

FINANCE CODE
TITLE 4. REGULATION OF INTEREST, LOANS,
AND FINANCED TRANSACTIONS
SUBTITLE B. LOANS AND FINANCED TRANSACTIONS
CHAPTER 348. MOTOR VEHICLE INSTALLMENT SALES

SUBCHAPTER A. GENERAL PROVISIONS

- Section 348.001. Definitions
- Section 348.0015. Presumption Regarding Noncommercial Vehicles; Exception
- Section 348.002. Bailment or Lease As Retail Installment Transaction
- Section 348.003. Classification As Retail Installment Transaction Unaffected
- Section 348.004. Cash Price
- Section 348.005. Itemized Charge
- Section 348.006. Principal Balance; Inclusion of Documentary Fee
- Section 348.007. Applicability of Chapter
- Section 348.008. Applicability of Other Statutes to Retail Installment Transaction
- Section 348.009. Federal Disclosure Requirements Applicable
- Section 348.0091. Disclosure of Equity in Trade-In Motor Vehicle
- Section 348.010. Additional Information Allowed in Contract
- Section 348.011. Order of Items in Contract
- Section 348.012. Applicability of Insurance Premium Financing Provisions
- Section 348.013. Conditional Delivery Agreement

SUBCHAPTER B. RETAIL INSTALLMENT CONTRACT

- Section 348.101. Retail Installment Contract General Requirements
- Section 348.1015. Contract Conditioned on Subsequent Assignment Prohibited
- Section 348.102. Contents of Contract
- Section 348.103. Time Price Differential for Retail Installment Contract
- Section 348.104. Time Price Differential for Contract with Equal Monthly Successive Payments
- Section 348.105. Use of Optional Ceiling
- Section 348.106. Time Price Differential for Other Contracts
- Section 348.107. Charge for Default in Payment of Installment
- Section 348.108. Charges for Collecting Debt
- Section 348.109. Acceleration of Debt Maturity
- Section 348.110. Delivery of Copy of Contract
- Section 348.111. Buyer's Right to Rescind Contract
- Section 348.112. Buyer's Acknowledgment of Delivery of Contract Copy
- Section 348.113. Amendment of Retail Installment Contract
- Section 348.114. Charges for Deferring Installment
- Section 348.115. Charge for Other Amendment
- Section 348.116. Confirmation of Amendment
- Section 348.117. Contract After Amendment
- Section 348.118. Prepayment of Contract
- Section 348.119. Refund Credit on Prepayment
- Section 348.120. Amount of Refund Credit for Monthly Installment Contract

Section 348.121. Amount of Refund Credit for Other Contracts
Section 348.122. Reinstatement of Contract After Demand for Payment
Section 348.123. Refinancing of Large Installment
Section 348.124. Debt Cancellation Agreements

SUBCHAPTER C. INSURANCE

Section 348.201. Property Insurance
Section 348.202. Credit Life and Credit Health and Accident Insurance
Section 348.203. Maximum Amount of Credit Life and Credit Health and Accident Coverage
Section 348.204. Insurance Statement
Section 348.205. Statement If Liability Insurance Not Included in Contract
Section 348.206. Insurance May Be Furnished by Buyer
Section 348.207. Buyer's Failure to Provide Evidence of Insurance
Section 348.208. Charges for Other Insurance and Forms of Protection Included in Retail Installment Contract
Section 348.209. Requirements for Including Insurance Cost in Contract
Section 348.210. Delivery of Insurance Document to Buyer
Section 348.211. Holder's Duty If Insurance Is Adjusted or Terminated
Section 348.212. Gain or Advantage from Insurance Not Additional Charge
Section 348.213. Adding to Retail Installment Contract Premiums for Insurance Acquired After Transaction
Section 348.214. Effect of Adding Premium to Contract
Section 348.215. Financing Entity May Not Require Insurance from Particular Source

SUBCHAPTER D. ACQUISITION OF CONTRACT OR BALANCE

Section 348.301. Authority to Acquire
Section 348.302. Lack of Notice Does Not Affect Validity As to Certain Creditors
Section 348.303. Payment by Buyer

SUBCHAPTER E. HOLDER'S RIGHTS, DUTIES, AND LIMITATIONS

Sections 348.401 and 348.402. Repealed by Acts 2001, 77th Leg., ch. 1235, § 26, eff. September 1, 2002
Section 348.403. Seller's Promise to Pay or Tender of Cash to Buyer as Part of Transaction
Section 348.404. Seller's Action for Incentive Program or to Pay for Buyer's Motor Vehicle
Section 348.405. Statement of Payments and Amount Due Under Contract
Section 348.406. Receipt for Cash Payment
Section 348.407. Retention or Disposition of Nonattached Personal Property
Section 348.408. Outstanding Balance Information; Payment in Full
Section 348.409. Liability Relating to Outstanding Balance Information
Section 348.410. Prohibition on Power of Attorney to Confess Judgment or Assignment of Wages
Section 348.411. Prohibition on Certain Acts of Repossession
Section 348.412. Buyer's Waiver

Section 348.413. Transfer of Equity
Section 348.414. Automobile Club Membership Offered in Connection with Retail Installment Contract

SUBCHAPTER F. LICENSING; ADMINISTRATION OF CHAPTER

Section 348.501. License Required
Section 348.5015. Residential Mortgage Loan Originator License Required
Section 348.502. Application Requirements
Section 348.503. Investigation of Application
Section 348.504. Approval or Denial of Application
Section 348.505. Disposition of Fees on Denial of Application
Section 348.506. Annual License Fee
Section 348.507. Expiration of License on Failure to Pay Annual Fee
Section 348.508. License Suspension or Revocation
Section 348.509. Reinstatement of Suspended License; Issuance of New License After Revocation
Section 348.510. Surrender of License
Section 348.511. Effect of License Suspension, Revocation, or Surrender
Section 348.512. Transfer or Assignment of License
Section 348.513. Adoption of Rules
Section 348.514. Examination; Access to Records
Section 348.515. General Investigation
Section 348.516. Payment of Examination Costs and Administration Expenses
Section 348.517. License Holder's Records; Document Retention Requirements
Section 348.518. Sharing of Information

SUBCHAPTER G. CERTAIN DEBT CANCELLATION AGREEMENTS

Section 348.601. Limitation on Certain Debt Cancellation Agreements
Section 348.602. Debt Cancellation Agreements Exclusion Language
Section 348.603. Required Debt Cancellation Agreement Language
Section 348.604. Approval of Forms for Debt Cancellation Agreements
Section 348.605. Additional Requirements for Debt Cancellation Agreements
Section 348.606. Refund for Debt Cancellation Agreements

SUBCHAPTER A. GENERAL PROVISIONS

Section 348.001. Definitions

In this chapter:

(1) "Buyer's order" means a nonbinding, preliminary written computation relating to the purchase in a retail installment transaction of a motor vehicle that describes specifically:

- (A) the motor vehicle being purchased; and
- (B) each motor vehicle being traded in.

(1-a) "Commercial vehicle" has the meaning assigned by Section 353.001.

(1-b) "Debt cancellation agreement" means a retail installment contract term or a contractual arrangement modifying a retail installment contract term under which a retail seller or holder agrees to cancel all or part of an obligation of the retail buyer to repay an extension of credit from the retail seller or holder on the occurrence of the total loss or theft of the motor vehicle that is the subject of the retail installment contract but does not include an offer to pay a specified amount on the total loss or theft of the motor vehicle.

(2) "Heavy commercial vehicle" has the meaning assigned by Section 353.001.

(3) "Holder" means a person who is:

- (A) a retail seller; or
- (B) the assignee or transferee of a retail installment contract.

(3-a) "Motor home" means a motor vehicle that is designed to provide temporary living quarters and that:

- (A) is built on a motor vehicle chassis as an integral part of or a permanent attachment to the chassis; and
- (B) contains at least four of the following independent life support systems that are permanently installed and designed to be removed only for repair or replacement and that meet the standards of the American National Standards Institute, Standards for Recreational Vehicles:
 - (i) a cooking facility with an on-board fuel source;
 - (ii) a gas or electric refrigerator;
 - (iii) a toilet with exterior evacuation;
 - (iv) a heating or air-conditioning system with an on-board power or fuel source separate from the vehicle engine;
 - (v) a potable water supply system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection; or
 - (vi) a 110-125 volt electric power supply.

(4) "Motor vehicle" means an automobile, motor home, truck, truck tractor, trailer, semitrailer, or bus designed and used primarily to transport persons or property on a highway. The term includes a commercial vehicle or heavy commercial vehicle. The term does not include:

- (A) a boat trailer;
- (B) a vehicle propelled or drawn exclusively by muscular power;
- (C) a vehicle that is designed to run only on rails or tracks; or
- (D) machinery that is not designed primarily for highway transportation but may incidentally transport persons or property on a public highway.

(5) "Retail buyer" means a person who purchases or agrees to purchase a motor vehicle from a retail seller in a retail installment transaction.

(6) "Retail installment contract" means one or more instruments entered into in this state that evidence a retail installment transaction. The term includes a chattel mortgage, a

conditional sale contract, a security agreement, and a document that evidences a bailment or lease described by Section 348.002. The term does not include a buyer's order.

(7) "Retail installment transaction" means a transaction in which a retail buyer purchases a motor vehicle from a retail seller other than principally for the purpose of resale and agrees with the retail seller to pay part or all of the cash price in one or more deferred installments.

(8) "Retail seller" means a person in the business of selling motor vehicles to retail buyers in retail installment transactions.

(9) "Time price differential" means the total amount added to the principal balance to determine the balance of the retail buyer's indebtedness under a retail installment contract.

(10-a) "Towable recreation vehicle" means a nonmotorized vehicle that:

- (A) was originally designed and manufactured primarily to provide temporary human habitation in conjunction with recreational, camping, or seasonal use;
- (B) is titled and registered with the Texas Department of Motor Vehicles as a travel trailer through a county tax assessor-collector;
- (C) is permanently built on a single chassis;
- (D) contains at least one life support system; and
- (E) is designed to be towable by a motor vehicle.

Section 348.0015. Presumption Regarding Noncommercial Vehicles; Exception

(a) A motor vehicle that is not described by Section 353.001(1)(A), (B), or (C) or a motor vehicle that is of a type typically used for personal, family, or household use, as determined by finance commission rule, is presumed not to be a commercial vehicle.

(b) Notwithstanding Subsection (a), if a retail buyer represents in writing that a motor vehicle is not for personal, family, or household use, or that the vehicle is for commercial use, a retail seller or holder to whom the representation is made may rely on that representation unless the retail seller or holder, as applicable, has actual knowledge that the representation is not true.

Section 348.002. Bailment or Lease As Retail Installment Transaction

A bailment or lease of a motor vehicle is a retail installment transaction if the bailee or lessee:

- (1) contracts to pay as compensation for use of the vehicle an amount that is substantially equal to or exceeds the value of the vehicle; and
- (2) on full compliance with the bailment or lease is bound to become the owner or, for no or nominal additional consideration, has the option to become the owner of the vehicle.

Section 348.003. Classification As Retail Installment Transaction Unaffected

A transaction is not excluded as a retail installment transaction because:

- (1) the retail seller arranges to transfer the retail buyer's obligation;
- (2) the amount of any charge in the transaction is determined by reference to a chart or other information furnished by a financing institution;
- (3) a form for all or part of the retail installment contract is furnished by a financing institution; or
- (4) the credit standing of the retail buyer is evaluated by a financing institution.

Section 348.004. Cash Price

(a) The cash price is the price at which the retail seller offers in the ordinary course of business to sell for cash the goods or services that are subject to the transaction. An advertised price does not necessarily establish a cash price.

(b) The cash price does not include any finance charge.

(c) At the retail seller's option, the cash price may include:

- (1) the price of accessories;
- (2) the price of services related to the sale;
- (3) the price of service contracts;
- (4) taxes; and
- (5) fees for license, title, and registration.

Section 348.005. Itemized Charge

An amount in a retail installment contract is an itemized charge if the amount is not included in the cash price and is the amount of:

- (1) fees for registration, certificate of title, and license and any additional registration fees charged by a deputy as authorized by rules adopted under Section 520.0071, Transportation Code;
- (2) any taxes;
- (3) fees or charges prescribed by law and connected with the sale or inspection of the motor vehicle; and
- (4) charges authorized for insurance, service contracts, warranties, automobile club memberships, or a debt cancellation agreement by Subchapter C.

Section 348.006. Principal Balance; Inclusion of Documentary Fee

(a) The principal balance under a retail installment contract is computed by:

(1) adding:

(A) the cash price of the motor vehicle;

(B) each amount included in the retail installment contract for an itemized charge; and

(C) subject to Subsection (c), a documentary fee for services rendered for or on behalf of the retail buyer in handling and processing documents relating to the motor vehicle sale; and

(2) subtracting from the results under Subdivision (1) the amount of the retail buyer's down payment in money, goods, or both.

(b) The computation of the principal balance may include an amount authorized under Section 348.404(b).

(c) For a documentary fee to be included in the principal balance of a retail installment contract:

(1) the retail seller must charge the documentary fee to cash buyers and credit buyers;

(2) the documentary fee may not exceed a reasonable amount agreed to by the retail seller and retail buyer for the documentary services; and

(3) the buyer's order and the retail installment contract must include:

(A) a statement of the amount of the documentary fee; and

(B) in reasonable proximity to the place in each where the amount of the documentary fee is disclosed, the following notice in type that is bold-faced, capitalized, underlined, or otherwise conspicuously set out from surrounding written material:

"A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS RELATING TO THE SALE. A DOCUMENTARY FEE MAY NOT EXCEED A REASONABLE AMOUNT AGREED TO BY THE PARTIES. THIS NOTICE IS REQUIRED BY LAW."

(d) A retail seller shall post the documentary fee notice prescribed in Subsection (c) so that it is clearly visible in each place where a vehicle sale is finalized. If the language primarily used in an oral sales presentation is not the same as the language in which the retail installment contract is written, the retail seller shall furnish to the retail buyer a written statement containing the notice set out in Subsection (c)(3)(B) in the language primarily used in the oral sales presentation.

(e) Prior to increasing the maximum amount of the documentary fee the retail seller charges, a retail seller shall provide written notice to the commissioner of the maximum amount of the documentary fee the retail seller intends to charge. The commissioner may

review the amount of a documentary fee for reasonableness. In determining whether a fee charged by a retail seller is reasonable, the commissioner may consider the resources required by the retail seller to perform the retail seller's duties under state and federal law with respect to the handling and processing of documents relating to the sale and financing of a motor vehicle. If the commissioner determines that a documentary fee charged is not reasonable, the commissioner may require that the documentary fee charged be reduced or suspended.

(e-1) Except as provided by Subsections (e-2) and (e-3), the following information and documents are confidential and not subject to disclosure:

- (1) all information provided by a retail seller to the commissioner under Subsection (e), including the maximum documentary fee a retail seller intends to charge, the written notice of an increased documentary fee, and any financial information submitted with the notice; and
- (2) all correspondence between a retail seller and the commissioner or the commissioner's representative relating to the notice of an increased documentary fee under Subsection (e) and a review for reasonableness of the amount of the documentary fee to be charged.

(e-2) The commissioner may disclose information or documents that are confidential under Subsection (e-1) if:

- (1) the commissioner determines that release of the information or documents is required for an administrative hearing;
- (2) the retail seller consents to the release of the information or documents; or
- (3) the disclosure is required by a court order.

(e-3) The commissioner or the commissioner's representative may disclose whether a retail seller has filed written notice of an increased documentary fee and the proposed amount of the increased fee to:

- (1) a holder that provides written proof, signed by the retail seller, that the retail seller has agreed to assign or transfer one or more retail installment contracts to the holder; or
- (2) a prospective retail buyer that provides to the commissioner:
 - (A) a buyer's order executed by the prospective buyer and the retail seller;
 - (B) a draft of a retail installment contract provided by the retail seller to the prospective buyer; or
 - (C) a written statement by the retail seller acknowledging that the person is a prospective buyer of a motor vehicle from the retail seller.

(f) A documentary fee charged in accordance with this section before September 1, 2009, is considered reasonable for purposes of this section.

(g) This section does not:

- (1) create a private right of action; or

(2) require that the commissioner approve a specific documentary fee amount before a retail seller charges the fee.

(h) The finance commission may adopt rules, including rules relating to the standards for a reasonableness determination or disclosures, necessary to enforce this section. A rule adopted under this subsection may not require a retail seller to submit to the commissioner for prior approval the amount of a documentary fee that the retail seller intends to charge under this section.

(i) The commissioner has exclusive jurisdiction to enforce this section.

(j) *Repealed by Acts 2011, 82nd Leg., ch. 117, § 26(3), effective September 1, 2011.*

Section 348.007. Applicability of Chapter

(a) Except as otherwise provided by this section, each retail installment transaction is subject to this chapter.

(a-1) A transaction in which a retail buyer purchases a towable recreation vehicle from a retail seller other than principally for the purpose of resale and agrees with the retail seller to pay part or all of the cash price in one or more deferred installments may be subject to this chapter instead of Chapter 345 at the option of the seller.

(a-2) *Repealed by Acts 2011, 82nd Leg., ch. 117, § 26(1), (2), effective September 1, 2011.*

(b) This chapter does not affect or apply to a loan made or the business of making loans under other law of this state and does not affect a rule of law applicable to a retail installment sale that is not a retail installment transaction.

(c) The provisions of this chapter defining specific rates and amounts of charges and requiring certain credit disclosures to be made control over any contrary law of this state respecting those subjects.

(d) A retail installment transaction in which a retail buyer purchases a motor vehicle that is a commercial vehicle is not subject to this chapter and is subject to Chapter 353 if the retail installment contract states that Chapter 353 applies.

Section 348.008. Applicability of Other Statutes to Retail Installment Transaction

(a) A loan or interest statute of this state, other than Chapter 303, does not apply to a retail installment transaction.

(b) Except as provided by this chapter, an applicable statute, including Title 1, Business & Commerce Code, or a principle of common law continues to apply to a retail installment transaction unless it is displaced by this chapter.

Section 348.009. Federal Disclosure Requirements Applicable

(a) The disclosure requirements of 12 C.F.R. Part 226 (Regulation Z) adopted under the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) and specifically 12 C.F.R. Section 226.18(f), regarding variable rate disclosures, apply according to their terms to retail installment transactions.

(b) If a disclosure requirement of this chapter and one of a federal law, including a regulation or an interpretation of law, are inconsistent or conflict, federal law controls and the inconsistent or conflicting disclosures required by this chapter need not be given.

Section 348.0091. Disclosure of Equity in Trade-In Motor Vehicle

(a) A retail seller may not accept a trade-in motor vehicle for a motor vehicle sold under a retail installment contract unless the retail seller provides to the retail buyer, before the buyer signs the contract, a completed disclosure of trade-in equity form prescribed by this section.

(b) The finance commission shall by rule adopt a standard form for the disclosure of the equity in a retail buyer's trade-in motor vehicle.

(c) The form adopted by the finance commission under Subsection (b), at a minimum, must:

(1) contain:

(A) the name of the retail buyer;

(B) the name, address, and telephone number of the retail seller;

(C) the make, model, year, and vehicle identification number of the trade-in motor vehicle;

(D) the date of the retail installment transaction;

(E) the amount offered by the retail seller to the retail buyer for the trade-in motor vehicle;

(F) the amount the retail buyer owes on the trade-in motor vehicle as of the date of the retail installment transaction;

(G) a statement indicating whether the retail buyer's equity in the trade-in motor vehicle is positive or negative;

(H) a disclosure containing substantially similar words to the following: "If the EQUITY amount is NEGATIVE, the value the retail seller is offering you for your trade-in motor vehicle is less than what you currently owe on your trade-in. The amount of negative equity may be further reduced by the amount of any cash down payment and manufacturer's rebate and may be included in the amount financed under your retail installment contract as an itemized charge.";

(I) the cash price of the vehicle being purchased under the retail installment transaction; and

(J) the amount financed under the retail installment contract;

(2) include a space for the signature of both the retail seller and retail buyer and the printed name of the retail seller; and

(3) be signed and dated by the retail seller and retail buyer.

(d) The retail seller is solely responsible for the content and delivery of the disclosure form required by Subsection (a). An assignee of a retail installment contract may not be

held responsible for a retail seller's failure to comply with the requirements of this section.

(e) This section does not create a private right of action. The commissioner has exclusive jurisdiction to enforce this section.

Section 348.010. Additional Information Allowed in Contract

Information not required by this chapter may be included in a retail installment contract.

Section 348.011. Order of Items in Contract

Items required by this chapter to be in a retail installment contract are not required to be stated in the order set forth in this chapter.

Section 348.012. Applicability of Insurance Premium Financing Provisions

Chapter 651, Insurance Code, does not apply to a retail installment transaction.

Section 348.013. Conditional Delivery Agreement

(a) In this section, "conditional delivery agreement" means a contract between a retail seller and prospective retail buyer under the terms of which the retail seller allows the prospective retail buyer the use and benefit of a motor vehicle for a specified term.

(b) Subject to this section, a retail seller and prospective retail buyer may enter into a conditional delivery agreement.

(c) A conditional delivery agreement is:

(1) an enforceable contract; and

(2) void on the execution of a retail installment contract between the parties of the conditional delivery agreement for the sale of the motor vehicle that is the subject of the conditional delivery agreement.

(d) A conditional delivery agreement may only confer rights consistent with this section and may not confer any legal or equitable rights of ownership, including ownership of the motor vehicle that is the subject of the conditional delivery agreement.

(e) A conditional delivery agreement may not exceed a term of 15 days.

(f) If a prospective retail buyer tenders to a retail seller a trade-in motor vehicle in connection with a conditional delivery agreement:

(1) the parties must agree on the value of the trade-in motor vehicle;

(2) the conditional delivery agreement must contain the agreed value of the trade-in motor vehicle described by Subdivision (1); and

(3) the retail seller must use reasonable care to conserve the trade-in motor vehicle while the vehicle is in the retail seller's possession.

(g) If the parties to a conditional delivery agreement do not subsequently enter into a retail installment contract for the sale of the motor vehicle that is the subject of the conditional delivery agreement, the retail seller shall, not later than the seventh day after termination of the conditional delivery agreement:

(1) deliver to the prospective retail buyer any trade-in motor vehicle that the prospective retail buyer tendered in connection with the conditional delivery agreement in the same or substantially the same condition as it was at the time of execution of the agreement and shall return any down payment or other consideration received from the prospective retail buyer in connection with the agreement; or

(2) if the trade-in motor vehicle cannot be returned in the same or substantially the same condition as it was at the time of execution of the conditional delivery agreement, deliver to the prospective retail buyer a sum of money equal to the agreed value of the trade-in motor vehicle as described by Subsection (f) and shall return any down payment or other consideration described by Subdivision (1).

(h) Any money that a retail seller is obligated to provide a prospective retail buyer under Subsection (g) must be tendered at the same time that the trade-in motor vehicle is delivered for return to the prospective retail buyer or when the trade-in motor vehicle would have been delivered if the vehicle was damaged or could not be returned.

(i) If a prospective retail buyer returns a motor vehicle under a conditional delivery agreement at the request of the retail seller, the retail seller, notwithstanding the period prescribed by Subsection (g), must return the trade-in vehicle at the same time that the motor vehicle under the conditional delivery agreement is returned by the prospective retail buyer.

(j) The prospective retail buyer shall return the motor vehicle received under the conditional delivery agreement in the same or substantially the same condition as it was at the time of the execution of the conditional delivery agreement.

(k) An amount paid or required to be paid by the retail seller under Subsection (g) is subject to review by the commissioner. If the commissioner determines that the retail seller in fact owes the prospective retail buyer a certain amount under Subsection (g), the commissioner may order the retail seller to pay the amount to the prospective retail buyer. If the trade-in motor vehicle is not returned by the retail seller in accordance with this section and the retail seller does not pay the prospective retail buyer an amount equal to the agreed value of the trade-in motor vehicle within the period prescribed by this section, the commissioner may assess an administrative penalty against the retail seller in an amount that is reasonable in relation to the value of the trade-in motor vehicle. The commissioner shall provide notice to the retail seller and the prospective retail buyer of the commissioner's determination under this subsection.

(l) Not later than the 30th day after the date the parties receive notice of the commissioner's determination under Subsection (k), the retail seller or prospective retail buyer may file with the commissioner an appeal of the commissioner's determination requesting a time and place for a hearing before a hearings officer designated by the commissioner. A hearing under this subsection is governed by Chapter 2001,

Government Code. After the hearing, based on the findings of fact, conclusions of law, and recommendations of the hearings officer, the commissioner shall enter a final order.

(m) A person who requests an appeal under Subsection (l) is required to pay a deposit to secure the payment of the costs of the hearing in a reasonable amount as determined by the commissioner, unless the person cannot afford to pay the deposit and files an affidavit to that effect with the hearings officer in the form and content prescribed by finance commission rule. The entire deposit must be refunded to the person if the person prevails in the hearing. If the person does not prevail, any portion of the deposit in excess of the costs of the hearing assessed against the person is refundable.

(n) Notice of the commissioner's final order under Subsection (l), given to the person in accordance with Section 2001, Government Code, must include a statement of the person's right to judicial review of the order.

(o) The hearings officer may order the retail seller or the prospective retail buyer, or both, to pay reasonable expenses incurred by the commissioner in connection with obtaining a final order under Subsection (l), including attorney's fees, investigative costs, and witness fees.

(p) This section does not:

- (1) apply to a bailment agreement under Section 348.002; or
- (2) create a private right of action.

(q) Except as otherwise provided by this section, the commissioner has exclusive jurisdiction to enforce this section.

SUBCHAPTER B. RETAIL INSTALLMENT CONTRACT

Section 348.101. Retail Installment Contract General Requirements

(a) A retail installment contract is required for each retail installment transaction. A retail installment contract may be more than one document.

(b) A retail installment contract must be:

- (1) in writing;
- (2) dated;
- (3) signed by the retail buyer and retail seller; and
- (4) completed as to all essential provisions before it is signed by the retail buyer except as provided by Subsection (d).

(c) The printed part of a retail installment contract, other than instructions for completion, must be in at least eight-point type unless a different size of type is required under this subchapter.

(d) If the motor vehicle is not delivered when the retail installment contract is executed, the following information may be inserted after the contract is executed:

- (1) the identifying numbers or marks of the vehicle or similar information; and

(2) the due date of the first installment.

Section 348.1015. Contract Conditioned on Subsequent Assignment Prohibited

(a) A retail installment contract may not be conditioned on the subsequent assignment of the contract to a holder.

(b) A provision in violation of this section is void. This subsection does not affect the validity of other provisions of the contract that may be given effect without the voided provision, and to that extent those provisions are severable.

(c) This section does not create a private right of action.

(d) The commissioner has exclusive jurisdiction to enforce this section.

Section 348.102. Contents of Contract

(a) A retail installment contract must contain:

(1) the name of the retail seller and the name of the retail buyer;

(2) the place of business or address of the retail seller;

(3) the residence or other address of the retail buyer as specified by the retail buyer;

(4) a description of the motor vehicle being sold;

(5) the cash price of the retail installment transaction;

(6) the amount of any down payment by the retail buyer, specifying the amounts paid in money and in goods traded in; and

(7) each itemized charge.

(b) A charge for insurance, a service contract, or a warranty authorized by Subchapter C may be disclosed as provided by that subchapter.

(c) A retail installment contract that provides for a variable contract rate must set out the method by which the rate is computed.

(d) The contract must contain substantially the following notice in at least 10-point type that is bold-faced, capitalized, or underlined or otherwise conspicuously set out from the surrounding written material:

"NOTICE TO THE BUYER--DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE CONTRACT YOU SIGN. UNDER THE LAW YOU HAVE THE RIGHT TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE AND UNDER CERTAIN CONDITIONS MAY OBTAIN A PARTIAL REFUND OF THE FINANCE CHARGE. KEEP THIS CONTRACT TO PROTECT YOUR LEGAL RIGHTS."

Section 348.103. Time Price Differential for Retail Installment Contract

A retail installment contract may provide for:

- (1) any amount of time price differential permitted under Section 348.104, 348.105, or 348.106; or
- (2) any rate of time price differential not exceeding a yield permitted under Section 348.104, 348.105, or 348.106.

Section 348.104. Time Price Differential for Contract with Equal Monthly Successive Payments

(a) A retail installment contract that is payable in substantially equal successive monthly installments beginning one month after the date of the contract may provide for a time price differential that does not exceed:

- (1) the add-on charge provided by this section; or
- (2) \$ 25 if the add-on charge under Subdivision (1) is less than \$ 25.

(b) The add-on charge is \$ 7.50 per \$ 100 per year on the principal balance for a new motor vehicle designated by the manufacturer by a model year that is not earlier than the year in which the sale is made.

(c) The add-on charge is \$ 10 per \$ 100 per year on the principal balance for:

- (1) a new motor vehicle not covered by Subsection (b); or
- (2) a used motor vehicle designated by the manufacturer by a model year that is not more than two years before the year in which the sale is made.

(d) The add-on charge is \$ 12.50 per \$ 100 per year on the principal balance for a used motor vehicle not covered by Subsection (c) that is a motor vehicle designated by the manufacturer by a model year that is not more than four years before the year in which the sale is made.

(e) For a used motor vehicle not covered by Subsection (c) or (d), the add-on charge is:

- (1) \$ 15 per \$ 100 per year on the principal balance; or
- (2) \$ 18 per \$ 100 per year on the principal balance if the principal balance under the retail installment contract does not exceed \$ 300.

(f) The time price differential is computed on the original principal balance under the retail installment contract from the date of the contract until the maturity of the final installment, notwithstanding that the balance is payable in installments.

(g) If the retail installment contract is payable for a period that is shorter or longer than a year or is for an amount that is less or greater than \$ 100, the amount of the maximum time price differential computed under this section is decreased or increased proportionately.

(h) For the purpose of a computation under this section, 16 or more days of a month may be considered a full month.

Section 348.105. Use of Optional Ceiling

As an alternative to the maximum rate or amount authorized for a time price differential under Section 348.104 or 348.106, a retail installment contract may provide for a rate or amount of time price differential that does not exceed the rate or amount authorized by Chapter 303.

Section 348.106. Time Price Differential for Other Contracts

A retail installment contract that is payable other than in substantially equal successive monthly installments or the first installment of which is not payable one month from the date of the contract may provide for a time price differential that does not exceed an amount that, having due regard for the schedule of payments, provides the same effective return as if the contract were payable in substantially equal successive monthly installments beginning one month from the date of the contract.

Section 348.107. Charge for Default in Payment of Installment

(a) A retail installment contract may provide that if an installment remains unpaid after the 15th day after the maturity of the installment the holder may collect:

- (1) a delinquency charge that does not exceed five percent of the amount of the installment; or
- (2) interest on the amount of the installment accruing after the maturity of the installment and until the installment is paid in full at a rate that does not exceed the maximum rate authorized for the contract.

(b) A retail installment contract that provides for the accrual earnings method may provide for the delinquency charge authorized by Subsection (a)(1), the interest authorized by Subsection (a)(2), or both.

(c) Only one delinquency charge may be collected on an installment under this section regardless of the duration of the default.

Section 348.108. Charges for Collecting Debt

A retail installment contract may provide for the payment of:

- (1) reasonable attorney's fees if the contract is referred for collection to an attorney who is not a salaried employee of the holder;
- (2) court costs and disbursements; and
- (3) reasonable out-of-pocket expenses incurred in connection with the repossession or sequestration of the motor vehicle securing the payment of the contract or foreclosure of a security interest in the vehicle, including the costs of storing, reconditioning, and reselling the vehicle, subject to the standards of good faith and commercial reasonableness set by Title 1, Business & Commerce Code.

Section 348.109. Acceleration of Debt Maturity

A retail installment contract may not authorize the holder to accelerate the maturity of all or a part of the amount owed under the contract unless:

- (1) the retail buyer is in default in the performance of any of the buyer's obligations; or
- (2) the holder believes in good faith that the prospect of buyer's payment or performance is impaired.

Section 348.110. Delivery of Copy of Contract

A retail seller shall:

- (1) deliver to the retail buyer a copy of the retail installment contract as accepted by the retail seller; or
- (2) mail to the retail buyer at the address shown on the retail installment contract a copy of the retail installment contract as accepted by the retail seller.

Section 348.111. Buyer's Right to Rescind Contract

Until the retail seller complies with Section 348.110, a retail buyer who has not received delivery of the motor vehicle is entitled to:

- (1) rescind the contract;
- (2) receive a refund of all payments made under or in contemplation of the contract; and
- (3) receive the return of all goods traded in to the retail seller under or in contemplation of the contract or, if those goods cannot be returned, to receive the value of those goods.

Section 348.112. Buyer's Acknowledgment of Delivery of Contract Copy

(a) Any retail buyer's acknowledgment of delivery of a copy of the retail installment contract must:

- (1) be in at least 10-point type that is bold-faced, capitalized, or underlined or otherwise conspicuously set out from the surrounding written material; and
- (2) appear directly above the buyer's signature.

(b) Any retail buyer's acknowledgment conforming to this section of delivery of a copy of the retail installment contract is, in an action or proceeding by or against a holder of the contract who was without knowledge to the contrary when the holder purchased it, conclusive proof:

- (1) that the copy was delivered to the buyer;
- (2) that the contract did not contain a blank space that was required to have been completed under this chapter when the contract was signed by the buyer; and

(3) of compliance with Sections 348.009, 348.101, 348.102, 348.123, 348.205, 348.405, 348.406, and 348.408.

Section 348.113. Amendment of Retail Installment Contract

On request by a retail buyer, the holder may agree to one or more amendments to the retail installment contract to:

- (1) extend or defer the scheduled due date of all or a part of one or more installments; or
- (2) renew, restate, or reschedule the unpaid balance under the contract.

Section 348.114. Charges for Deferring Installment

(a) If a retail installment contract is amended to defer all or a part of one or more installments for not longer than three months, the holder may collect from the retail buyer:

- (1) an amount computed on the amount deferred for the period of deferment at a rate that does not exceed the effective return for time price differential permitted for a monthly payment retail installment contract; and
- (2) the amount of the additional cost to the holder for:
 - (A) premiums for continuing in force any insurance coverages provided for by the contract; and
 - (B) any additional necessary official fees.

(b) The minimum charge under Subsection (a)(1) is \$ 1.

Section 348.115. Charge for Other Amendment

(a) If the unpaid balance of a retail installment contract is extended, renewed, restated, or rescheduled under this subchapter and Section 348.114 does not apply, the holder may collect an amount computed on the principal balance of the amended contract for the term of the amended contract at the time price differential for a retail installment contract that is applicable after reclassifying the motor vehicle by its model year at the time of the amendment.

(b) The principal balance of the amended contract is computed by:

- (1) adding:
 - (A) the unpaid balance as of the date of amendment;
 - (B) the cost of any insurance incidental to the amendment;
 - (C) the amount of each additional necessary official fee; and
 - (D) the amount of each accrued delinquency or collection charge; and
- (2) subtracting from the total computed under Subdivision (1) an amount equal to the prepayment refund credit required by Section 348.120 or 348.121, as applicable.

(c) The provisions of this chapter relating to minimum charges under Section 348.104 and acquisition costs under the refund schedule under Section 348.120 do not apply in computing the principal balance of the amended contract.

Section 348.116. Confirmation of Amendment

An amendment to a retail installment contract must be confirmed in a writing signed by the retail buyer. The holder shall:

- (1) deliver a copy of the confirmation to the buyer; or
- (2) mail a copy of the confirmation to the buyer at the buyer's most recent address shown on the records of the holder.

Section 348.117. Contract After Amendment

After amendment the retail installment contract is the original contract and each amendment to the original contract.

Section 348.118. Prepayment of Contract

A retail buyer may prepay a retail installment contract in full at any time before maturity. This section prevails over a conflicting provision of the contract.

Section 348.119. Refund Credit on Prepayment

If a retail buyer prepays a retail installment contract in full or if the holder of the contract demands payment of the unpaid balance of the contract in full before the contract's final installment is due, the buyer is entitled to receive a refund credit as provided by Section 348.120 or 348.121, as applicable.

Section 348.120. Amount of Refund Credit for Monthly Installment Contract

(a) This section applies only to a refund credit on the prepayment of a retail installment contract that is payable in substantially equal successive monthly installments beginning one month after the date of the contract.

(b) On a contract for a motor vehicle the minimum amount of the refund credit is computed by:

- (1) subtracting an acquisition cost of \$ 25 from the original time price differential; and
- (2) multiplying the amount computed under Subdivision (1) by the percentage of refund computed under Subsection (d).

(c) *Repealed by Acts 2011, 82nd Leg., ch. 117, § 26(3), effective September 1, 2011.*

(d) The percentage of refund is computed by:

- (1) computing the sum of all of the monthly balances under the contract's schedule of payments; and

(2) dividing the amount computed under Subdivision (1) into the sum of the unpaid monthly balances under the contract's schedule of payments beginning:

(A) on the first day, after the date of the prepayment or demand for payment in full, that is the date of a month that corresponds to the date of the month that the first installment is due under the contract; or

(B) if the prepayment or demand for payment in full is made before the first installment date under the contract, one month after the next monthly anniversary date of the contract occurring after the prepayment or demand.

(e) A refund credit is not required if the amount of the refund credit is less than \$ 1.

Section 348.121. Amount of Refund Credit for Other Contracts

The minimum amount of the refund credit on a retail installment contract to which Section 348.120 does not apply shall be computed in a manner proportionate to the method set out by that section for the type of motor vehicle being sold, having due regard for:

- (1) the amount of each installment;
- (2) the irregularity of the installment periods; and
- (3) the requirements of Sections 348.104(f) and 348.106.

Section 348.122. Reinstatement of Contract After Demand for Payment

After a demand for payment in full under a retail installment contract, the retail buyer and holder of the contract may:

- (1) agree to reinstate the contract; and
- (2) amend the contract as provided by Section 348.113.

Section 348.123. Refinancing of Large Installment

(a) If a scheduled installment of a retail installment contract is more than an amount equal to twice the average of all installments scheduled before that installment, other than the down payment, the retail buyer is entitled to refinance that installment:

- (1) when the installment is due;
- (2) without an acquisition cost;
- (3) in installments that are not greater or more frequent than the average amount and frequency of installments preceding that installment; and
- (4) at a rate of time price differential that does not exceed the rate applicable to the original contract.

(b) This section does not apply to:

- (1) a lease;

- (2) a retail installment transaction for a vehicle that is to be used primarily for a purpose other than personal, family, or household use;
- (3) a transaction for which the payment schedule is adjusted to the seasonal or irregular income or scheduled payments or obligations of the buyer;
- (4) a transaction of a type that the commissioner determines does not require the protection for the buyer provided by this section; or
- (5) a retail installment transaction in which:
 - (A) the seller is a franchised dealer licensed under Chapter 2301, Occupations Code; and
 - (B) the buyer is entitled, at the end of the term of the retail installment contract, to choose one of the following:
 - (i) sell the vehicle back to the holder according to a written agreement:
 - (a) entered into between the buyer and holder concurrently with or as a part of the transaction; and
 - (b) under which the buyer will be released from liability or obligation for the final scheduled payment under the contract on compliance with the agreement;
 - (ii) pay the final scheduled payment under the contract; or
 - (iii) if the buyer is not in default under the contract, refinance the final scheduled payment with the holder for repayment in not fewer than 24 equal monthly installments or on other terms agreed to by the buyer and holder at the time of refinancing and at a rate of time price differential not to exceed the lesser of:
 - (a) a rate equal to the maximum rate authorized under this subchapter; or
 - (b) an annual percentage rate of five percent a year more than the annual percentage rate of the original contract.
 - (c) A retail installment contract under Subsection (b)(5) must disclose that any refinancing may be for any period and payment schedule to which the buyer and holder agree.

Section 348.124. Debt Cancellation Agreements

- (a) In connection with a retail installment transaction under this chapter, a retail seller may offer to the retail buyer a debt cancellation agreement, including a guaranteed asset protection waiver or similarly named agreement. The retail seller may not require that the purchase of a debt cancellation agreement by the retail buyer be made in order to enter into a retail installment transaction.
- (b) A debt cancellation agreement is not considered an insurance product.

(c) The amount charged for a debt cancellation agreement made in connection with a retail installment contract must be reasonable.

(d) In addition to other disclosures required by state or federal law, the retail seller shall provide to the retail buyer a separate notice in connection with the retail installment contract stating that the retail buyer is not required to accept or provide a debt cancellation agreement in order to purchase the motor vehicle under a retail installment contract.

SUBCHAPTER C. INSURANCE

Section 348.201. Property Insurance

(a) A holder may request or require a retail buyer to insure the motor vehicle purchased under a retail installment transaction and accessories and related goods subject to the holder's security interest.

(b) The insurance and the premiums or charges for the insurance must bear a reasonable relationship to:

- (1) the amount, term, and conditions of the retail installment contract; and
- (2) the existing hazards or risk of loss, damage, or destruction.

(c) The insurance may not:

- (1) cover unusual or exceptional risks; or
- (2) provide coverage not ordinarily included in policies issued to the public.

(d) The holder may include the cost of insurance provided under this section as a separate charge in the contract.

Section 348.202. Credit Life and Credit Health and Accident Insurance

(a) As additional protection for the contract, a holder may request or require a retail buyer to provide credit life insurance and credit health and accident insurance.

(b) As additional protection for the contract, a seller may offer involuntary unemployment insurance to the buyer at the time the contract is executed.

(c) A holder may include the cost of insurance provided under Subsection (a) or (b), and a policy or agent fee charged in connection with insurance provided under Subsection (a) or (b), as a separate charge in the contract.

Section 348.203. Maximum Amount of Credit Life and Credit Health and Accident Coverage

(a) At any time the total amount of the policies of credit life insurance in force on one retail buyer on one retail installment contract may not exceed:

- (1) the total amount repayable under the contract; and

(2) the greater of the scheduled or actual amount of unpaid indebtedness if the indebtedness is repayable in substantially equal installments.

(b) At any time the total amount of the policies of credit health and accident insurance in force on one retail buyer on one retail installment contract may not exceed the total amount payable under the contract, and the amount of each periodic indemnity payment may not exceed the scheduled periodic payment on the indebtedness.

Section 348.204. Insurance Statement

(a) If insurance is required in connection with a retail installment contract, the holder shall give to the retail buyer a written statement that clearly and conspicuously states that:

(1) insurance is required in connection with the contract; and

(2) the buyer as an option may furnish the required insurance through:

(A) an existing policy of insurance owned or controlled by the buyer; or

(B) an insurance policy obtained through an insurance company authorized to do business in this state.

(b) If requested or required insurance is sold or obtained by the holder and the retail installment contract includes a premium or rate of charge for the insurance that is not fixed or approved by the commissioner of insurance, the holder shall deliver or mail to the retail buyer a written statement that includes that fact.

(c) A statement under Subsection (a) or (b) may be provided with or as part of the retail installment contract or separately.

Section 348.205. Statement If Liability Insurance Not Included in Contract

If liability insurance coverage for bodily injury and property damage caused to others is not included in a retail installment contract, the retail installment contract or a separate writing must contain, in at least 10-point type that is bold-faced, capitalized, underlined, or otherwise conspicuously set out from the surrounding written material, a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included.

Section 348.206. Insurance May Be Furnished by Buyer

(a) If insurance is requested or required in connection with a retail installment contract and the retail installment contract includes a premium or rate of charge that is not fixed or approved by the commissioner of insurance, the retail buyer is entitled to furnish the insurance coverage not later than the 10th day after the date of the contract or the delivery or mailing of the written statement required under Section 348.204, as appropriate, through:

(1) an existing insurance policy owned or controlled by the buyer; or

(2) an insurance policy obtained from an insurance company authorized to do business in this state.

(b) When a retail installment contract is executed, the retail buyer is entitled to purchase the insurance described by Section 348.210 and select:

- (1) the agent or broker; and
- (2) an insurance company acceptable to the holder.

Section 348.207. Buyer's Failure to Provide Evidence of Insurance

(a) If a retail buyer fails to present to the holder reasonable evidence that the buyer has obtained or maintained a coverage required by the retail installment contract, the holder may:

- (1) obtain substitute insurance coverage that is substantially equal to or more limited than the coverage required; and
- (2) add the amount of the premium advanced for the substitute insurance to the unpaid balance of the contract.

(b) Substitute insurance coverage under Subsection (a)(1):

- (1) may at the holder's option be limited to coverage only of the interest of the holder or the interest of the holder and the buyer; and
- (2) must be written at lawful rates in accordance with the Insurance Code by a company authorized to do business in this state.

(c) If substitute insurance is obtained by the holder under Subsection (a), the amendment adding the premium or rescheduling the contract is not required to be signed by the retail buyer. The holder shall deliver to the buyer or send to the buyer's most recent address shown on the records of the holder specific written notice that the holder has obtained substitute insurance.

Section 348.208. Charges for Other Insurance and Forms of Protection Included in Retail Installment Contract

(a) A retail buyer and retail seller may agree in a retail installment contract to include a charge for insurance coverage that is:

- (1) for a risk of loss or liability reasonably related to:
 - (A) the motor vehicle;
 - (B) the use of the motor vehicle; or
 - (C) goods or services that:
 - (i) are related to the motor vehicle; and
 - (ii) may ordinarily be insured with a motor vehicle;
- (2) written on policies or endorsement forms prescribed or approved by the commissioner of insurance; and
- (3) ordinarily available in policies or endorsements offered to the public.

(b) A retail installment contract may include as a separate charge an amount for:

- (1) motor vehicle property damage or bodily injury liability insurance;
- (2) mechanical breakdown insurance;
- (3) participation in a motor vehicle theft protection plan;
- (4) insurance to reimburse the retail buyer for the amount computed by subtracting the proceeds of the buyer's basic collision policy on the motor vehicle from the amount owed on the vehicle if the vehicle has been rendered a total loss;
- (5) a warranty or service contract relating to the motor vehicle;
- (6) an identity recovery service contract; or
- (7) a debt cancellation agreement if the agreement is included as a term of a retail installment contract under Section 348.124.

(b-1) In this section, "identity recovery service contract" means an agreement:

- (1) to provide identity recovery, as defined by Section 1304.003, Occupations Code;
- (2) that is entered into for a separately stated consideration and for a specified term; and
- (3) that is financed through a retail installment contract.

(c) Notwithstanding any other law, service contracts and debt cancellation agreements sold by a retail seller of a motor vehicle to a retail buyer are not subject to Chapter 101 or 226, Insurance Code.

(d) to (f) *Repealed by Acts 2011, 82nd Leg., ch. 117, § 26(3), effective September 1, 2011.*

Section 348.209. Requirements for Including Insurance Cost in Contract

(a) If insurance is included as an itemized charge in a retail installment contract:

- (1) the insurance must be written:
 - (A) at lawful rates;
 - (B) in accordance with the Insurance Code; and
 - (C) by a company authorized to do business in this state; and
- (2) the disclosure requirements of this section must be satisfied.

(b) If the insurance is described by Section 348.201, 348.202, or 348.208(a), the retail installment contract must identify the:

- (1) type of the coverage;
- (2) term of the coverage; and
- (3) amount of the premium for the coverage.

(c) If the insurance is described by Section 348.208(a), the retail installment contract must also clearly indicate that the coverage is optional.

(d) If the retail installment contract includes a charge described by Section 348.208(b), the retail installment contract must clearly and conspicuously disclose that the charge is included.

Section 348.210. Delivery of Insurance Document to Buyer

A holder who purchases dual interest insurance on the motor vehicle shall within a reasonable time after execution of the retail installment contract send or cause to be sent to the retail buyer a policy or certificate of insurance written by an insurance company authorized to do business in this state that clearly sets forth:

- (1) the amount of the premium;
- (2) the kind of insurance provided;
- (3) the coverage of the insurance; and
- (4) all terms, including options, limitations, restrictions, and conditions, of the policy.

Section 348.211. Holder's Duty If Insurance Is Adjusted or Terminated

(a) If insurance for which a charge is included in or added to a retail installment contract is canceled, adjusted, or terminated, the holder shall, at the holder's option:

- (1) apply the amount of the refund for unearned insurance premiums received by the holder to replace required insurance coverage; or
- (2) credit the refund to the final maturing installments of the retail installment contract.

(b) If the amount to be applied or credited under Subsection (a) is more than the amount unpaid on the retail installment contract, the holder shall refund to the retail buyer the difference between those amounts.

(c) A cash refund is not required under this section if the amount of the refund is less than \$ 1.

Section 348.212. Gain or Advantage from Insurance Not Additional Charge

Any gain or advantage to the holder or the holder's employee, officer, director, agent, general agent, affiliate, or associate from insurance or the provision or sale of insurance under this subchapter is not an additional charge or additional time price differential in connection with a retail installment contract except as specifically provided by this chapter.

Section 348.213. Adding to Retail Installment Contract Premiums for Insurance Acquired After Transaction

(a) A retail buyer and holder may agree to add to the unpaid balance of a retail installment contract premiums for insurance policies obtained after the date of the retail installment transaction covering the motor vehicle, the use of the motor vehicle, or goods

or services related to the motor vehicle, including premiums for the renewal of a policy included in the contract.

(b) A policy of insurance described by Subsection (a) must comply with the applicable requirements of Sections 348.201, 348.203, 348.208, and 348.209.

Section 348.214. Effect of Adding Premium to Contract

If a premium is added to the unpaid balance of a retail installment contract under Section 348.207 or 348.213, the rate applicable to the time price differential agreed to in the retail installment contract remains in effect and shall be applied to the new unpaid balance, or the contract may be rescheduled in accordance with Sections 348.113--348.117 without reclassifying the motor vehicle by its year model at the time of the amendment.

Section 348.215. Financing Entity May Not Require Insurance from Particular Source

If a retail installment contract presented to a financing entity for acceptance includes any insurance coverage, the financing entity may not directly or indirectly require, as a condition of its agreement to finance the motor vehicle, that the retail buyer purchase the insurance coverage from a particular source.

SUBCHAPTER D. ACQUISITION OF CONTRACT OR BALANCE

Section 348.301. Authority to Acquire

A person may acquire a retail installment contract or an outstanding balance under a contract from another person on the terms, including the price, to which they agree. Notwithstanding any other applicable law of this state, no person acquiring or assigning a retail installment contract, or any balance under a contract, has any duty to disclose to any other person the terms on which a contract or balance under a contract is acquired, including any discount or difference between the rates, charges, or balance under the contract and the rates, charges, or balance acquired.

Section 348.302. Lack of Notice Does Not Affect Validity As to Certain Creditors

Notice to a retail buyer of an assignment or negotiation of a retail installment contract or an outstanding balance under the contract or a requirement that the retail seller be deprived of dominion over payments on a retail installment contract or over the motor vehicle if returned to or repossessed by the retail seller is not necessary for a written assignment or negotiation of the contract or balance to be valid as against a creditor, subsequent purchaser, pledgee, mortgagee, or lien claimant of the retail seller.

Section 348.303. Payment by Buyer

Unless a retail buyer has notice of the assignment or negotiation of the buyer's retail installment contract or an outstanding balance under the contract, a payment by the buyer to the most recent holder known to the buyer is binding on all subsequent holders.

**SUBCHAPTER E.
HOLDER'S RIGHTS, DUTIES, AND LIMITATIONS**

Sections 348.401 and 348.402. *Repealed by Acts 2001, 77th Leg., ch. 1235, § 26, effective September 1, 2002.*

Section 348.403. Seller's Promise to Pay or Tender of Cash to Buyer as Part of Transaction

A retail seller may not promise to pay, pay, or otherwise tender cash to a retail buyer as a part of a transaction under this chapter unless specifically authorized by this chapter.

Section 348.404. Seller's Action for Incentive Program or to Pay for Buyer's Motor Vehicle

(a) A retail seller may pay, promise to pay, or tender cash or another thing of value to the manufacturer, distributor, or retail buyer of the product if the payment, promise, or tender is made in order to participate in a financial incentive program offered by the manufacturer or distributor of the vehicle to the buyer.

(b) A retail seller, in connection with a retail installment transaction, may:

(1) advance money to retire:

(A) an amount owed against a motor vehicle used as a trade-in or a motor vehicle owned by the buyer that has been declared a total loss by the buyer's insurer; or

(B) the retail buyer's outstanding obligation under a motor vehicle lease contract, a credit transaction for the purchase of a motor vehicle, or another retail installment transaction; and

(2) finance repayment of that money in a retail installment contract.

(c) A retail seller may pay in cash to the retail buyer any portion of the net cash value of a motor vehicle owned by the buyer and used as a trade-in in a transaction involving the sale of another motor vehicle. In this subsection, "net cash value" means the cash value of a motor vehicle after payment of all amounts secured by the motor vehicle.

(d) A retail seller may include money advanced under Subsection (b) in the retail installment contract only if it is included as an itemized charge and may disclose money advanced under Subsection (b) in any manner permitted by 12 C.F.R. Part 226 (Regulation Z) adopted under the Truth in Lending Act (15 U.S.C. Section 1601 et seq.). Section 349.003 does not apply to this subsection. This subsection does not create a private right of action. The commissioner has exclusive jurisdiction to enforce this subsection.

Section 348.405. Statement of Payments and Amount Due Under Contract

(a) On written request of a retail buyer, the holder of a retail installment contract shall give or send to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under the contract.

(b) A retail buyer is entitled to one statement during a six-month period without charge. The charge for each additional requested statement may not exceed \$ 1.

Section 348.406. Receipt for Cash Payment

A holder of a retail installment contract shall give the retail buyer a written receipt for each cash payment.

Section 348.407. Retention or Disposition of Nonattached Personal Property

(a) If a retail installment contract authorizes the holder or a person acting on the holder's behalf to retain or dispose of tangible personal property acquired in the repossession of a motor vehicle that is not attached to the vehicle and not subject to a security interest, the contract or another writing must require the holder to send written notice of the acquisition of the property to the retail buyer in accordance with this section.

(b) The notice must be mailed or delivered to the most recent address of the retail buyer shown on the records of the holder not later than the 15th day after the date on which the holder discovers the property.

(c) The notice must:

(1) state that the retail buyer may identify and claim the property at a reasonable time before the 31st day after the date on which the notice was mailed or delivered; and

(2) give the location at which and reasonable times during the period that the retail buyer may identify and claim the property.

(d) If the property is not claimed before the date described by Subsection (c)(1), the holder may:

(1) retain the property subject to any legal rights of the retail buyer; or

(2) dispose of the property in a reasonable manner and distribute any proceeds of the disposition according to applicable law.

Section 348.408. Outstanding Balance Information; Payment in Full

(a) The holder of a retail installment contract who gives the retail buyer or the buyer's designee outstanding balance information relating to the contract is bound by that information and shall honor that information for a reasonable time.

(b) If the retail buyer or the buyer's designee tenders to the holder as payment in full an amount derived from that outstanding balance information, the holder shall:

(1) accept the amount as payment in full; and

(2) release the holder's lien against the motor vehicle within a reasonable time not later than the 10th day after the date on which the amount is tendered.

(c) A retail seller must pay in full the outstanding balance of a vehicle traded in not later than the 25th day after the date that:

- (1) the retail installment contract is signed by the retail buyer and the retail buyer receives delivery of the motor vehicle; and
- (2) the retail seller receives delivery of the motor vehicle traded in and the necessary and appropriate documents to transfer title from the buyer.

Section 348.409. Liability Relating to Outstanding Balance Information

A holder who violates Section 348.408 is liable to the retail buyer or the buyer's designee in an amount computed by adding:

- (1) three times the difference between the amount tendered and the amount sought by the holder at the time of tender;
- (2) interest;
- (3) reasonable attorney's fees; and
- (4) costs.

Section 348.410. Prohibition on Power of Attorney to Confess Judgment or Assignment of Wages

A retail installment contract may not contain:

- (1) a power of attorney to confess judgment in this state; or
- (2) an assignment of wages.

Section 348.411. Prohibition on Certain Acts of Repossession

A retail installment contract may not:

- (1) authorize the holder or a person acting on the holder's behalf to:
 - (A) enter the retail buyer's premises in violation of Chapter 9, Business & Commerce Code; or
 - (B) commit a breach of the peace in the repossession of the motor vehicle;or
- (2) contain, or provide for the execution of, a power of attorney by the retail buyer appointing, as the buyer's agent in the repossession of the vehicle, the holder or a person acting on the holder's behalf.

Section 348.412. Buyer's Waiver

(a) A retail installment contract may not:

- (1) provide for a waiver of the retail buyer's rights of action against the holder or a person acting on the holder's behalf for an illegal act committed in:
 - (A) the collection of payments under the contract; or
 - (B) the repossession of the motor vehicle; or

(2) provide that the retail buyer agrees not to assert against the holder a claim or defense arising out of the sale.

(b) An act or agreement of the retail buyer before or at the time of the making of a retail installment contract or a purchase under the contract does not waive any provision of this chapter.

Section 348.413. Transfer of Equity

(a) With the written consent of the holder, a retail buyer may transfer at any time the buyer's equity in the motor vehicle subject to the retail installment contract to another person.

(b) The holder may charge for the transfer of equity an amount that does not exceed \$ 25.

Section 348.414. Automobile Club Membership Offered in Connection with Retail Installment Contract

(a) A retail seller may, at the time a retail installment contract is executed, offer to sell to the retail buyer an automobile club membership.

(b) The retail seller shall give the retail buyer written notice at the time the retail installment contract is executed that the retail buyer:

(1) is not required to purchase the membership as a condition for approval of the contract; and

(2) is entitled to cancel the membership and receive a full refund of the purchase price of the membership before the 31st day after the date the contract is executed.

(c) The retail seller shall notify the retail buyer if the membership includes services that are provided by the manufacturer as part of the motor vehicle purchase.

(d) The amount charged for a membership as authorized by Subsection (a) must be reasonable.

**SUBCHAPTER F.
LICENSING; ADMINISTRATION OF CHAPTER**

Section 348.501. License Required

(a) A person may not act as a holder under this chapter unless the person:

(1) is an authorized lender or a credit union; or

(2) holds a license issued under this chapter.

(b) A person who is required to hold a license under this chapter must ensure that each office at which retail installment transactions are made, serviced, held, or collected under this chapter is licensed or otherwise authorized to make, service, hold, or collect retail installment transactions in accordance with this chapter and rules implementing this chapter.

(c) A license holder under this chapter who engages in the sale of a motor vehicle to be used as a principal dwelling must meet the surety bond or recovery fund fee requirements, as applicable, of the holder's residential mortgage loan originator under Section 180.058.

(d) A person may not use any device, subterfuge, or pretense to evade the application of this section.

Section 348.5015. Residential Mortgage Loan Originator License Required

(a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the sale of a motor vehicle to be used as a principal dwelling must:

(1) be licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules establishing procedures for applying for issuing, renewing, and enforcing a license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1) the minimum eligibility requirements for issuance of a license are the same as the requirements of Section 180.055;

(2) the minimum eligibility requirements for renewal of a license are the same as the requirements of Section 180.059; and

(3) the applicant pays:

(A) an investigation fee in a reasonable amount determined by the commissioner; and

(B) an annual license fee in an amount determined as provided by Section 14.107.

(d) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

Section 348.502. Application Requirements

(a) The application for a license under this chapter must:

(1) be under oath;

(2) identify the applicant's principal parties in interest; and

(3) contain other relevant information that the commissioner requires.

- (b) On the filing of a license application, the applicant shall pay to the commissioner:
- (1) an investigation fee not to exceed \$ 200; and
 - (2) for the license's year of issuance, a license fee in an amount determined as provided by Section 14.107.

Section 348.503. Investigation of Application

On the filing of an application and payment of the required fees, the commissioner shall conduct an investigation to determine whether to issue the license.

Section 348.504. Approval or Denial of Application

(a) The commissioner shall approve the application and issue to the applicant a license under this chapter if the commissioner finds that:

(1) the financial responsibility, experience, character, and general fitness of the applicant are sufficient to:

(A) command the confidence of the public; and

(B) warrant the belief that the business will be operated lawfully and fairly, within the purposes of this chapter; and

(2) the forms and contracts to be used by the applicant are appropriate and adequate to protect the interests of retail buyers.

(b) If the commissioner does not find the eligibility requirements of Subsection (a), the commissioner shall notify the applicant.

(c) If an applicant requests a hearing on the application not later than the 30th day after the date of notification under Subsection (b), the applicant is entitled to a hearing not later than the 60th day after the date of the request.

(d) The commissioner shall approve or deny the application not later than the 60th day after the date of the filing of a completed application with payment of the required fees, or if a hearing is held, after the date of the completion of the hearing on the application. The commissioner and the applicant may agree to a later date in writing.

Section 348.505. Disposition of Fees on Denial of Application

If the commissioner denies the application, the commissioner shall retain the investigation fee and shall return to the applicant the license fee submitted with the application.

Section 348.506. Annual License Fee

Not later than December 1, a license holder shall pay to the commissioner for each license held an annual fee for the year beginning the next January 1, in an amount determined as provided by Section 14.107.

Section 348.507. Expiration of License on Failure to Pay Annual Fee

If the annual fee for a license is not paid before the 16th day after the date on which the written notice of delinquency of payment has been given to the license holder, the license expires on the later of:

- (1) that day; or
- (2) December 31 of the last year for which an annual fee was paid.

Section 348.508. License Suspension or Revocation

After notice and a hearing the commissioner may suspend or revoke a license if the commissioner finds that:

- (1) the license holder failed to pay the annual license fee, an examination fee, an investigation fee, or another charge imposed by the commissioner;
- (2) the license holder, knowingly or without the exercise of due care, violated this chapter or a rule adopted or order issued under this chapter; or
- (3) a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the commissioner's denial of the application.

Section 348.509. Reinstatement of Suspended License; Issuance of New License After Revocation

The commissioner may reinstate a suspended license or issue a new license on application to a person whose license has been revoked if at the time of the reinstatement or issuance no fact or condition exists that clearly would have justified the commissioner's denial of an original application for the license.

Section 348.510. Surrender of License

A license holder may surrender a license issued under this chapter by delivering to the commissioner:

- (1) the license; and
- (2) a written notice of the license's surrender.

Section 348.511. Effect of License Suspension, Revocation, or Surrender

(a) The suspension, revocation, or surrender of a license issued under this chapter does not affect the obligation of a contract between the license holder and a retail buyer entered into before the suspension, revocation, or surrender.

(b) Surrender of a license does not affect the license holder's civil or criminal liability for an act committed before surrender.

Section 348.512. Transfer or Assignment of License

A license may be transferred or assigned only with the approval of the commissioner.

Section 348.513. Adoption of Rules

(a) The finance commission may adopt rules to:

- (1) enforce this chapter; or
- (2) modify the standard form as required by Section 348.0091 to:
 - (A) conform to the provisions of the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) or a regulation issued under authority of that Act;
 - (B) address any official commentary or other interpretation by a federal agency relating to the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) or a regulation issued under authority of that Act; or
 - (C) address a judicial interpretation by a state or federal court relating to the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) or a regulation issued under authority of that Act.

(b) The commissioner shall recommend proposed rules to the finance commission.

Section 348.514. Examination; Access to Records

(a) At the times the commissioner considers necessary, the commissioner or the commissioner's representative shall:

- (1) examine each place of business of each license holder; and
- (2) investigate the license holder's transactions and records, including books, accounts, papers, and correspondence, to the extent the transactions and records pertain to the business regulated under this chapter.

(b) The license holder shall:

- (1) give the commissioner or the commissioner's representative free access to the license holder's office, place of business, files, safes, and vaults; and
- (2) allow the commissioner or the commissioner's representative to make a copy of an item that may be investigated under Subsection (a)(2).

(c) During an examination or investigation the commissioner or the commissioner's representative may administer oaths and examine any person under oath on any subject pertinent to a matter that the commissioner is authorized or required to consider, investigate, or secure information about under this chapter.

(d) All information relating to the examination or investigation process is confidential, including:

- (1) information obtained from the license holder;
- (2) the examination report;
- (3) instructions and attachments; and

- (4) correspondence between the license holder and the commissioner or the commissioner's representative relating to an examination or investigation of the license holder.
- (e) A license holder's violation of Subsection (b) is a ground for the suspension or revocation of the license.
- (f) An examination of a license holder's place of business may be made only:
 - (1) after advance notice; and
 - (2) during normal business hours.

Section 348.515. General Investigation

To discover a violation of this chapter or to obtain information required under this chapter, the commissioner or the commissioner's representative may investigate the records, including books, accounts, papers, and correspondence, of a person, including a license holder, who the commissioner has reasonable cause to believe is violating this chapter, regardless of whether the person claims to not be subject to this chapter.

Section 348.516. Payment of Examination Costs and Administration Expenses

A license holder shall pay to the commissioner an amount determined as provided by Section 14.107 and assessed by the commissioner to cover the direct and indirect costs of an examination and a proportionate share of general administrative expenses.

Section 348.517. License Holder's Records; Document Retention Requirements

- (a) A license holder shall maintain a record of each retail installment transaction made under this chapter as is necessary to enable the commissioner to determine whether the license holder is complying with this chapter.
- (b) A license holder shall keep the record until the later of:
 - (1) the fourth anniversary of the date of the retail installment transaction; or
 - (2) the second anniversary of the date on which the final entry is made in the record.
- (c) A record described by Subsection (a) must be prepared in accordance with accepted accounting practices.
- (d) The commissioner shall accept a license holder's system of records if the system discloses the information reasonably required under Subsection (a).
- (e) A license holder shall keep each obligation signed by a retail buyer at an office in this state designated by the license holder unless the obligation is transferred under an agreement that gives the commissioner access to the obligation.

Section 348.518. Sharing of Information

To ensure consistent enforcement of law and minimization of regulatory burdens, the commissioner and the Texas Department of Motor Vehicles may share information, including criminal history information, relating to a person licensed under this chapter. Information otherwise confidential remains confidential after it is shared under this section.

SUBCHAPTER G. CERTAIN DEBT CANCELLATION AGREEMENTS

Section 348.601. Limitation on Certain Debt Cancellation Agreements

- (a) This subchapter applies only to a debt cancellation agreement that includes insurance coverage as part of the retail buyer's responsibility to the holder.
- (b) The amount charged for a debt cancellation agreement made in connection with a retail installment contract may not exceed five percent of the amount financed pursuant to the retail installment contract. Section 348.124(c) does not apply to a debt cancellation agreement regulated under this subchapter.
- (c) The debt cancellation agreement becomes a part of or a separate addendum to the retail installment contract and remains a term of the retail installment contract on the assignment, sale, or transfer by the holder.

Section 348.602. Debt Cancellation Agreements Exclusion Language

- (a) In addition to the provisions required by Section 348.603, a debt cancellation agreement must fully disclose all provisions permitting the exclusion of loss or damage including, if applicable:
 - (1) an act occurring after the original maturity date or date of the holder's acceleration of the retail installment contract;
 - (2) any dishonest, fraudulent, illegal, or intentional act of any authorized driver that directly results in the total loss of the motor vehicle;
 - (3) any act of gross negligence by an authorized driver that directly results in the total loss of the motor vehicle;
 - (4) conversion, embezzlement, or concealment by any person in lawful possession of the motor vehicle;
 - (5) lawful confiscation by an authorized public official;
 - (6) the operation, use, or maintenance of the motor vehicle in any race or speed contest;
 - (7) war, whether or not declared, invasion, insurrection, rebellion, revolution, or an act of terrorism;
 - (8) normal wear and tear, freezing, or mechanical or electrical breakdown or failure;
 - (9) use of the motor vehicle for primarily commercial purposes;

- (10) damage that occurs after the motor vehicle has been repossessed;
- (11) damage to the motor vehicle before the purchase of the debt cancellation agreement;
- (12) unpaid insurance premiums and salvage, towing, and storage charges relating to the motor vehicle;
- (13) damage related to any personal property attached to or within the motor vehicle;
- (14) damages associated with falsification of documents by any person not associated with the retail seller or other person canceling the retail buyer's obligation;
- (15) any unpaid debt resulting from exclusions in the retail buyer's primary physical damage coverage not included in the debt cancellation agreement;
- (16) abandonment of the motor vehicle by the retail buyer only if the retail buyer voluntarily discards, leaves behind, or otherwise relinquishes possession of the motor vehicle to the extent that the relinquishment shows intent to forsake and desert the motor vehicle so that the motor vehicle may be appropriated by any other person;
- (17) any amounts deducted from the primary insurance carrier's settlement due to prior damages; and
- (18) any loss occurring outside the United States or outside the United States and Canada.

(b) An exclusion of loss or damage not listed in Subsection (a) may be included in a debt cancellation agreement only if the exclusion is disclosed in plain, easy to read language.

Section 348.603. Required Debt Cancellation Agreement Language

A debt cancellation agreement must state:

- (1) the contact information of the retail seller, the holder, and any administrator of the agreement;
- (2) the name and address of the retail buyer;
- (3) the cost and term of the debt cancellation agreement;
- (4) the procedure the retail buyer must follow to obtain benefits under the terms of the debt cancellation agreement, including a telephone number and address where the retail buyer may provide notice under the debt cancellation agreement;
- (5) the period during which the retail buyer is required to notify the retail seller, the holder, or any administrator of the agreement, of any potential loss under the debt cancellation agreement for total loss or theft of the motor vehicle;
- (6) that in order to make a claim, the retail buyer must provide or complete some or all of the following documents and provide those documents to the retail seller, the holder, or any administrator of the agreement:
 - (A) a debt cancellation request form;

- (B) proof of loss and settlement payment from the retail buyer's primary comprehensive, collision, or uninsured or underinsured motorist policy or other parties' liability insurance policy for the settlement of the insured total loss of the motor vehicle;
 - (C) verification of the retail buyer's primary insurance deductible;
 - (D) a copy of any police report filed in connection with the total loss or theft of the motor vehicle; and
 - (E) a copy of the damage estimate;
- (7) that documentation not described by Subdivision (6) or required by the retail seller, the holder, or any administrator of the agreement is not required to substantiate the loss or determine the amount of debt to be canceled;
- (8) that notwithstanding the collection of the documents under Subdivision (6), on reasonable advance notice the retail seller, the holder, or any administrator of the agreement may inspect the retail buyer's motor vehicle;
- (9) that the retail seller or holder will cancel all or part of the retail buyer's obligation as provided in the debt cancellation agreement on the occurrence of total loss or theft of the motor vehicle;
- (10) the method to be used to calculate refunds;
- (11) the method for calculating the amount to be canceled under the debt cancellation agreement on the occurrence of total loss or theft of a motor vehicle;
- (12) that purchase of a debt cancellation agreement is not required for the retail buyer to obtain an extension of credit and will not be a factor in the credit approval process;
- (13) that in order to cancel the debt cancellation agreement and receive a refund, the retail buyer must provide a written request to cancel to the retail seller, the holder, or any administrator of the agreement;
- (14) that if total loss or theft of the motor vehicle has not occurred, the retail buyer has 30 days from the date of the retail installment contract or the issuance of the debt cancellation agreement, whichever is later, or a longer period as provided under the debt cancellation agreement, to cancel the debt cancellation agreement and receive a full refund;
- (15) that the retail buyer may file a complaint with the commissioner, and include the address, phone number, and Internet website of the Office of Consumer Credit Commissioner; and
- (16) that the holder will cancel certain amounts under the debt cancellation agreement for total loss or theft of a motor vehicle, in the following or substantially similar language: "YOU WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS CONTRACT IN THE CASE OF A TOTAL LOSS OR THEFT OF THE VEHICLE AS STATED IN THE DEBT CANCELLATION AGREEMENT."

Section 348.604. Approval of Forms for Debt Cancellation Agreements

- (a) Debt cancellation agreement forms must be submitted to the commissioner for approval. Debt cancellation agreement forms may include additional language to supplement the terms of the debt cancellation agreement as required by this subchapter.
- (b) If a debt cancellation agreement form is provided to the commissioner for approval, the commissioner has 45 days to approve the form or deny approval of the form. If after the 45th day the commissioner does not deny the form, the form is considered approved.
- (c) If the debt cancellation agreement form is approved by the commissioner or considered approved as provided by Subsection (b), the terms of the debt cancellation agreement are considered to be in compliance with this subchapter.
- (d) The commissioner may deny approval of a form only if the form excludes the language required by Sections 348.602 and 348.603 or contains any inconsistent or misleading provisions. All form denials may be appealed to the finance commission.
- (e) If after approval of a form the Office of Consumer Credit Commissioner discovers that approval could have been denied under Subsection (d), the commissioner may order a retail seller, any administrator of the debt cancellation agreement, or a holder to submit a corrected form for approval. Beginning as soon as reasonably practicable after approval of the corrected form, the retail seller, administrator, or holder shall use the corrected form for all sales.
- (f) A debt cancellation agreement form that has been approved by the commissioner is public information subject to disclosure under Chapter 552, Government Code. Section 552.110, Government Code, does not apply to a form approved under this subchapter.

Section 348.605. Additional Requirements for Debt Cancellation Agreements

- (a) If a retail buyer purchases a debt cancellation agreement, the retail seller must provide to the retail buyer a true and correct copy of the agreement not later than the 10th day after the date of the retail installment contract.
- (b) A holder must comply with the terms of a debt cancellation agreement not later than the 60th day after the date of receipt of all necessary information required by the holder or administrator of the agreement to process the request.
- (c) A debt cancellation agreement may not knowingly be offered by a retail seller if:
 - (1) the retail installment contract is already protected by gap insurance; or
 - (2) the purchase of the debt cancellation agreement is required for the retail buyer to obtain the extension of credit.
- (d) This section does not apply to a debt cancellation agreement offered in connection with the purchase of a commercial vehicle.
- (e) The sale of a debt cancellation agreement must be for a single payment.
- (f) A holder that offers a debt cancellation agreement must report the sale of and forward money received on all such agreements to any designated party as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

(g) Money received or held by a holder or any administrator of a debt cancellation agreement and belonging to an insurance company, holder, or administrator under the terms of a written agreement must be held by the holder or administrator in a fiduciary capacity.

(h) A retail seller that negotiates a debt cancellation agreement and subsequently assigns the contract shall:

(1) maintain documents relating to the agreement that come into the retail seller's possession; and

(2) on request of the Office of Consumer Credit Commissioner, cooperate in requesting and obtaining access to documents relating to the agreement not in the retail seller's possession.

Section 348.606. Refund for Debt Cancellation Agreements

(a) A refund or credit of the debt cancellation agreement fee must be based on the earliest date of:

(1) the prepayment of the retail installment contract in full before the original maturity date;

(2) a demand by the holder for payment in full of the unpaid balance or acceleration;

(3) a request by the retail buyer for cancellation of the debt cancellation agreement; or

(4) the total denial of a debt cancellation request based on one of the exclusions listed in Section 348.602, except in the case of a partial loss of the covered motor vehicle.

(b) The refund or credit for the debt cancellation agreement can be rounded to the nearest whole dollar. A refund or credit is not required if the amount of the refund or credit calculated is less than \$ 5.

(c) If total loss or theft has not occurred, the retail buyer may cancel the debt cancellation agreement not later than the 30th day after the date of the retail installment contract or the issuance of the debt cancellation agreement, whichever is later, or a later date as provided under the debt cancellation agreement. On cancellation, the holder or any administrator of the agreement shall refund or credit the entire debt cancellation agreement fee. A retail buyer may not cancel the debt cancellation agreement and subsequently receive any benefits under the agreement.

(d) A holder may in good faith rely on a computation by any administrator of the agreement of the balance waived, unless the holder has knowledge that the computation is not correct. If a computation by the administrator of the balance waived is not correct, the holder must within a reasonable time of learning that the computation is incorrect make the necessary corrections or cause the corrections to be made to the retail buyer's account. This subsection does not prevent the holder from obtaining reimbursement from the administrator or another responsible for the debt cancellation agreement or computation.