SUBJECT: Requirements for motor vehicle retail installment transactions

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 6 ayes — Solomons, Flynn, Anchia, Anderson, McCall, Orr

1 nay — Chavez

WITNESSES: For — Ahmad Keshavarz

Against — Karen Phillips, Texas Automobile Dealers Association

On — Leslie Pettijohn, Consumer Credit Commissioner

DIGEST: CSHB 2590 would make various revisions in the requirements for motor vehicle retail installment transactions.

A retailer seller would have to pay the outstanding balance of a trade-in by the 20th working day after the date that:

- the contract was signed by the buyer and the buyer received delivery of the vehicle; and
- the retail seller received the trade-in and the documents necessary to transfer title.

The bill would define a "holder" in a motor vehicle installment sale as either the retail seller or the assignee or transferee of a retail installment contract. A holder of a retail installment contract would have to respond to buyer requests for payment history and the remaining balance under the contract in a reasonable time, as required by the consumer credit commissioner. The holder could require the buyer to verify the buyer's identity before responding to a request. The buyer could receive one payoff quotation during each six-month period without charge.

The bill would eliminate the distinction between domestic and foreign motor vehicles in the assessment of add-on charges. The add-on charge of \$10 per \$100 a year on the principal balance for a new or used heavy commercial vehicle would be assessed if the model year of the vehicle were not more than two years before the year of sale.

The negative equity of a trade-in could be used in a retail installment contract only if it were included as an itemized charge.

The bill would take effect January 1, 2008.

SUPPORTERS SAY:

CSHB 2590 would make important clarifications to the Finance Code regarding motor vehicle installment sales. Some auto dealers have claimed that they are not required to register under the law as a holder of a contract because they intend to sell that contract in the secondary market before the first payment comes due. The bill would clarify that as the assignee or transferee of the contract, the auto dealer would register as the holder of the contract.

The bill would update an outdated portion of the Finance Code that makes a distinction between the add-on charges for domestic and foreign motor vehicles. In the modern market, Fords might be made in Canada and Toyotas in Texas, so there is no practical difference between the two types of autos.

CSHB 2590 would provide transparency in retail installment contracts by requiring that negative equity be itemized on a contract. This would in no way prohibit financing of negative equity. It would avoid consumer confusion about how the dealer arrived at the total financing amount.

This bill would hold auto dealers accountable for providing buyers with information and paying off trade-in contracts in a timely manner. Whether or not the dealer has signed a contract, a sale is consummated when the buyer has signed the contract and received the vehicle and the retail seller has accepted delivery of a trade-in. CSHB 2590 would recognize the date upon which these conditions were met as the commencement of the 20-working-day period in which a seller would have to pay the balance on a trade-in. Sometimes, when dealers have cash-flow problems, they manage their assets by delaying payment for trade-in vehicles. Consequently, the owner of a new car can get calls from creditors who hold the contract on their old car, even though they no longer own it. CSHB 2590 would prevent a dealer from delaying payment for a trade-in on the technicality that the sale contract had not been signed by the dealer.

OPPONENTS SAY:

This bill could permit the 20-working-day period in which the retailer seller had to pay the balance on a trade-in to commence before the date upon which the retail seller had contractually agreed to the sale. A dealer has not indicated contractual agreement with a sale until the seller has signed the contract. This bill could limit the reasonable amount of time that a seller had to pay off a balance on a trade-in to less than 20 days after the seller had indicated agreement with the contract through signing.

NOTES:

HB 2590 as filed would have addressed the issue of negative equity by stating that this value could not be included in the cash price of the vehicle. It also would have specified that retail sellers respond to buyer pay-off requests within three business days. The bill as filed would have prohibited expressly a retail seller from receiving any amount on a retail installment sales contract not authorized for this type of contract. The bill as filed would have required payment of a trade-in within 20 days rather than 20 working days from the date upon the contract became enforceable. Finally, the effective date of HB 2590 as filed would have been September 1, 2007.