

## LEGISLATIVE BILL 146

Approved by the Governor March 1, 2001

Introduced by Kremer, 34

AN ACT relating to installment sales; to amend section 45-338, Reissue Revised Statutes of Nebraska; to authorize an increase in origination fees as prescribed; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 45-338, Reissue Revised Statutes of Nebraska, is amended to read:

45-338. ~~(1)~~ (1)(a) Notwithstanding the provisions of any other law, the time-price differential for any goods or services sold under an installment contract shall be stated as a fixed or variable annual percentage rate and shall be at a rate agreed to in writing, not to exceed eighteen percent per annum, except that a minimum time-price differential of ten dollars may be charged on any installment contract. ~~and a~~

(b) A buyer may be required, upon the execution of the installment contract, to pay an origination fee of not to exceed ten dollars, except that if the installment contract is for an installment sale of agricultural machinery or equipment for use in commercial agriculture the buyer may be required to pay (i) an origination fee of not to exceed one hundred dollars if the cash sale price is less than twenty-five thousand dollars or (ii) an origination fee of not to exceed two hundred fifty dollars if the cash sale price is twenty-five thousand dollars or more. upon the execution of the installment contract. The origination fee shall be refundable if the installment contract is canceled during the first thirty days. The origination fee may be collected from the buyer or included in the principal balance of the installment contract at the time the contract is made and shall not be considered interest or a time-price differential.

(c) Nothing in the Nebraska Installment Sales Act shall prohibit prohibits a seller or holder of an installment contract from contracting for, computing, and charging a time-price differential based upon the application of the rate charged to the unpaid principal balance for the number of days actually elapsed. ~~The 7 and the~~ charges so computed shall be used for the purpose of calculating the time-price differential, the time-price balance, the amount of each installment, and the time-sale price.

(d) When the installment contract is payable in substantially equal and consecutive monthly installments, the time-price differential shall be computed on the basic time price of each contract, as determined under the provisions of section 45-336, from the date of the contract until the due date of the final installment, notwithstanding that the time-price balance is required to be paid in installments.

(2) When an installment contract provides for payment other than in substantially equal and consecutive monthly installments, the time-price differential may be at a rate which will provide the same return as is permitted on substantially equal monthly payment contracts under ~~subsection~~ ~~(1)~~ subdivision (1)(d) of this section, having due regard for the schedule of payments.

(3) Every contract payable in two or more installments shall provide for payment of such installments by stating the date and amount of each installment or the method by which any variable rate or installment shall be determined.

Sec. 2. Original section 45-338, Reissue Revised Statutes of Nebraska, is repealed.