



**House
Legislative
Analysis
Section**

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AUTO SALES: CAP DOCUMENTARY PREP. FEE

House Bill 5259(Substitute H-1) **PP-IVLD**
First Analysis (11-27-89) **11-05-00**

Sponsor: Rep. John Bennett
Committee: Corporations & Finance **Mich. State Law Library**

THE APPARENT PROBLEM:

The Motor Vehicle Sales Finance Act was established to protect retail installment buyers of motor vehicles by regulating installment sales, including their financing and other costs. The Financial Institutions Bureau (FIB) administers and enforces the act, and licenses those engaged in motor vehicle installment sales. The act defines three distinct parties to an installment sale transaction: the "installment seller," the "installment buyer," and the "sales finance company" (which includes banks, savings and loans, and credit unions). Installment sellers impose various fees on buyers — some, reportedly, prohibited — to cover certain costs related to a sale. One example includes a "documentary fee," which sellers say is used to cover their costs in preparing paper work involved in a sale, as well as the cost of gas and personnel to take the paper work to the secretary of state for title transfer and licensing. Apparently, such fees are added to the vehicle's cash price and may appear for the first time when the sales contract is presented to the buyer. According to the FIB, this particular fee has ranged from \$18 upwards to \$450. The attorney general, upon the bureau's request, recently issued an opinion stating that such fees are prohibited as the act does not specifically authorize them (OAG 6594, 1989). The bureau, however, apparently has recognized documentary fees as justifiable, but also believes they often are unreasonably high. Because the fee has been recognized as legitimate, some people have requested an amendment to specifically authorize the fee, and further suggest capping the fee at \$40.

THE CONTENT OF THE BILL:

The bill would amend the Motor Vehicle Sales Finance Act to specify that the cash price of a motor vehicle would include, in addition to taxes and costs for accessories (and their installation), documentary preparation fees. Under the bill, documentary preparation fees could not exceed \$40.

MCL 492.102 and 492.113

FISCAL IMPLICATIONS:

According to the Financial Institutions Bureau, within the commerce department, the bill would not affect state expenditures. (11-20-89)

ARGUMENTS:

For:

The bill would permit motor vehicle installment sellers to charge up to a \$40 documentary fee to buyers in order to cover costs related to preparing paper work and transportation to the secretary of state for title transfer and licensing. Sellers, reportedly, charge this fee and other fees without notifying the buyer until the sales contract has already been written. In some instances, documentary fees have reached almost \$450. Apparently, the FIB feels this particular fee is legitimate as long as it is not excessive.

However, because the act does not now specifically mention the fee the attorney general ruled that it is disallowed. The bill would codify the fee's use and also would establish a ceiling which could not be exceeded. The \$40 ceiling chosen apparently would cover the seller's cost for document preparation on a sale.

Against:

Installment sellers who charge these types of fees are circumventing usury limits established by law, which deceives consumers regarding the cost of a vehicle and financing its purchase. Also, by using these fees without including them within a vehicle's cash price, sellers can offset a loss from a vehicle priced too low while the state loses revenue from what should have been a higher sales tax on the vehicle. Duties related to preparing documents on a sale is part of doing business, and any cost for this should either be reflected in the cash price or the interest rate charged.

POSITIONS:

The Michigan Automobile Dealers Association supports the bill. (11-14-89)

The Financial Institutions Bureau is not opposed to the bill. (11-20-89)

The Michigan Bankers Association is not opposed to the bill. (11-20-89)

The Department of Attorney General has no position on the bill. (11-20-89)

The Michigan Consumers Council opposes the bill. (11-17-89)

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