the \$50 cap charged for a documentary fee. Instead the fee would be a reasonable amount agreed to by the buyer and seller that could not exceed a maximum fee amount set by the finance commission, which could adopt rules to implement the bill.

HB 1233 would remove “preparing” and “closing a retail installment transaction” from the list of services for which a retailer could charge a documentary fee.

The language of the required notice would be amended to match the provisions of HB 1233.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

HB 1233 would remove the arbitrarily priced document fee of \$50 fixed in statute and allow the commissioner to replace the cap with one that reflected dealers' true cost for processing documents, remitting the sales and motor vehicle tax to the state, and developing federally mandated safeguards to protect customer information.

The \$50 cap for the sale of a boat, motorcycle, or recreational vehicle has not been raised since 1993, and the cost to comply with increasing requirements has been absorbed by the dealers. HB 1233 would follow provisions in HB 3621 by Solomons, enacted in 2009, which raised the cap for the same documentary fee in the sale of automobiles and other motor vehicles. The finance commission would have the authority to review and set a reasonable fee that would reflect the true cost of processing documents and protect dealers and customers.

**OPPONENTS
SAY:**

By removing the statutory limit on document fees, HB 1233 would place an additional burden on consumers through potentially higher fees or force them to complete the cumbersome paperwork themselves in an effort to avoid the higher fees.

NOTES:

The committee substitute differs from the bill as filed by:

- requiring the finance commission to set a maximum fee amount to replace the \$50 cap on documentary fees;
- removing certain notice requirements and the process for the finance commission to determine the reasonableness of documentary fees.