

HB

383

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

HB 383: Regulating Unfair Auto Dealer Practices Sponsor Statement

House Bill 383 clarifies existing law to protect Alaskan consumers from unfair practices by motor vehicle dealers. The bill provides full, honest disclosure to car buyers who are sometimes misled into paying additional interest and "fees." The first provision of the bill closes a loophole that exists in current law, which allows car dealerships to charge documentation or "doc" fees on top of the negotiated sales price. These fees are not fees paid to any state agency, but rather fees charged to cover certain dealership costs unrelated to the sale of the car such as rent or utility bills.

A loophole exists in AS 45.25.440 that allows dealers to add these "doc fees" back into the sales price if the negotiated price is less than the advertised price. HB 383 requires that if a dealer is going to charge "doc fees," they must be included in the advertised *or negotiated* price. The consumer will be aware that the negotiated price is the final price they will be required to pay.

The second provision of HB 383 limits the practice by car dealers of charging a "dealer reserve." This issue was brought to light by an article in the Anchorage Daily News this summer. A dealer reserve is a percentage of the finance charge that will be received by the car dealership instead of by the bank or lender. For example, a bank may tell the dealership that the lowest interest rate a buyer qualifies for is 4%. The dealership may then charge the buyer 5%, taking 1% for themselves. Under current law, dealers are not required to disclose this information to the buyer.

The bill also addresses the practice many car dealers currently engage in of charging consumers a hidden "dealer reserve" fee. This issue was brought to the public attention in the newspaper last fall when a woman sued Lithia of Anchorage for failing to tell her they were receiving a portion of the interest rate she was offered on a loan. (<http://www.adn.com/news/alaska/v-printer/story/7065773p-6970498c.html>)

The buyer, an Anchorage woman, was offered 3 interest rates by the dealership when purchasing a used Toyota Tacoma, the lowest of which was 5.95%. She later discovered that the bank, Denali Alaskan Federal Credit Union, had offered a 4.5% interest rate to the dealer. The dealership received the additional percentage, taking over \$800 without the buyer's knowledge.

HB 383 would require that if a dealer is receiving a dealer reserve, it must be explicitly stated in a separate portion of the agreement. It must also state how much the dealer is receiving and how much is the actual bank interest rate. The buyer would have to separately sign this portion of the agreement.

Dealers believe that padding the interest rate to make a profit is part of the business. We believe that Alaskan consumers deserve to be fully informed of where their money is going. They should not be misled into believing that the interest rate they've agreed to is the interest rate the bank has offered when that is not the case.

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

HB 383: Regulating Unfair Auto Dealer Practices Sectional Analysis

Section 1.

Legislative Intent – states that intent is to clarify existing law regarding disclosures by car dealers.

Section 2.

Clarifies law to state that fees and costs not paid to a state agency may not be charged unless included in advertised or negotiated price.

Section 3.

Requires that if a dealer is charging a “dealer reserve” fee, it must be disclosed and the consumer must agree to it by signing a separate statement.

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

April 7, 2006

HB 383 – Transparency in Car Pricing

Dear Colleagues:

I am writing to give you some information on HB 383, which requires better disclosure of car dealer fees. The bill seeks to make the sales transaction more transparent, and, contrary to some suggestions by those who've lobbied against the bill, does not dictate what price a dealer may charge.

Attached are two recent newspaper articles on the bill, a letter of support from AARP, and a letter we recently received from an Anchorage consumer. House Bill 383 has two parts:

1. **Disclosing Car Dealer Loan "Reserve Fees" to a Consumer.** Some car dealers appropriately offer financing to consumers, but list the name of the bank offering the loan and the interest rate in a manner that suggests the rate is what the bank is charging. That can be misleading. In some cases, car dealers increase the rate and keep a portion. HB 383 says that if the rate the bank charges is less than what is stated in the contract, the fact that the dealer is keeping a portion should be disclosed to the consumer. The bill allows the dealer to keep any portion of the loan the dealer and bank wish, but simply requires disclosure to the consumer.

2. **Transparency & Dealer "Documentation Fees".** Some car dealers add an additional \$150 - \$299 to a car price after it's been negotiated. They call the additional fee a "Doc Fee." Some consumers are misled to believe this is a required government fee or that it is a non-negotiable part of the price. The fee is pure dealer profit and overhead for the minor cost of the sales paperwork. Rep. Gatto is quoted on this issue, based on his personal experience, in the attached March 2006 news article.

HB383 says if a car dealer wants to charge \$6,200 for a car, they can offer to sell it for \$6,200. They can't offer to sell it for \$5,999, and then add on the "doc fee" on top of that price and pressure consumers to pay it. A dealer will still be able to add required governmental fees on to the negotiated price.

In the end, car dealers will still be allowed to charge whatever they wish for a car. HB 383 requires more fair disclosure and negotiating practices to protect consumers. Please let me know if you have any questions. I'd certainly appreciate your support on this legislation, and appreciate all the support we've received to date.

Sincerely,

Les

A handwritten signature in black ink, appearing to be "Les Gara", written over a horizontal line.

adn.com

Anchorage Daily News

Print Page

Close Window

Buyer sues dealer over finance charges**Dealership offered woman higher loan rate, kept part as profit**

By PAULA DOBBYN

Anchorage Daily News

(Published: October 9, 2005)

Erica Hobson bought her dream pickup truck at the right price. Or so she thought.

But the Anchorage woman is in court now, trying to end a practice that the Consumer Federation of America estimates costs car buyers nationwide hundreds of millions of dollars in extra finance costs. Hobson's experience is a cautionary tale for anyone planning to buy a car.

Hobson, 27, spotted a shiny Toyota Tacoma pickup in a Midtown Anchorage dealer's lot during her lunch hour. Later that day in June 2004, she test-drove the used silver-colored truck, made a down payment, signed loan papers for \$23,797 and drove the vehicle home.

"I was really excited," Hobson recalled. "I thought, 'I'll have this Toyota for the next 15 years.' "

Her elation turned to disbelief when Hobson's brother inspected the 2003 truck a week later. The professional auto painter noticed tell-tale signs that the truck had been wrecked: He noticed it had been repainted and parts had been replaced.

Hobson, a paralegal, is suing the dealer, Lithia of Anchorage, for triple damages, which her attorney estimated at \$99,265.68.

Lithia's attorney, June Rohlf, would not comment, saying the company does not discuss pending litigation. In court filings, Lithia acknowledged selling Hobson a vehicle that had sustained damage without revealing that to her. But the company did not engage in deceptive practices or intend to mislead Hobson about the car, Rohlf said in court papers.

The lawsuit has evolved from a case about failure to disclose damage to a vehicle to one that takes on a widespread but little known aspect of auto financing. Hobson claims that Lithia deceived her about the loan interest rate for which she qualified, raising her monthly loan payments and giving Lithia a secret extra payment.

If Hobson wins, she hopes her case will end in Alaska a practice among car dealers and banks called "dealer reserve." It's a practice that can add hundreds, or thousands, of dollars in hidden costs to car buyers.

"You go into these dealerships thinking you can trust that what they represent to you is accurate. While you might expect to dicker, you come to find out that the system is designed to take advantage of you any way it can," Hobson said recently.

Dealers say there's nothing illegal about padding a little extra on to the interest rate. It's a way of compensating themselves for arranging the financing, saving people time and sometimes securing the customer a better rate than they could have gotten on their own.

Consumer interest groups like Public Citizen say hogwash.

<http://www.adn.com/news/alaska/v-printer/story/7065773p-6970498c.html>

10/11/2005



Erica Hobson's lawsuit against Lithia of Anchorage began after her brother noticed signs that her truck had been wrecked before, a fact that wasn't made known to her. (Photo by BILL ROTH / Anchorage Daily News)

"Car-dealer fraud is plaguing our country. The tactics being used are so subtle that even informed consumers who do their homework are being taken for hundreds, and often thousands, of dollars," said Public Citizen when it issued a 2003 report titled "Rip-off Nation: Auto Dealers' Swindling of America."

THE DEAL

Hobson says her experience has taught her that financing terms on car loans are just as negotiable as the sales price, and that by getting buyers to accept higher interest rates dealers can boost their profits.

But that knowledge came painfully.

Lithia quoted Hobson three different interest rates before she agreed to accept the lowest one offered: 5.95 percent.

The loan came from Denali Alaskan Federal Credit Union.

But 5.95 percent wasn't the lowest interest rate that Denali said Hobson qualified for. Denali quoted to Lithia a rate of 4.5 percent, according to court filings.

"At no time did Lithia advise plaintiff that Denali had offered a 4.5 percent interest rate on the loan, or that Lithia was going to or did increase the loan interest rate an additional 1.45 percent in order to earn a 'dealer reserve' payment from Denali," Hobson's attorneys said in court papers.

By signing up for the 5.95 percent interest rate, Hobson in effect agreed to pay an extra \$1,100 over the life of her six-year loan.

Denali paid Lithia \$836.64 for signing up Hobson at the higher interest rate, according to paperwork Hobson's lawyers acquired through legal discovery.

In her answer to Hobson's complaint, Rohlf defended the practice of dealer reserves.

"Many courts that have considered this issue agree that there is nothing illegal, deceptive or unfair about 'dealer reserve' practices, and that there is no obligation to disclose the information to customers," Rohlf wrote in court papers.

All financial institutions that work with car dealerships use dealer reserves, said Denali Alaskan spokesman Keith Fernandez on Friday.

While people can generally get better rates if they come into a branch and arrange financing themselves, Denali Alaskan "does view indirect lending as a service to members who don't want to run back and forth between the institution and a dealer to buy a car," Fernandez said.

Several spokespersons for Alaska banks and credit unions said their businesses no longer engage in dealer reserves or never did.

THE WAY IT WORKS

Lawyers and consumer advocates who have studied auto-lending practices say the dealer reserve formula is fairly standard and goes something like this:

Car dealers and lenders form alliances. The bank or credit union agrees to buy car loans from the dealer at a range of interest rates based on the purchaser's creditworthiness. The lowest one the car buyer qualifies for is called the "buy rate."

If the loan is made at the buy rate, the dealer doesn't get any commission.

However, if the dealer gets the purchaser to accept a higher interest rate, the difference between the buy rate and the agreed-on rate is called the spread premium. This premium -- which critics call a kickback and others call a reserve -- is usually split between the car dealer and the lender. Usually the dealer gets a bigger slice, according to consumer advocates.

Dealers rarely disclose this arrangement because they are not required to do so, critics say.

"These hidden finance kickbacks typically add at least \$1,000 to the cost of an auto loan, and are costing consumers as much as one billion dollars annually," Stephen Brobeck, executive director of the Consumer Federation of America, said last year when his organization issued a report on the subject.

IS IT FAIR?

Dealers generally say the reserves they receive are payment for a useful service they provide to customers. They save people the hassle of finding their own financing. They complete a lot of paperwork so all people have to do is sign on the bottom line.

Because of their relationships with lenders, dealers also say they can often get loans for people who otherwise wouldn't qualify, or they can get them better interest rates.

"A lot of times it's not a bad thing because with our buying power we can often get a cheaper interest rate," said Calvin Worthington Jr. of Worthington Ford, a large auto dealer in Anchorage. "We often know about bank specials that are published only to dealers and are not made known to the general public."

But dealers clearly feel under attack by recent high-profile media coverage about dealer reserves, namely "60 Minutes" and "Dateline" pieces.

"Dealer financing is getting a bad rap. A recent wave of negative media reports has focused attention on vocal critics of dealer markups who have called for legislation that would impose either a flat fee or a cap on dealer compensation for obtaining credit for car buyers," said Charley Smith, chairman of the National Automobile Dealers Association, in a speech last year.

Smith said dealers shouldn't hide under their desks but respond by educating people about auto financing, he said. The association's board voted to support disclosing to customers that the finance rate is negotiable and that the dealer may retain part of the finance charges as compensation for helping the buyer secure a loan.

SEEKING RELIEF

Consumer education by auto dealers is fine, but Hobson wants relief for what she went through.

She continues to drive a pickup that was wrecked and worries about her safety if she gets into a crash. If she tried to sell it and properly disclosed the previous damage, Hobson estimates she could get barely half of what she paid for it.

Besides getting her money back and possibly damages, Hobson really wants other people to avoid her experience.

One of her attorneys, Chris Bataille, said Alaska's consumer protection law is strong and that bodes well for his client.

"Our understanding of the law is that businesses shouldn't engage in practices that mislead consumers," Bataille said.

Lithia's attorney said in court papers that nothing misleading took place and that Hobson was not required to accept the 5.95 percent interest rate if she didn't want to.

Trial is scheduled for Nov. 28.

Daily News reporter Paula Dobbyn can be reached at pdobbyn@adn.com or 257-4317.

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Dealers defend car fees

■ **LEGISLATURE:** Oft-hidden charges would have to be shown to buyers.

By **PAULA DOBBYN**
Anchorage Daily News

A bill that would beef up disclosure of the hidden fees and extra costs car dealers often charge has passed two committees in the Alaska Legislature.

Auto salesmen are fighting the legislation, saying it unfairly singles them out.

House Bill 383, sponsored by Anchorage Democratic Reps. Les Gara, Berta Gardner and Max Gruenberg and Rep. Bob Lynn, R-Anchorage, would close a loophole that allows dealers to add a "documentation fee" to the price of a car. They could still collect the discretionary fee, but it would have to be part of the negotiated price and not tacked on later.

"Doc fees are simply additional profit for car dealers, but many consumers are misled into believing they are mandated government fees," said Gara.

The bill, supported by the Alaska Attorney General's Office, would also make salesmen disclose a common but little-known practice called "dealer reserve" that consumer groups say costs



Gara

See Page F-4, DISCLOSURE

DISCLOSURE: Bill addresses loophole

Continued from F-1

Americans hundreds of millions of dollars in unnecessary fees every year.

Dealer reserve is the profit some car dealers keep after getting customers to accept a higher interest rate on their loan than what a bank, working with the dealership, would offer the buyer.

Often dealers don't disclose this arrangement to the customer, according to the bill sponsors and the Consumer Federation of America. As a result, the buyer pays more money over the life of the loan and the dealer gets a payment from the bank.

It's standard industry practice, car dealers say. They view it as compensation for the convenience they offer clients by arranging financing.

"It's one-stop shopping," said Jim Arpino, general manager of Affordable Used Cars in Fairbanks.

"A lot of times a customer doesn't want to go all across town" to shop for loans, Arpino said.

The payment also compensates for they risk they take by assisting people with poor credit, dealers say.

"There are a lot of people

that we will fight to get financing for so they can get a car," said Caroline Allen, business development director for Auto Service Co., a Fairbanks dealership.

That's fine, the sponsors say. Just be upfront and disclose to the consumer what you're doing.

Rep. Carl Gatto, R-Palmer, likes the bill. From personal experience, he thinks it's necessary.

Gatto bought a new Subaru Forester in 2004 and paid about \$200 in doc fees. He didn't realize until he heard testimony in the House State Affairs Committee on HB 383 last week that the fee was a dealer add-on. The dealer he bought the Subaru from told him it was a required fee and there was no way around it. Gatto, who describes himself as a savvy consumer, feels duped.

"It's nothing but pure profit," Gatto said.

Dealers see it differently.

"It's just a cost of doing business. And people don't have to pay it. It's part of doing your homework as a consumer," Allen said.

The AARP Alaska disagrees.

"Participation in the mar-

ketplace requires unprecedented levels of sophistication and knowledge, but indications are that financial literacy levels are low. To make appropriate choices, consumers must have openly and honestly presented sales negotiations," wrote Marie Darlin, coordinator of Juneau's AARP task force.

HB 383 could close a loophole in state law that allows dealers to add doc fees into the sales price if the negotiated price of a vehicle is less than the price the dealer advertised.

When he gets back to Anchorage after the legislative session ends, Gatto said, he will demand a refund. If the dealer refuses, he plans to take him to small claims court.

Rep. Jay Ramras, R-Fairbanks, who voted against the bill last week, said he just bought a car in Juneau and paid the doc fee after questioning the dealer.

"I said, 'What's this?' and they said, 'It's profit,' and I said, 'OK,'" Ramras said.

HB 383 "messes with free enterprise," Ramras said.

The bill has passed the Transportation and State Affairs committees and is now in the Rules Committee. Its next stop would be the House floor.

March 29, 2006
Anchorage Daily News



March 20, 2006

The Honorable Paul Seaton, Chair
House State Affairs Committee
Alaska Capitol, Room 102
Juneau, AK 99801-1182

HB 383 (Gara)—Support

Dear Chair Seaton:

On behalf of the members of AARP in Alaska, we urge you and your colleagues on the House State Affairs Committee to support HB 383, authored by Representative Les Gara and co-sponsored by two of your Committee colleagues, Representatives Lynn and Gardner. The intent of HB 383 is to safeguard consumers from deceptive and unfair practices when purchasing an automobile. Being treated fairly in the marketplace is something we all have the right to expect.

When a consumer negotiates a sales price with an automobile dealer he/she has the right to expect no "surprises." Currently some dealers add "documentation fees" in addition to the previously negotiated sales price. HB 383 simply requires dealers to be up front and indicate any documentation fees as part of the presented sales price.

HB 383 would also require automobile dealers to be transparent in the financing documents presented to a purchaser, indicating clearly and plainly what the financing arrangements will be, particularly if the buyer takes control of the vehicle before financing is finalized.

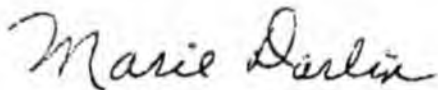
At this time participation in the marketplace requires unprecedented levels of sophistication and knowledge but indications are that financial literacy levels are low. To make appropriate choices, consumers must have openly and honestly presented sales negotiations. None of us should face "hidden costs." Consumers deserve fair treatment. HB 383 will certainly help automobile purchasers attain that.

AARP recommends an "AYE" vote on HB 383.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,



Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Carl Gatto
Representative Jim Elkins
Representative Bob Lynn
Representative Jay Ramras

Representative Berta Gardner
Representative Max Gruenberg
Representative Les Gara

FAX TRANSMISSION

This cover sheet is page 1 of 5 pages

DATL: April 5, 2006

Dear Representatives Gara, Gatto, Gardner, Gruenberg, and Lynn:

RE: House Bill 383

We have sent the following letter to Continental Honda of Anchorage. It relates to a bill in this year's legislature relating to undeclared – or unexplained – fees charged by auto dealerships, specifically documentation fees. While our inquiry with Continental may not bear fruit, we have sent this letter nonetheless. We were not happy to read that the fee Continental charged us may not have been mandatory. At least had we known this was possibly a discretionary fee, we would have contested it when we made the purchase.

Good luck with House Bill 383.

Bill and Elaine Wilson

FAX Transmission from 271-2917
(Faxed from Work location of Bill Wilson)

Continental Honda
5001 Old Seward Highway
Anchorage, AK 99503

April 4, 2006

Dear Honda of Anchorage:

We have recently learned that Continental Honda of Anchorage has participated in the practice of charging people who purchase vehicles from you a special fee of about \$200 as a "handling fee". Government does not mandate this fee and, as we have learned, is simply another way for Continental Honda of Anchorage to extract profit from the sale of your vehicles.

On February 27, 2005 we purchased a new Honda Odyssey, purchase order number 71060. On the purchase agreement we note that we paid \$199.00 for a "Doc. Prep. & Handling Fee". The amount "199.00" is pre-printed on your purchase agreement forms, implying that it is a given that this fee must be paid. As I recall when we questioned our sales person, this was a mandatory fee and could not be contested.

But now we learn that this fee was not mandated at all, and is merely more profit for Continental Honda of Anchorage. A recent article in the Anchorage Daily News, dated Wednesday March 29, 2006, indicates that many automobile sales dealerships in Alaska follow this practice. However, the Alaska Legislature is currently reviewing this practice and finding it is misleading and they intend to pass a law that requires disclosure of the intent of this fee. The Anchorage Daily News article quotes Caroline Allen of a dealership in Fairbanks stating, "It's just a cost of doing business. And people don't have to pay it. It's part of doing your homework as a consumer."

Well, we were misled and we request that this \$199.00 be refunded to us. We agree with Representatives Gatto and Gara that this fee is misleading and we would have strongly contested this fee if we had known that paying it was discretionary. We paid a very large sum for the Odyssey; we also paid for some additional options and an extended warranty. We surely would not have paid a fee that was an added means of profit; sufficient profit is already built into the cost of the car.

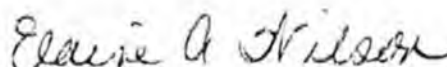
Enclosed are the newspaper article we mention above and a copy of our purchase agreement. We were led to believe that Continental Honda of Anchorage was required to charge this fee, which was unclear and misleading. We request that the \$199.00 we paid be refunded to us.

Thank you for your attention to this issue.

Sincerely,



William J. Wilson



Elaine A. Wilson

Cc: Representatives Gatto and Gara, Juneau

CS FOR HOUSE BILL NO. 383(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered: 2/13/06
Referred: State Affairs

Sponsor(s): REPRESENTATIVE GARA

① Legal definition of negotiated price = Revenue - other expenses = not profit
② Doc fee

A BILL

FOR AN ACT ENTITLED

1 "An Act limiting motor vehicle dealer charges for fees and costs; relating to the
2 disclosures required for certain motor vehicle transactions; and relating to the financing
3 of motor vehicle purchases."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 45.25.440 is amended to read:

6 Sec. 45.25.440. Additional fees and costs [ADVERTISED PRICE]. (a)
7 When selling a motor vehicle, a motor vehicle dealer may not charge any [DEALER]
8 fees or costs in addition to the advertised or negotiated price, except for fees
9 actually paid to a state agency for licensing, registration, or title transfers [, UNLESS
10 THE FEES OR COSTS ARE INCLUDED IN THE ADVERTISED PRICE].

11 (b) In this section, "[DEALER] fees or costs" includes dealer preparation fees,
12 document preparation fees, surcharges, ^{charges} and other [DEALER-IMPOSED] fees and
13 costs.

14 * Sec. 2. AS 45.25.610(c) is amended to read:

Handwritten initials in a circle

1 (c) If a motor vehicle dealer arranges financing for a buyer, the motor vehicle
2 dealer may deliver the motor vehicle to the buyer before final approval by the
3 financing entity if

4 (1) the buyer and seller sign an agreement separate from the motor
5 vehicle installment contract on an 8 1/2 x 11 inch sheet of paper that clearly and
6 conspicuously informs the buyer that final financing arrangements have not yet been
7 approved and that clearly sets out the amount that will be financed, the annual
8 percentage rate of the finance charge, the amount of the finance charge, the number
9 and frequency of payments, and the amount of each payment;

10 (2) the separate agreement in (1) of this subsection clearly and
11 conspicuously informs the buyer that accepting delivery of the vehicle before final
12 financing approval obligates the buyer to terms of the motor vehicle sales contract if
13 the terms on the separate agreement are identical to the terms finally approved by the
14 financing entity; [AND]

15 (3) the motor vehicle dealer complies with the disclosure
16 requirements of (f) of this section; and

17 (4) the separate agreement in (1) of this subsection provides that the
18 separate agreement, the motor vehicle sales contract, and any and all other conditions
19 of the purchase will be void if any of the terms contained in the separate agreement are
20 changed by either the motor vehicle dealer or the financing institution as a condition
21 of sale or final financing approval.

22 * Sec. 3, AS 45.25.610 is amended by adding a new subsection to read:

23 (f) In addition to the other requirements of this section, if a motor vehicle
24 dealer arranges financing for a proposed buyer, the dealer shall disclose in writing and
25 before the sale is finalized *As offering to a proposed buyer.*

26 (1) whether the interest rate quoted to the proposed buyer is different
27 than the interest rate charged to the dealer; and

28 (2) that the interest rate quoted to the buyer may not be the lowest
29 interest rate available.

*wording
might place
them in a
"fiduciary role"*

Seaton's 2 concerns
were:

- ① defining "negotiated price" — email from Ed says we don't need to in attached email
- ② making it banks & credit unions only — again, in both emails attached Ed says we don't need to, but says the amendment as drafted works

by Grunberg
N.Y. 1952

insert at P 1 line 8

after "price."

As follows "including the price stated

~~for the price~~ ~~at~~ at any point

during the negotiation or ~~trans~~

transaction,"

Emily McCoy

From: Ed Sniffen [Ed_Sniffen@law.state.ak.us]
Sent: Tuesday, March 07, 2006 3:30 PM
To: Emily McCoy
Subject: Re: Thank you!

Emily;

Thanks for having me testify. I had a lot more to say about the dealer reserve issue, but maybe next time. I've thought about a definition for "negotiated price" but I don't think we need one. It's pretty self explanatory to me. If we have to define it, it is "the price negotiated between the dealer and the buyer." This is already implied in the statute because it allows the addition of "fees actually paid to a state agency." I'd stay away from the phrase "price agreed upon between buyer and seller" because then every dealer will say the buyer agreed to the Doc fee by signing the purchase order. >

On the second issue, there really isn't a need to exclude GMAC or Ford Motor Credit, etc. because I don't think those entities offer a dealer reserve. If they do, then the customer should know that the dealer is making money on the financing.

Hope that helps.

ED

Paul - Here's Ed Sniffen
on the Carz bill. I promise I'd let you know.
1) no need to define "negotiated price"
more
2) Up to committee whether to narrow
the Dealer reserve issue per the attached Amendment.

3/7/2006

Emily McCoy

From: Ed Sniffen [Ed_Sniffen@law.state.ak.us]

Sent: Monday, March 13, 2006 3:50 PM

To: Emily McCoy

Subject: RE: Thank you!

Sorry about the delay. I got some more information from the industry on GMAC, FMCC, and other manufacturer financing. These loans are marked up all the time by the dealers, just like "regular" bank loans. Often, consumers are told "GMAC will only offer a certain rate," etc. (just like other banks), but actually, the dealer gets a kickback.

So . . . I'm still not certain we want to limit this only to "banks and credit unions," but if that's the will of the legislature, it's better than nothing. The amendment you propose works for that purpose.

Ciao!

Ed

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 383(TRA)

1 Page 2, following line 21:

2 Insert a new bill section to read:

3 **** Sec. 3. AS 45.25.610(e) is amended to read:**

4 (e) In this section,

5 **(1) "bank" has the meaning given in AS 06.05.990;**

6 **(2) "credit union" means a cooperative association organized**
7 **under state or federal law for the purpose of promoting thrift among its members**
8 **and creating a source of credit for provident or productive purposes;**

9 **(3) "sales contract" includes an installment sales contract, a short-term**
10 **sales contract, and a single-payment contract."**

11

12 Renumber the following bill section accordingly.

13

14 Page 2, line 24, following "financing":

15 Insert "from a bank or credit union"

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 383(TRA)
 (H) Publish Date: 2/13/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act limiting motor vehicle dealer charges RDU: CIVIL
for fees and costs relating to the disclosure..." Component: Commercial and Fair Business
 Sponsor: Representative Gara
 Requester: House Transportation Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 45.25.410 to require auto dealers to disclose all fees (other than title, registration, and licensing fees paid to the state), in the advertised or negotiated price of a motor vehicle. Currently, the law provides that only the advertised price must contain these fees. When a consumer begins to negotiate a price lower than the advertised price, the dealer can add these fees back into the final "selling price." The target of this bill is the "document preparation fee" charged by most dealers. This fee, normally around \$199, is disguised to look like a governmental or other third party transaction fee when, in reality, it is nothing more than an item of overhead for the dealer. HB 383 will require that all document preparation fees be included in the negotiated price.

The bill also amends AS 45.25.610 by adding a requirement that auto dealers disclose, in writing,

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 2/7/06 1:29 PM
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 2/7/2006
 Agency: Department of Law

FISCAL NOTE #1

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. CSHB 383(TRA)

ANALYSIS CONTINUATION

whether the motor vehicle dealer will receive a portion of the financing charge the buyer pays. This is aimed at transactions where the dealer is given an interest rate quote from a bank or credit union when arranging financing for a buyer, but then charges the buyer a higher rate, keeping the difference as a commission. Most consumers do not understand that the interest rate quoted by the dealer may be higher than the rate quoted by the financial institution.

Enforcement of these amendments will be absorbed within the Department's operating budget for consumer protection, and we do not anticipate a fiscal impact.

Emily McCoy

From: Ed Sniffen [Ed_Sniffen@law.state.ak.us]
Sent: Thursday, January 19, 2006 8:57 AM
To: Emily McCoy
Subject: Auto Legislation

Hey Emily. Thanks for faxing a copy of Les' Bill regarding motor vehicle fees and costs. Here's the short explanation of how auto dealers are getting around the documentation fees ("doc fees") restriction currently found in AS 45.25.440. The current version of the statute requires all doc fees to be included in the advertised price. Here's what happens:

Dealer advertises a vehicle for \$29,999. This advertised price includes all doc fees. Customer goes to dealer and negotiates a lower price -- let's say \$27,000. The salesman says "great, we have a deal." Then, when all the paperwork is filled out, the \$199 doc fee is added to the \$27,000 price. The current statute allows this because the dealer included the doc fee in the advertised price. But as soon as negotiations start and the advertised price is no longer on the table for negotiation, dealers can add it back in.

Doc fees are particularly troublesome because consumers believe they are fees paid to the state. In fact, these fees are nothing more than overhead (like rent, utility bills, or janitorial service). Les' bill solves this problem by requiring that all fees and costs must be included in the advertised or "negotiated" price.

Hope that helps!

ED

Sec. 06.45.400. Definitions.

In this chapter,

(1) "commissioner" means the commissioner of commerce, community, and economic development;

(2) "credit union" means a cooperative association organized in accordance with the provisions of this chapter for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes;

Emily McCoy

From: Ed Sniffen [Ed_Sniffen@law.state.ak.us]

Sent: Monday, March 13, 2006 3:50 PM

To: Emily McCoy

Subject: RE: Thank you!

Sorry about the delay. I got some more information from the industry on GMAC, FMCC, and other manufacturer financing. These loans are marked up all the time by the dealers, just like "regular" bank loans. Often, consumers are told "GMAC will only offer a certain rate," etc. (just like other banks), but actually, the dealer gets a kickback.

So . . . I'm still not certain we want to limit this only to "banks and credit unions," but if that's the will of the legislature, it's better than nothing. The amendment you propose works for that purpose.

Gao!

Ed