

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

SENATE BILL 202

5 By: Senators Critcher, Miller
6
7

For An Act To Be Entitled

9 AN ACT TO PROHIBIT MOTOR VEHICLE DEALERS FROM
10 CHARGING DOCUMENTARY FEES OR ANY OTHER FEES
11 EXCEPT FOR THE SALE PRICE OF THE MOTOR VEHICLE;
12 TO REPEAL THE CURRENT LAW THAT ALLOWS THE MOTOR
13 VEHICLE COMMISSION TO SET A REASONABLE LIMIT FOR
14 THE AMOUNT OF THE DOCUMENTARY FEES THAT A MOTOR
15 VEHICLE DEALER CAN CHARGE; AND FOR OTHER
16 PURPOSES.
17

Subtitle

18 TO PROHIBIT MOTOR VEHICLE DEALERS FROM
19 CHARGING DOCUMENTARY FEES OR OTHER FEES
20 EXCEPT FOR THE SALE PRICE OF THE MOTOR
21 VEHICLE.
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24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code Title 23, Chapter 112, Subchapter 4 is
28 amended to add an additional section to read as follows:

29 23-112-408. Documentary fees and other fees prohibited.

30 (a) For the purposes of this section, "documentary fee" means any
31 charge for services rendered to, for, or on behalf of a purchaser of a new
32 motor vehicle for the preparation, completion, handling, or processing of
33 documents relating to the sale of a new motor vehicle.

34 (b) A motor vehicle dealer shall not include as part of the sale price
35 of a new motor vehicle or charge a purchaser of a new motor vehicle any of
36 the following:



- 1 (1) A documentary fee;
- 2 (2) An administration fee;
- 3 (3) A dealer flooring charge;
- 4 (4) A sales promotion charge;
- 5 (5) An advertising fee; or
- 6 (6) Any other fee or charge that is similar to the fees or
- 7 charges stated in this subsection.

8 (c) A purchaser of a new motor vehicle who is charged a fee that is
 9 prohibited under this section may:

10 (1) File a complaint with the Arkansas Motor Vehicle Commission
 11 against the motor vehicle dealer and seek any and all relief available under
 12 this chapter; or

13 (2)(A) Petition the court under this section for compensatory
 14 damages, punitive damages, and attorney's fees.

15 (B) Damages awarded under this section shall not exceed
 16 one thousand dollars (\$1,000) for each violation.

17

18 SECTION 2. Arkansas Code § 23-112-315 is repealed.

19 ~~23-112-315. Motor vehicle dealer documentary fees—Disclosures.~~

20 ~~(a) A motor vehicle dealer may charge a documentary fee for services~~
 21 ~~rendered to, for, or on behalf of a purchaser in preparing, handling, and~~
 22 ~~processing documents relating to, and closing a retail installment~~
 23 ~~transaction involving, a new motor vehicle.~~

24 ~~(b) If a documentary fee is charged under this section, the fee must~~
 25 ~~be:~~

26 ~~(1) Charged to all purchasers, cash buyers, and credit buyers;~~
 27 ~~and~~

28 ~~(2) Disclosed on the buyer's order form as a separate itemized~~
 29 ~~charge.~~

30 ~~(c) A preliminary work sheet on which a sale price is computed and~~
 31 ~~that is shown to the purchaser, a buyers' order form from the purchaser, or a~~
 32 ~~retail installment contract shall include in reasonable proximity to the~~
 33 ~~place on the document where the documentary fee is disclosed:~~

34 ~~(1) The amount of the fee; and~~

35 ~~(2) The following notice in type that is bold faced,~~
 36 ~~capitalized, or underlined or otherwise conspicuously set out from the~~

1 ~~surrounding written material.~~

2 ~~"A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED~~
3 ~~BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING~~
4 ~~SERVICES RELATING TO THE CLOSING OF A SALE. THIS NOTICE IS REQUIRED BY LAW."~~

5 ~~(d) The Arkansas Motor Vehicle Commission is authorized to promulgate~~
6 ~~rules and regulations to set a reasonable limit on the amount to be charged~~
7 ~~for a documentary fee under subsection (a) of this section and to implement,~~
8 ~~enforce, and administer this section.~~

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10 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
11 General Assembly of the State of Arkansas that the purchasers of new motor
12 vehicles are being charged fees for the preparation of documents related to
13 the sale of the new motor vehicle that exceed the negotiated purchase price
14 of the new motor vehicle; that such charges are tantamount to fraud against
15 the consumer; and that this act is immediately necessary to protect consumers
16 who purchase new cars from fraud. Therefore, an emergency is declared to
17 exist and this act being immediately necessary for the preservation of the
18 public peace, health, and safety shall become effective on:

19 (1) The date of its approval by the Governor;

20 (2) If the bill is neither approved nor vetoed by the Governor,
21 the expiration of the period of time during which the Governor may veto the
22 bill; or

23 (3) If the bill is vetoed by the Governor and the veto is
24 overridden, the date the last house overrides the veto.

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