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BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

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House Bill 5259 (Substitute H-1 as reported without amendment)

Sponsor: Representative John Bennett

House Committee: Corporations and Finance

Senate Committee: Finance

Date Completed: 2-9-90

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RATIONALE

Under the Motor Vehicle Sales Finance Act, installment sellers are permitted to charge buyers for various costs related to the sale of a vehicle, such as the cost of insurance premiums and fees for the registration of the vehicle and issuance of license plates. In addition, it has been a widespread practice of installment sellers to impose so-called "documentary fees" or "service fees", which are explained as a charge by the seller to cover its costs in preparing the paperwork involved in the sale of the automobile, as well as the cost of gas and personnel to take the paperwork to a Secretary of State office for a transfer of title and plates. Evidently, these fees, which have ranged from \$18.50 to \$447, are added to the cash price of the vehicle and may appear for the first time when the sales contract is presented. Documentary or service fees are not authorized by the Act, however, according to a July 1989 Opinion of the Attorney General (No. 6594) that was responding to a request by the Commissioner of the Financial Institutions Bureau (which licenses installment sellers and sales finance companies). Nevertheless, the Bureau reportedly recognizes that documentary fees cover legitimate costs of business for auto dealers and are warranted if they are limited in amount to avoid the overcharging that was done in the past.

CONTENT

The bill would amend the Motor Vehicle Sales Finance Act to limit documentation preparation

fees to a maximum of \$40, and to require that a motor vehicle installment sale contract include any documentary preparation fees in the "cash price" of a vehicle.

Currently, the Act contains a list of items, including the cash price of a vehicle, that are required to be included in an installment sale contract. "Cash price" refers to the price of a vehicle at which the seller would sell to the buyer if the sale were a sale for cash instead of an installment sale, and may include any taxes, agreed upon accessories, and installation of the accessories. The bill would require that these items be included in the cash price.

MCL 492.113

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

By placing a \$40 cap on documentary fees and requiring them to be included in a vehicle's cash price, the bill would implicitly provide statutory authorization for these fees. Installment sellers would legitimately be able to charge a documentary fee to cover their costs related to preparation of paperwork and transportation to the Secretary of State for transfer of title and plates. At the same time,

H.B. 5259 (2-9-90)

the bill would ensure that buyers were not socked with the exorbitantly high fees that have been charged in the past.

Opposing Argument

Duties related to preparing and transferring documents on a sale are a part of doing business and should be reflected in the cash price or the interest rate charged. It is not clear why these particular costs warrant a separate charge, while other expenses of a dealer do not.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.