



MOTOR VEHICLE ADVISORY BULLETIN

Documentary Fee Reasonableness Standards Rule

During 2009, the Texas Legislature passed House Bill 3621 (HB 3621) in order to allow an increased documentary fee on motor vehicle retail installment contracts under Chapter 348 of the Texas Finance Code. The bill requires that a documentary fee may exceed \$50, but may not exceed a reasonable amount for handling documents relating to the sale and financing of a motor vehicle.

HB 3621 authorizes the OCCC to review the amount of a documentary fee charged for reasonableness and to set standards concerning reasonable amounts. In February 2010 the Finance Commission adopted a rule to provide reasonableness standards for the OCCC's review of a dealer's proposed increase to a documentary fee. (*See* 7 Texas Administrative Code §84.205 at <http://www.sos.state.tx.us/tac/index.shtml>.)

The rule sets up three basic tests that must be met for a cost to be included as part of a documentary fee. Costs must:

- (1) be allowable,
- (2) be allocable, and
- (3) meet the prudent business person standard.

For a specific description regarding each of the three tests, a listing of excluded costs, as well as other relevant information concerning reasonableness standards for documentary fees, please refer to the rule cited above.

A dealer must provide the OCCC with written notice before charging a documentary fee greater than \$50. Under the statute, no notice is required if the documentary fee is \$50 or below. Under the rule, any fee above \$50 up to \$125 will be deemed reasonable, although the dealer *must* still provide written notice. Only filings for documentary fees above \$125 will require additional information to be submitted by the dealers to support the reasonableness standard.