

LEGISLATIVE BILL 94

Approved by the Governor February 14, 1989

Introduced by Landis, 46

AN ACT relating to the Nebraska Installment Sales Act; to amend sections 45-335, 45-337, and 45-341, Reissue Revised Statutes of Nebraska, 1943; to redefine a term; to authorize the purchase of nonfiling insurance as prescribed; to authorize the collection of fees as prescribed; to change provisions relating to delinquency charges; and to repeal the original sections.

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

Section 1. That section 45-335, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-335. When used in sections 45-334 to 45-353 For purposes of the Nebraska Installment Sales Act, unless the context otherwise requires:

(1) Goods shall mean all personal property, except money or things in action, and shall include goods which, at the time of sale or subsequently, are so affixed to realty as to become part thereof whether or not severable therefrom;

(2) Services shall mean work, labor, and services of any kind performed in conjunction with an installment sale, but not including service for which the prices charged are required by law to be established and regulated by the government of the United States or any state;

(3) Buyer shall mean a person who buys goods or obtains services from a seller in an installment sale;

(4) Seller shall mean a person who sells goods or furnishes services to a buyer under an installment sale;

(5) Installment sale shall mean any transaction, whether or not involving the creation or retention of a security interest, in which a buyer acquires goods or services from a seller pursuant to an agreement which provides for a time-price differential and under which the buyer agrees to pay all or part of the time-sale price in one or more installments and within one hundred forty-five months, except that

installment contracts for the purchase of mobile homes may exceed such one-hundred-forty-five-month limitation;

(6) Installment contract shall mean an agreement entered into in this state evidencing an installment sale except those otherwise provided for in separate acts;

(7) Cash price or cash sale price shall mean the price stated in an installment contract for which the seller would have sold or furnished to the buyer and the buyer would have bought or acquired from the seller goods or services which are the subject matter of the contract, if such sale had been a sale for cash instead of an installment sale. It may include the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications, and improvements, and may include taxes to the extent imposed on the cash sale;

(8) Basic time price shall mean the cash sale price of the goods or services which are the subject matter of an installment contract plus the amount included therein, if a separate identified charge is made therefor and stated in the contract, for insurance, registration, certificate of title, and license fees, filing fees, and fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction or any charge for nonfiling insurance if such charge does not exceed the amount of fees and charges prescribed by law which would have been paid to public officials for filing, perfecting, releasing, and satisfying any security related to the credit transaction and less the amount of the buyer's downpayment in money or goods or both;

(9) Time-price differential, however denominated or expressed, shall mean the amount, as limited in sections 45-334 to 45-353 the act, to be added to the basic time price;

(10) Time-sale price shall mean the total of the basic time price of the goods or services, the amount of the buyer's downpayment in money or goods or both, and the time-price differential;

(11) Sales finance company shall mean a person engaged, in whole or in part, in the business of purchasing installment contracts from one or more sellers. The term ~~includes~~ shall include, but is not limited to, a bank, trust company, investment company, savings and loan association, or installment loan licensee, if so engaged; and

(12) Director shall mean the Director of Banking and Finance.

Sec. 2. That section 45-337, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-337. The amount, if any, included for insurance, which may be purchased by the holder of the contract, shall not exceed the applicable premium rates chargeable in accordance with filings, if any, with the Department of Insurance. If dual interest insurance on the goods is purchased by the holder it shall, within thirty days after execution of the installment contract, send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages, and all the terms and conditions of the contract or contracts of insurance. If any insurance is canceled, or the premium adjusted, any refund of the insurance premium plus the unearned time-price differential thereon received by the holder shall be credited to the last maturing installment of the contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them. The holder may also purchase nonfiling insurance and charge a reasonable fee. The fee shall not exceed the amount of fees and charges prescribed by law which would have been paid to public officials for filing, perfecting, releasing, and satisfying any lien or security interest in the goods or services.

Sec. 3. That section 45-341, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-341. An installment contract may provide and the holder thereof may collect, in addition to any time-price differential, a delinquency charge on each installment in default for a period of not less than ten ~~ten~~ fifteen days, if provided for in the contract, not in excess of five percent of each installment or five ~~five~~ twenty-five dollars, whichever is less, or, in lieu thereof, interest after maturity on each such installment not exceeding the highest permissible contract rate. If the time-price differential is computed by application of the rate charged to the unpaid principal balance for the number of days actually elapsed, such delinquency charge may not exceed five percent of each installment or five ~~five~~ twenty-five dollars, whichever is less. If any installment payment is made

by a check, draft, or similar signed order which is not honored because of insufficient funds, no account, or any other reason except an error of a third party to the contract, the holder may charge and collect a fee of not more than fifteen dollars. The delinquency charge and such fee may be collected when due or at any time thereafter.

Sec. 4. That original sections 45-335, 45-337, and 45-341, Reissue Revised Statutes of Nebraska, 1943, are repealed.