

No. 2002-186

AN ACT

HB 2599

Amending the act of June 28, 1947 (P.L.1110, No.476), entitled "An act defining and regulating certain installment sales of motor vehicles; prescribing the conditions under which such sales may be made and regulating the financing thereof; regulating and licensing persons engaged in the business of making or financing such sales; prescribing the form, contents and effect of instruments used in connection with such sales and the financing thereof; prescribing certain rights and obligations of buyers, sellers, persons financing such sales and others; limiting incidental charges in connection with such instruments and fixing maximum interest rates for delinquencies, extensions and loans; regulating insurance in connection with such sales; regulating repossessions, redemptions, resales and deficiency judgments and the rights of parties with respect thereto; authorizing extensions, loans and forbearances related to such sales; authorizing investigations and examinations of persons engaged in the business of making or financing such sales; prescribing penalties and repealing certain acts," further providing for definitions, for licensing, for sanctions, for administration, for records, for contracts, for assignments, for insurance, for finance costs, for refinancing, for default, for repossession and redemption, for prohibited charges, for exemptions and for penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Clauses 10, 11, 13, 14, 16 and 18 of section 3 of the act of June 28, 1947 (P.L.1110, No.476), known as the Motor Vehicle Sales Finance Act, are amended and the section is amended by adding clauses to read:

Section 3. Definitions.—The following words, terms and phrases when used in this act shall have the meaning ascribed to them in this section, except where the context clearly indicates otherwise:—

* * *

10. "Installment sale contract" or "contract" shall mean any contract for the retail sale of a motor vehicle, or which has a similar purpose or effect under which part or all of the price is payable in two or more scheduled payments subsequent to the making of such contract, or as to which the obligor undertakes to make two or more scheduled payments or deposits that can be used to pay part or all of the purchase price, whether or not the seller has retained a security interest in such motor vehicle or has taken collateral security for the buyer's obligation, and shall include any loan, any mortgage, any conditional sale contract, any purchase-money chattel mortgage, any hire-purchase agreement or any contract for the bailment or leasing of a motor vehicle under which the hire-purchaser, the bailee or lessee contracts to pay as compensation a sum substantially equivalent to or in excess of the value of the motor vehicle and any other form of contract which has a similar purpose or effect: Provided, however, That the terms shall not include any sale or contract for sale upon an open book account,

wherein the seller has not retained or taken any security interest in the motor vehicle sold or any collateral security for the buyer's obligation, and wherein the buyer is not required to pay any sum other than the cash price of the motor vehicle sold in connection with such sale or extension of credit, and wherein the buyer is obligated to pay for the motor vehicle in full within ninety (90) days from the time the sale or contract for sale was made[.]: *Provided, also, That the terms shall not include a right to acquire possession of goods pursuant to a lease unless the lease constitutes a security interest as defined in 13 Pa.C.S. § 1201 (relating to general definitions) and is subject to 13 Pa.C.S. Div. 9 (relating to secured transactions).* These terms shall also mean and apply to any extension, deferment, renewal or other revision of such installment sale contract.

11. "Cash price" shall mean the [minimum] price measured in dollars at which the seller would in good faith sell to the buyer or to any other buyer under like circumstances, and the buyer would in good faith buy from the seller, the motor vehicle which is the subject matter of the installment sale contract, if such sale were a sale for cash instead of an installment sale.

* * *

13. "Principal amount financed" shall mean the unpaid cash price balance after deducting the down payment, adding the [cost of] *charges for* any insurance [premiums] required or obtained as security for or by reason of the sale of a motor vehicle under an installment sale contract, and adding other costs *or charges* necessary or incidental to the sale of the motor vehicle under [such] *an installment sale* contract[, which the seller contracts to pay on behalf of the buyer, and for the amount of which the seller agrees to extend credit to the buyer, and for which the buyer contracts voluntarily.] *and amounts representing payment of a prior credit or lease balance to discharge a security interest, lien or lease interest on a motor vehicle or other property traded or returned.*

13.1. "*Charges*" shall mean the price measured in dollars in which the seller would in good faith sell to the buyer or to any other buyer under like circumstances, and the buyer would in good faith buy from the seller, any goods and services which are subject to the installment sale contract if the sale were a sale for cash instead of an installment sale.

13.2. "*Charges for insurance*" shall mean premiums, commissions and other payments authorized by insurance statutes or regulations of this Commonwealth.

14. "Finance charge" shall mean the amount of the consideration in excess of the cash price which the buyer is required to pay to the seller for the privilege of purchasing a motor vehicle under an installment sale contract, or for the credit extended by the seller to the buyer in conjunction with the sale of a motor vehicle under an installment sale contract, or it shall mean the differential between the cash sale price of the motor vehicle and the installment sale price, exclusive of *charges for* insurance [premium

costs] and other [costs] *charges* necessary or incidental to an installment sale *and any default charges*, which are specifically authorized by this act to be included in an installment sale contract.

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16. "Security interest" shall mean [any property right in the motor vehicle which is the subject of an installment sale contract, whenever such right is retained, to secure performance of any obligation of the buyer under such contract, any extension, deferment, renewal or other revision thereof and the term shall include any lien or encumbrance against such motor vehicle, any interest of a mortgagee in such motor vehicle, and any reservation of title to such motor vehicle, whether or not expressed to be absolute, whenever such title is in substance retained for security only] *a security interest as provided by 13 Pa.C.S. Div. 9 (relating to secured transactions).*

* * *

18. ["Administrator"] "*Department*" shall mean the Department of Banking of the Commonwealth [of Pennsylvania].

* * *

23. "*Secretary*" shall mean the Secretary of Banking of the Commonwealth.

24. "*Debt cancellation agreement*" shall mean a loan term or contractual arrangement modifying loan terms linked to a holder's extension of credit under which the holder agrees to cancel all or part of a buyer's obligation to repay an extension of credit from that holder upon the occurrence of a specified event.

25. "*Debt suspension agreement*" shall mean a loan term or contractual arrangement modifying loan terms linked to a holder's extension of credit under which the holder agrees to suspend all or part of a buyer's obligation to repay an extension of credit from that holder upon the occurrence of a specified event.

Section 2. Sections 4, 5 and 6 of the act are amended to read:

Section 4. Licenses Required.—On and after the effective date of this act no person shall engage or continue to engage in this Commonwealth either as principal, employe, agent or broker;

1. In the business of an installment seller of motor vehicles under installment sale contracts, except as authorized in this act, under license issued by the [administrator] *department*, or

2. In the business of a sales finance company, except as authorized in this act, under license issued by the [administrator] *department*, or

3. In the business of a collector-repossessor, except as authorized in this act, under license issued by the [administrator] *department*.

Section 5. Applications for Licenses.—

A. Applications for licenses under this act shall be in writing, under oath, and in the form prescribed by the [administrator] *department*.

B. The application shall contain the name under which the business is conducted, the address of the place of business, the date of registration of the fictitious or trade name, if any, with the Secretary of the Commonwealth; the date and place of incorporation, if the applicant is a corporation; the name and residence address of the owner, if the applicant is an individual owner; the name and residence address of all owners, partners or members, if the applicant is a partnership or association; the name and address of all officers and directors, if the applicant is a corporation, and such other information as the [administrator] *department* may require.

C. All applications filed by associations or corporations shall be accompanied by a power of attorney showing the name and address of the authorized agent in the Commonwealth of Pennsylvania upon whom all judicial and other process or legal notice may be served, and in the case of the death, removal from the Commonwealth or any legal disability or disqualification of such agent, service of such process or notice upon the [administrator] *department* shall be authorized.

D. A separate application, on the prescribed form, shall be filed for each place of business conducted by or to be established by a licensee within the Commonwealth of Pennsylvania.

E. All applications for renewal licenses shall be filed at least fifteen (15) days prior to October first, annually.

Section 6. License; Bonds.—

A. A bond, in the form prescribed by the [administrator] *department*, in the penal sum of five thousand dollars (\$5,000), shall accompany every application for license as a sales finance company and for license as a collector-repossessor. Such bond shall be executed by a surety company authorized by the laws of Pennsylvania to transact business within this Commonwealth: Provided, That the bond accompanying an application for license as a sales finance company, filed by a banking institution located within this Commonwealth, may be executed by such banking institution on its own behalf, in lieu of a bond executed by a surety company. The bond shall be executed to the Commonwealth of Pennsylvania and shall be for the use of the Commonwealth and for any person or persons. The condition of the bond shall be that the licensee will comply with and abide by all the provisions of this act, and all the rules and regulations of the [administrator] *department* lawfully issued, and that the licensee will pay to the Commonwealth, to the [administrator] *department* or to any person or persons, any and all moneys that may become due to the Commonwealth, to the [administrator] *department* or to any person or persons from the said licensee under and by virtue of the provisions of this act. If any person shall be aggrieved by the misconduct of a licensee and shall recover judgment against such licensee, such person may, on any execution issued under such judgment, maintain an action upon the bond of the licensee in any court having jurisdiction of the amount claimed, provided the [administrator] *department* assents thereto.

B. A bond in the form prescribed shall be filed for each place of business conducted by a finance company and for each place of business conducted by a collector-repossessor within the Commonwealth of Pennsylvania.

C. A new bond shall accompany every application for renewal license and shall be filed at least fifteen (15) days prior to October first, annually.

Section 3. Section 7 of the act, amended December 22, 1977 (P.L.345, No.101), is amended to read:

Section 7. License Fees.—

A. Each application for license shall be accompanied by a license fee [in the amount of:—

1. Twenty-five dollars (\$25) for license as an installment seller of motor vehicles.

2. One hundred fifty dollars (\$150) for license as a sales finance company.

3. One hundred fifty dollars (\$150) for license as a collector-repossessor.] *as set forth in section 603-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."*

B. A separate license fee of like amount shall be paid for each place of business conducted by a licensee within the Commonwealth of Pennsylvania.

C. No abatement in the amount of the said license fee shall be made if the license is issued for less than one year, or if the license is surrendered, cancelled or revoked prior to the expiration of the license year for which such license was issued.

D. All licenses under this act shall expire on October first, annually. A renewal license fee in the same amount shall be paid annually on or before October first for each respective type of license and for each place of business.

E. All license fees and fines received by the [administrator] *department* under this act shall be deposited in the State Treasury to the credit of a special fund for the use of the [administrator] *department* in administering this and other laws of the Commonwealth placed under [his] *its* administration.

Section 4. Section 8 of the act is amended to read:

Section 8. Approval of Licenses and Issuance of Licenses.—

A. [The administrator, if he] *If the department* approves an application for license, *it* shall issue to the applicant a license certificate showing the name of the person authorized to do business thereunder and the address of the licensee. Such license certificate when issued to an installment seller or to a sales finance company shall be posted in a conspicuous place in the place of business of the licensee, so that it will be in full view of the public at all times; and when issued to a collector-repossessor shall be carried in the immediate possession of the licensee whenever he is engaged in the type of business for which the license is

issued, so that it may be presented for inspection upon request of any person entitled to such inspection.

B. A license shall not be transferred or assigned.

C. A licensee may change his place of business to another location within the same municipality for which the license certificate was issued. A licensee desiring to change the address of his place of business shall give prior written notice thereof to the [administrator] *department* and shall return the license certificate to the [administrator] *department* for amendment. The [administrator] *department* shall amend the license certificate to show the new address and the date thereof, which shall thereafter be the authorized address of the licensee. A licensee shall not be required to pay any charge for amendment of a license certificate to effect change of address.

D. Only one place of business may be operated under the same license: Provided, however, That where every place of business is conducted under one name and the business records are kept in one place only one license shall be required. This proviso shall apply only to installment sellers. A licensee may operate more than one place of business by filing an application on the prescribed form for each additional place of business and by furnishing a bond for each additional place of business in the case of a sales finance company and collector-repossessor and by paying the respective license fee provided in this act for each additional place of business.

Section 5. Section 9 of the act, repealed in part April 28, 1978 (P.L.202, No.53), is amended to read:

Section 9. Rejection of Application.—

A. The [administrator] *department* may reject any application for license or any application for renewal of a license [if he] *because of any of the following:*

(1) *If the applicant has made a material misstatement in the application.*

(2) *For any of the grounds stated in subsection A of section 10.*

(3) *If the department is not satisfied that the financial responsibility, character, reputation, integrity and the general fitness of the applicant and of the owners, partners or members thereof, if the applicant be a partnership or association, and of the officers and directors, if the applicant be a corporation, are such as to command the confidence of the public and to warrant the belief that the business for which application for license is filed will be operated lawfully, honestly, fairly and within the legislative intent of this act and in accordance with the general laws of this Commonwealth: Provided, however, That no license may be issued if the applicant, any affiliate, owner, partner, member, officer, director, employe, agent or spouse of the applicant has pleaded guilty, entered a plea of nolo contendere, or has been found guilty by a judge or a jury for engaging in any business for which a license is required under this act without having obtained a license*

under this act, or if the applicant, any affiliate, owner, partner, member, officer, director, employe, agent or spouse of the applicant has pleaded guilty, entered a plea of nolo contendere, or has been found guilty by a judge or a jury of a second offense violation of this act under the penal section of this act applicable to licensees and had its license revoked.

C. Whenever the [administrator] *department* rejects an application for license, [he] *it* shall return the license fee which accompanied the application: Provided, however, All or any portion of the license fee may be retained by the [administrator] *department* if rejection is based wholly or partially upon false information furnished by the applicant in the application.

Section 6. Section 10 of the act, amended December 17, 1982 (P.L.1389, No.318), is amended to read:

Section 10. Revocation or Suspension of Licenses.—

A. The [administrator] *department*, upon thirty (30) days' written notice to the licensee, forwarded by registered mail to the place of business of such licensee, as shown in the application for license or as amended on the license certificate in case of change of address subsequent to issuance of the license certificate, may revoke or suspend any license if [he] *it* finds that:

1. The licensee has made any material misstatement in the application for license, or that
2. The licensee has violated any provision of this act, or that
3. The licensee has violated any rule or regulation issued by the [administrator] *department* under and within the authority of this act, or that
4. The licensee has failed to comply with any demand, rule or regulation lawfully made by the [administrator] *department* under and within the authority of this act, or that
5. The licensee refuses or has refused to permit the [administrator or his designated representative] *department* to make examinations authorized by this act, or that
6. The licensee in the case of a finance company and collector-repossessor has failed to maintain in effect the bond required under the provisions of this act, or that
7. The licensee has failed to maintain satisfactory records required by this act or prescribed by the [administrator] *department*, or that
8. The licensee has falsified any records required by this act to be maintained of the business contemplated by this act, or that
9. The licensee has failed to file any report with the [administrator] *department* within the time stipulated in this act, or that
10. The licensee has failed to pay the fine required by this act for failure to file reports to the [administrator] *department* within the time stipulated, or that

11. The licensee has defrauded any retail buyer to the buyer's damage or wilfully failed to perform any written agreement with any retail buyer, or that

12. Any fact or condition exists or is discovered which, if it had existed or had been discovered at the time of filing of the application for such license, would have warranted the [administrator] *department* in refusing to issue such license.

13. The licensee has:

(i) failed to collect any tax or fee due the Commonwealth upon any sale of a vehicle;

(ii) collected any such tax or fee and failed to issue a true copy of the tax report to the purchaser, as required by law;

(iii) issued a false or fraudulent tax report or copy thereof; or

(iv) failed to pay any tax or fee over to the Commonwealth at the time and in the manner required by law.

14. The licensee has engaged in unfair, deceptive, fraudulent or illegal practices or conduct in connection with any business regulated under this act, including making excessive mark-ups to charges for items described in clause 1, 5 or 10.1 of subsection B of section 14 or subsection E of section 18 or mark-ups of costs in violation of subsection D of section 18. The department shall adopt a statement of policy that contains guidelines determining mark-ups that the department finds, after reasonably considering relevant market data, not to be excessive and shall update and revise the statement of policy to reflect changing business conditions. Mark-ups consistent with the guidelines shall not be deemed excessive. Mark-ups in excess of the guidelines and, until such time as the department adopts its guidelines, mark-ups for service contracts, warranties, debt cancellation agreements and debt suspension agreements in excess of 100% of the cost to the dealer shall be deemed excessive.

B. The [administrator] *department* may revoke or suspend only the particular license with respect to which grounds for revocation may occur or exist, but if [he] *the department* finds that grounds for revocation are of general application to all places of business or to more than one place of business operated by a licensee, [he] *it* may revoke all of the licenses issued to such licensee or those licenses to which grounds for revocation apply, as the case may be.

C. Whenever a license has been revoked, the [administrator] *department* shall not issue another license to the licensee pursuant to the provisions of this act until the expiration of at least one (1) year from the effective date of revocation of said license; and not at all, if such licensee or any owner, partner, member, officer, director, employe, agent or spouse of the licensee shall have pleaded guilty, entered a plea of nolo contendere, or has been found guilty by a judge or a jury of a second offense violation of this act.

D. Appeals may be taken from the action of the [administrator] *department* in suspending and revoking licenses *or imposing civil penalties under subsection D of section 37* in accordance with the procedure prescribed by [the act of June 4, 1945 (Pamphlet Laws 1388), known as "The Administrative Agency Law."] *2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).*

Section 7. Section 11 of the act, repealed in part April 28, 1978 (P.L.202, No.53), is amended to read:

Section 11. Authority of [Administrator] *Department*.—

A. The [administrator and any person designated by him for that purpose] *department* is empowered to investigate, at any time, the business and affairs and examine the books, accounts, papers, records, documents and files of every licensee and of every person who shall be engaged in business contemplated by this act, whether such person shall act, or claim to act, as principal, agent or broker or under or without the authority of this act. For this purpose the [administrator] *department* shall have free access to the offices and places of business, books, accounts, papers, records, documents and files of all such persons. A person who is not licensed under this act shall be presumed to be engaged in business contemplated by this act, if he, as principal, agent or broker advertises or solicits business for which a license is required by the provisions of this act, and the [administrator and any person designated by him for that purpose] *department* is, in such cases, hereby empowered to examine the books, accounts, papers, records, documents, files, safes and vaults of such persons for the purpose of discovering violations of this act.

B. The [administrator] *department* is empowered to require the attendance and testimony of witnesses and the production of any books, accounts, papers, records, documents and files relating to such business which the [administrator] *department* has authority by this act to investigate, and for this purpose the [administrator] *secretary* or [his] *a* duly authorized representative may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence. In case of disobedience of any subpoena or the contumacy of any witness appearing before the [administrator] *department*, the [administrator] *secretary* may invoke the aid of the courts, and such court shall thereupon issue an order requiring the person subpoenaed to obey the subpoena, or to give evidence, or to produce books, accounts, papers, records, documents and files relative to the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

C. *The expenses incurred by the department in connection with any examination or investigation, including a proportionate part of the salary of any examiner or other employe of the department engaged in the examination or investigation and all counsel assigned by the department*

to an examination or investigation, may be assessed by the department upon the particular person examined or investigated.

Section 8. Section 12 of the act is amended to read:

Section 12. Records Required.—

A. Every licensee shall maintain, at the place of business designated in the license certificate, such books, accounts and records of the business conducted under the license issued for such place of business as will enable the [administrator] *department* to determine whether the business of the licensee contemplated by this act is being operated in accordance with the provisions of this act.

B. A licensee, operating two or more licensed places of business in this Commonwealth, may maintain the general control records of all such offices at any one of such offices, or at any other office maintained by such licensee, upon the filing of a written request with the [administrator] *department* designating therein the office at which such control records are maintained and upon approval of such request by the [administrator] *department*.

C. All books, accounts and records of licensees shall be maintained in the English language.

D. All books, accounts and records of licensees, including any cards used in a card system, shall be preserved and available for examination by the [administrator] *department* for at least two (2) years after making the final entry therein.

E. The [administrator] *department* is hereby authorized and empowered to prescribe the minimum information to be shown in the books, accounts and records of licensees so that such records will enable the [administrator] *department* to determine compliance with the provisions of this act.

Section 9. Section 13 of the act, amended May 2, 1949 (P.L.812, No.211) and June 18, 1992 (P.L.307, No.55), is amended to read:

Section 13. Requirements as to Contracts *and Separate Disclosure*.—

A. Every installment sale contract shall be in writing and shall contain all of the agreements between the buyer and the seller relating to the installment sale of the motor vehicle sold and shall be signed by both the buyer and the seller.

B. Every installment sale contract shall be completed as to all essential provisions prior to the signing of such contract by the buyer.

C. An exact copy of the installment sale contract shall be furnished by the seller to the buyer at the time the buyer signs such contract. Such buyer's copy of the contract shall contain the signature of the seller identical with such signature on the original contract. Such copy shall be furnished to the buyer without charge.

D. Every installment sale contract shall contain the following notice, printed prominently and in the form indicated in twelve (12) point type, or

larger, directly above the space provided in the contract form for the signature of the buyer:

“Notice to Buyer.

Do not sign this contract in blank.

You are entitled to an exact copy of the contract you sign.

Keep it to protect your legal rights.”

Provided, That in lieu of the word “Buyer” there may be substituted either of the words “Lessee” or “Mortgagor” and in lieu of the word “contract” there may be substituted either of the words “lease” or “mortgage.”

E. The seller shall obtain from the buyer a written acknowledgment of the delivery of the copy of the contract to the buyer. Such acknowledgment shall be printed in twelve (12) point type, or larger, and, if attached to the contract, it shall be printed below the buyer’s signature to the contract and shall be independently signed.

F. Every installment sale contract shall provide for payment of the time balance in substantially equal periods and in substantially equal amounts except:

1. When the buyer expects his income to vary because of seasonal employment, seasonal sales, use of accelerated depreciation for tax purposes or other known cause, the contract may provide for payment of the time balance in amounts which vary with such expected varying income.

2. An installment sale contract for the sale of a heavy commercial motor vehicle shall be exempt from the requirement that payments must be for substantially equal periods and in substantially equal amounts.

3. An installment sale of a new motor vehicle to a bona fide salesman or of motor vehicles to be used by him principally as a demonstrator shall be exempt from the equal payment schedule requirement of this section.

4. Where the installment sale contract provides for fixed residual value financing. As used in this clause, “fixed residual value financing” shall mean the manner of purchase whereby a buyer who is listed as the owner on the title of the vehicle agrees to select and perform, at the conclusion of a predetermined schedule of installment payments made in substantially equal periods and in substantially equal amounts, one of the following options:

(a) satisfy the balance of the contractual amount owing;

(b) refinance any balance owing on the terms previously agreed upon at the time of executing the installment sale contract; or

(c) surrender the motor vehicle at such time and manner agreed upon at the time of executing the installment sale contract.

G. Prior to the execution of an installment sale contract by any party, the seller shall provide to the applicant buyer both an oral disclosure and a written disclosure in plain language separate from the installment sale contract to be signed by the applicant buyer prior to the signing of the installment sale contract. The executed, written disclosure shall be copied exactly and furnished by the seller to the applicant buyer at no cost at the

time the buyer receives a copy of the installment sale contract. The separate disclosure required under this subsection shall:

1. Advise the applicant that the buyer's purchase of specific items related to acquiring the motor vehicle, including incidental items such as service contracts, warranties, debt cancellation agreements, debt suspension agreements and insurance products not required by section 17, but excluding options and accessories physically attached to the vehicle, is voluntary and is not required as a condition of the applicant buyer's receiving the installment sale contract loan.

2. Be complete without any blank spaces.

Section 10. The heading and subsections B, C and E of section 14 of the act, amended April 4, 1990 (P.L.110, No.25), are amended and the section is amended by adding a subsection to read:

Section 14. Contents of Contract *and Disclosure Requirements.*

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B. Every installment sale contract shall set forth *clearly and conspicuously in writing* the following separate items as such and [in the following order] *other information as applicable:*

1. Cash price of the motor vehicle. This amount may include any taxes, charges for delivery, [cost of] *charges for* servicing, repairing or improving the motor vehicle, [costs of] *charges for service contracts and warranties which alternatively shall be disclosed pursuant to clause 5, charges for* accessories and installation or other [costs] *charges* normally included in the delivered cash price of such motor vehicle. *The cash price of the motor vehicle otherwise may not include charges required to be disclosed pursuant to clause 5. If the cash price contains charges for service contracts or warranties, then, adjacent to the "cash price" listed on the contract in type print size not smaller than the type size used for all item categories, shall be included the boldface and underlined words or substantially similar words "including optional service contracts and/or warranties in the amount of"; and then the separately itemized charges for the service contract and warranty shall be specifically stated in the contract and warranty items.*

2. Down payment made by the buyer at the time of or prior to execution of the contract, indicating whether made in cash, or represented by the agreed value of a "trade-in" motor vehicle, or other goods, or both. The amount of cash and/or the value of any "trade-in" shall be shown separately. A description of the "trade-in," if any, sufficient for identification shall be shown.

3. Unpaid cash balance which shall be the difference between the cash price (Item 1) and the down payment (Item 2) above.

4. [Insurance premium costs] *Charges for insurance* the payment of which the seller agrees to extend credit to the buyer. The term of such insurance, a concise description of the coverage and the amount of the premium shall be set forth. If the precise [cost of the] *charges for* insurance

[is] *are* not available at the time the contract is signed, an estimated amount, ascertained from a chart prepared by the licensee and approved by the [administrator] *department*, may be set forth in the contract. When the [cost of the] *charges for insurance* [is] *are* so estimated, the contract shall so state and it shall contain notice to the buyer that the difference between the estimated [cost] *charges* and the actual [cost of] *charges for the insurance*, including finance charges on such amount, will be adjusted at the time of the final payment on the contract, and a statement of the amount of the adjustment shall be furnished to the buyer simultaneously with the delivery of the insurance policy or certificate.

5. Other [costs] *charges*, necessary or incidental *to the sale or financing of a motor vehicle*, which the seller contracts to *retain, receive or pay* on behalf of the buyer and [for the amount of] *any other charges necessary or incidental to the sale or financing of the motor vehicle under the contract* for which the seller agrees to extend credit to the buyer as authorized by this act[. Such costs shall be itemized in the contract as to nature and amount.], *including charges for debt cancellation agreements and debt suspension agreements*.

6. Principal amount financed which shall be the total of the unpaid cash price balance (Item 3) plus [the] *charges for insurance* [premium costs] (Item 4) plus other [costs] *charges* (Item 5) for which the seller agrees to extend credit to the buyer.

7. Finance charge which is the consideration in excess of the cash price (Item 1), excluding [insurance premium] *charges for insurance*. (Item 4), and other [costs] *charges* (Item 5), which the buyer agrees to pay to the seller for the privilege of purchasing the motor vehicle under the installment sale contract.

8. Time balance which shall be the total of the principal amount financed (Item 6), plus the finance charge (Item 7), and which shall represent the total obligation of the buyer which he agrees to pay in two or more scheduled payments.

9. Payment schedule which shall state the number of payments, the amount of the payments and the time of the payments required to liquidate the time balance.

10. Notwithstanding any provisions of this act or any other law to the contrary, the finance charge percentage rate included in an installment sale contract for the sale of a heavy commercial motor vehicle may vary during the term thereof pursuant to a formula or index set forth therein that is made readily available to and verifiable by the buyer and is beyond the control of the holder of the contract. For the purpose of disclosing the amount of finance charge (Item 7) and time balance (Item 8) and setting forth a payment schedule (Item 9), such amounts may be calculated using the finance charge percentage rate applicable to the transaction as of the date of execution of the contract, notwithstanding the fact that such finance

charge percentage rate may increase or decrease over the term of the contract according to a formula or index set forth in the contract.

10.1. Charges for warranties, charges for service contracts, charges for insurance for each policy of insurance required to be disclosed pursuant to clause 4, charges required to be disclosed pursuant to clause 5 and costs and charges authorized in section 18 shall be separately itemized in the contract as to nature and amounts of the cost or charge to the buyer. If the seller retains a portion of the charge of a good or service which is provided by others, the seller shall disclose that the seller may retain a portion of the charges.

C. Every installment sale contract shall [state clearly any collateral security taken for the buyer's obligation under the contract] *provide a description that reasonably identifies any collateral security in which a security interest is provided to secure the buyer's obligation pursuant to 13 Pa.C.S. § 9108 (relating to sufficiency of description), including the motor vehicle and any other collateral.*

* * *

E. Every installment sale contract shall contain specific provisions as to the *holder's right to accelerate the maturity of the contract upon default or other breach of contract and as to the buyer's liability respecting nonpayment, the dollar or percentage amount of any default charges which may be imposed due to a late payment, other than a deferral or extension charge*, repossession and sale of the motor vehicle, in case of default or other breach of contract, and respecting the collateral security, if any.

* * *

G. Charges enumerated in this section and costs and charges authorized by section 18 shall be separately itemized in the contract.

Section 11. Section 16 of the act, amended November 19, 1959 (P.L.1529, No.539), is amended to read:

Section 16. Transfer of Installment Sale Contract.—

A. The seller of a motor vehicle under an installment sale contract, executed in the Commonwealth of Pennsylvania, shall not sell, transfer or assign the obligation represented by such contract to any person in Pennsylvania, or elsewhere, who is not licensed as a sales finance company pursuant to the provisions of this act.

B. A sales finance company, licensed pursuant to the provisions of this act, shall not sell, transfer or assign the obligation represented by a motor vehicle installment sale contract, executed in the Commonwealth of Pennsylvania, which it has lawfully acquired, to any other person in Pennsylvania, or elsewhere, who is not licensed as a sales finance company pursuant to the provisions of this act.

C. Whenever an installment sale contract is lawfully sold, transferred or assigned to a person who is licensed as a sales finance company, pursuant to the provisions of this act, [such] *until the new holder [shall furnish]*

furnishes to the buyer in such contract a written notice of such sale, transfer or assignment[, **excepting when assignment is made only to secure a bona fide commercial loan. Such notice shall set**] *that sets* forth the name and address of the new holder [and shall notify the buyer of the name and address of the person] authorized to receive future payments on such contract[. **If such notice has not been given**], any payment or tender of payment made to and any service of notice on the last known holder by the buyer shall be binding upon any subsequent holder.

D. The provisions of this section shall not apply to an assignment of an aggregation of installment sale contracts, which is executed by a seller or sales finance company only as [collateral security for] *a security interest securing payment or performance of a bona fide commercial loan*, obtained at lawful rates of interest from a person regularly engaged in the business of lending money on the security of such assigned collateral *or amounts due pursuant to a security or debt instrument*, and under which, in the absence of default or other bona fide breach of the loan contract, ownership of the assigned contracts remains vested in the assignor and collection of payments on such assigned contracts is made by the assignor; And provided, such assignment and loan contracts are not for the purpose of evading or circumventing the provisions of this act.

E. Whenever an installment sale contract, which has been lawfully acquired by a sales finance company, is in default, the holder may resell, retransfer or reassign such contract to the installment seller from whom such contract was originally acquired. [Such] *Until the* new holder [shall furnish] *furnishes* to the buyer in such contract a written notice of such resale, retransfer or reassignment[. **Such notice shall set**] *which sets* forth the name and address of the new holder[, shall notify the buyer of the name and address of the person] authorized to receive future payments on such contract, and [shall set forth] the unpaid time balance and the accrued default charges due under the contract[,] if any, *any payment or tender of payment made to and any service of notice on the last known holder by the buyer shall be binding upon any subsequent holder*.

Section 12. Sections 17 and 18 of the act are amended to read:

Section 17. Insurance.—

A. The buyer of a motor vehicle under an installment sale contract may be required to provide insurance on such motor vehicle at the buyer's expense for the protection of the seller or subsequent holder. Such insurance shall be limited to insurance against substantial risk of damage, destruction or theft of such motor vehicle: Provided, however, The foregoing shall not interfere with the liberty of contract of the buyer and seller to contract for other or additional insurance as security for or by reason of the obligation of the buyer, and inclusion of [the cost of] *charges for* such insurance [premium] in the principal amount advanced under the installment sale contract. Such insurance shall be written for the dual protection of the buyer and of the seller, or subsequent holder, to the extent of his interest in the

motor vehicle. Such insurance shall be for an amount, and period of time, and upon terms and conditions, which are reasonable and appropriate considering the type and condition of the motor vehicle, the amount of the time balance and the schedule of payments in the installment sale contract.

B. The buyer of a motor vehicle under an installment sale contract shall have the privilege of purchasing such insurance from an agent or broker of his own selection and selecting an insurance company acceptable to the seller: Provided, however, The inclusion of **[the cost of the] charges for insurance [premium]** in the installment sale contract, when the buyer selects the company agent or broker, shall be optional with the seller.

C. Whenever the seller contracts to purchase, at the buyer's expense, such insurance on a motor vehicle sold under an installment sale contract, such insurance shall be purchased through an agent and/or broker, authorized to conduct business in Pennsylvania, and such insurance shall be written by an insurance company qualified to do business in Pennsylvania. The status of the buyer and seller or holder, as set forth in such insurance contract, shall conform to the status of these parties in the installment sale contract. The **[cost of the premium on such] charges for insurance to the buyer shall not be in excess of the [amount of the premium] charges for insurance** which others are required to pay to such insurance company for similar coverage, and in no event in excess of **[rates established in the then current published applicable manual of a recognized standard insurance rating bureau, or the rates fixed] any limitations on premiums, commissions and other charges established** by authority of the Commonwealth of Pennsylvania.

D. Whenever the seller contracts to purchase, at the buyer's expense, such insurance on a motor vehicle sold under an installment sale contract, a copy of the policy or a certificate of insurance shall be delivered to the buyer within thirty (30) days of the date of the buyer's signing of the installment sale contract.

E. The insurance policy which is furnished to the buyer when the insurance is placed by the seller, or subsequent holder, at the buyer's expense shall set forth complete information as to the effective dates, amounts of premiums and coverage, and shall contain all the terms of the insurance contract. When a certificate of insurance issued under a master policy is furnished to the buyer in lieu of an individual policy, such certificate shall set forth all information as to effective dates, amounts of premiums and coverage, and shall contain all the terms of the insurance contract embodied in the master policy to the same extent as would appear if an individual policy were issued, and shall give due notice that it is not an insurance policy.

F. When the seller or subsequent holder has placed, at the expense of the buyer, insurance on a motor vehicle sold under an installment sale contract and the buyer prepays the time balance under the contract prior to the expiration date of the insurance, such insurance shall remain in force

unless the buyer requests cancellation thereof. The seller or holder shall not cancel the insurance under such circumstances without the buyer's consent, nor shall the seller or holder coerce the buyer to cancel the insurance. Unexpired insurance premiums received by the seller or holder, resulting from cancellation of insurance which was originally placed at the buyer's expense, shall be paid to the buyer or credited to any matured unpaid installments under the contract.

G. When the seller contracts to purchase insurance at the buyer's expense and such insurance is cancelled by the insurance company prior to expiration, the seller or subsequent holder shall place comparable insurance with another insurance company and furnish the buyer with a copy of the insurance policy, subject to the same requirements of this act applicable to the original policy. In the event the holder is unable to obtain such insurance in another insurance company, he shall immediately notify the buyer, who may then obtain such insurance from an insurance company, agent or broker of his own selection and the holder shall be liable for any additional **[costs] charges for insurance** incurred by the buyer in rewriting such insurance for the unexpired period for which the original insurance was written. The holder under these circumstances shall also be liable to the buyer for any loss suffered by the buyer through negligence on the part of the holder in promptly advising the buyer of his inability to obtain replacement insurance.

Section 18. Other Costs Included in Amount Financed.—

A. In addition to **[the cost of] charges for insurance [premiums]** authorized in the preceding section of this act, the seller of a motor vehicle under an installment sale contract may require the buyer to pay certain other costs incurred in the sale of a motor vehicle under such contract as follows:

1. Fees, payable to the Commonwealth of Pennsylvania, for filing a lien or encumbrance on the certificate of title to a motor vehicle sold under an installment sale contract or collateral security thereto.

2. Fees, payable to a public official, for filing or recording and satisfying or releasing the installment sale contract or instruments securing the buyer's obligation.

3. Fees, for notarization required in connection with the filing and recording or satisfying and releasing a mortgage, judgment lien or encumbrance.

B. The seller of a motor vehicle under an installment sale contract may also contract with the buyer to pay on behalf of the buyer, such other costs incidental to the sale of a motor vehicle and contracted for voluntarily by the buyer as follows:

1. Fees, payable to the Commonwealth of Pennsylvania, for registration of the motor vehicle and issuance or transfer of registration plates.

2. Fees, payable to the Commonwealth of Pennsylvania, for driver's license for the buyer.

3. Costs of messenger service and other costs *associated with the submission of documents to the Commonwealth of Pennsylvania or other governmental entity which are* contracted for voluntarily by the buyer.

C. [Such other costs] *The costs described in subsections A and B* may be [charged,] contracted for, collected or received by the seller from the buyer independently of the installment sale contract, or the seller may extend credit to the buyer for the amount of such costs and include such amount in the principal amount financed under the installment sale contract.

D. [Such other costs] *Unless otherwise permitted by the laws of this Commonwealth other than this act, the costs described in subsections A and B which are* paid or payable by the buyer shall not exceed the amount which the seller expends or intends to expend therefor. Any such costs which the seller has collected from the buyer, or which have been included in the buyer's obligation under the installment sale contract which are not disbursed by the seller, as contemplated, shall be immediately refunded or credited to the buyer.

E. *The seller of a motor vehicle under an installment sale contract may also contract with the buyer, to pay on behalf of the buyer, charges for any goods or services necessary or incidental to the sale of a motor vehicle and contracted for by the buyer which are not in violation of clause 14 of subsection A of section 10 and which are not otherwise restricted pursuant to this act or any other statute. This subsection does not authorize the mark-up of costs described in subsection A or B.*

Section 13. Section 19 of the act, amended June 18, 1982 (P.L.553, No.160), is amended to read:

Section 19. Finance Charges.—

A. A seller licensed under the provisions of this act shall have the power and authority to charge, contract for, receive or collect a finance charge, as defined in this act, on any installment sale contract covering the retail sale of a motor vehicle in this Commonwealth, which shall not exceed the rates indicated for the respective classification of motor vehicles as follows:

Class I. New motor vehicles, except those having a cash price of ten thousand dollars (\$10,000) or more and used primarily for commercial purposes and except mobile homes and except new trucks or truck tractors having a manufacturer's gross vehicular weight of fifteen thousand (15,000) pounds or more and new semitrailers or trailers designed for use in combination with truck tractors, eighteen percent (18%) simple interest per year on the unpaid balance.

Class II. Used motor vehicles of a model designated by the manufacturer by a year not more than two (2) years prior to the year in which the sale is made, eighteen percent (18%) simple interest per year on the unpaid balance.

Class III. Older used motor vehicles of a model designated by the manufacturer by a year more than two (2) years prior to the year in which

the sale is made, twenty-one percent (21%) simple interest per year on the unpaid balance.

Class IV. New motor vehicles having a cash price of ten thousand dollars (\$10,000) or more and used primarily for commercial purposes, and except new trucks or truck tractors having a manufacturer's gross vehicular weight of fifteen thousand (15,000) pounds or more and new semitrailers or trailers designed for use in combination with truck tractors, seven and one-half percent (7 1/2%) per year.

Class V. New motor homes, such percent established as a maximum finance charge for mobile homes by regulation of the Federal Housing Administration, pursuant to the National Housing Act of June 27, 1934 (48 Stat. 1246), whether or not the mobile home is subject to a sale on credit or loan insured or guaranteed in whole or in part by such administration.

Class VI. New trucks and truck tractors having a manufacturer's gross vehicular weight of fifteen thousand (15,000) pounds or more and new semitrailers and trailers designed for use in combination with truck tractors, ten percent (10%) per year.

B. Such finance charge shall be computed on the principal amount financed as determined under Section 14-B-6 of this act.

C. Such finance charge shall be computed at the annual rate indicated on contracts, which are payable by installment payments, extending for a period of one (1) year. On contracts providing for installment payments, extending for a period which is less than or greater than one (1) year, the finance charge shall be computed proportionately.

D. Such finance charge may be computed on the basis of a full month for any fractional month period in excess of ten (10) days, *and interest may continue to be charged during any period of time for which a default charge is also imposed.*

E. A minimum finance charge of ten dollars (\$10.00) may be charged on any installment sale contract in which the finance charge, when computed at the rates indicated, results in a total charge of less than this amount.

F. The maximum finance charge prescribed by this act shall not apply to any sale on credit or loan insured or guaranteed in whole or in part by the Federal Housing Administration, the Veterans' Administration or any other department or agency of the United States Government: Provided, That any such sale on credit or loan is subject to a maximum rate of interest established by law or by such department or agency.

Section 14. Section 20 of the act is amended to read:

Section 20. Refinancing Installment Sale Contract.—

A. The holder of an installment sale contract may extend the scheduled due date, or defer the scheduled payment of all or part of any unpaid installment payment or payments, or renew the unpaid time balance of such contract.

B. The holder may contract for, receive and collect a refinance charge for such extension, deferment or renewal. Such refinance charge shall not exceed the amount ascertained under either of the following methods of computation at the respective rates indicated by—

Option 1. Computing the refinance charge on the amount of the installment payment or payments or part thereof, which is refinanced for the period of time, for which each payment or part thereof is extended or deferred at the following rates on contracts originally in the respective classification of motor vehicles set forth in the preceding section of this act:

Class I. One percent (1%) per month.

Class II. One and one-half percent (1 1/2%) per month.

Class III. Two percent (2%) per month.

Such refinance charges may be computed on the basis of a full month for any fractional month period in excess of ten (10) days.

Option 2. Computing the refinance charge on the amount obtained by adding to the unpaid time balance of the contract, **[the] charges for insurance [cost] and other [costs] charges** incidental to refinancing, by adding unpaid default charges, which may be accrued, and by deducting any rebate which may be due to the buyer for prepayment incidental to refinancing, at the rate of the finance charge in the original contract, for the term of the renewal contract, and subject to the provisions of this act governing computation of the original finance charge: Provided, however, That the provisions of this act governing minimum finance charges and minimum prepayment rebate shall not apply in calculating refinance charges on the contract renewed under this method of computation.

C. The holder of an installment sale contract shall not include in any contract for refinancing such contract, any cash loan to the buyer, nor any credit extended to the buyer incidental to the purchase of goods or services: Provided, further, That the word loan herein shall not include, nor this act prohibit, a rearrangement of payments under the installment sale contract by a refinance transaction involving a restoration of certain installment payments made under the contract, but the refinance charge on such amount restored may be not more than six percent per annum, simple interest; And provided, further, however, That the holder of such contract may embody in such refinance contract the **[cost of] charge for** accessories, equipment and parts for the motor vehicle sold under such contract, and the **[cost of] charge for** repairs and services to such motor vehicle including finance charges thereon.

Section 15. Section 21 of the act, amended April 4, 1990 (P.L.110, No.25), is amended to read:

Section 21. Default Charges.—

[A.] A default charge may be collected on any installment payment or payments which are not paid on or before the due date of such payments. A default charge may be collected on any contract subject to this act, regardless of the class of vehicle as defined in section 19 or the method by

which the finance charge is computed. Such default charge shall not exceed the rate of two percent (2%) per month on the amount of the payment or payments in arrears where the contract is for the sale of a motor vehicle which is other than a heavy commercial motor vehicle. Such default charge may be computed on the basis of a full calendar month for any fractional month period in excess of ten (10) days. On any contract for the sale of a heavy commercial motor vehicle, the default charge shall not exceed for any payment not made within ten (10) days of its scheduled due date, four percent (4%) of the amount of the payment or payments in arrears: Provided, That such default charge may be collected only once on each payment in arrears. Such default charges may be collected, when earned, during the term of the contract, or may be accumulated and collected at final maturity, or at the time of final payment under the contract. Such default charge shall not be collected on any payment in default because of any acceleration provision in the contract.

Section 16. Subsections D and F of section 23 of the act are amended to read:

Section 23. Repossession.—

* * *

D. When repossession of a motor vehicle, which is the subject of an installment sale contract, is effected otherwise than by legal process, the holder shall immediately furnish the buyer with a written “notice of repossession” delivered in person, or sent by registered or certified mail directed to the last known address of the buyer. Such notice shall set forth the buyer’s right as to reinstatement of the contract, if the holder extends the privilege of reinstatement and redemption of the motor vehicle, shall contain an itemized statement of the total amount required to redeem the motor vehicle by reinstatement or payment of the contract in full, shall give notice to the buyer of the holder’s intent to re-sell the motor vehicle at the expiration of fifteen (15) days from the date of mailing such notice, shall disclose the place at which the motor vehicle is stored, and shall designate the name and address of the person to whom the buyer shall make payment, or upon whom he may serve notice. *The holder’s notice shall also state that any personal property left in the repossessed vehicle will be held for thirty (30) days from the date of the notice’s mailing. The personal property may be reclaimed within the thirty (30) day time period. Thereafter, the property may be disposed of in the same manner as the motor vehicle and other collateral.*

* * *

F. The [administrator] *department* shall have authority to reduce the amount of or prohibit entirely any item of expense of retaking, storing or repairing of a motor vehicle which appears to him to be fictitious, unnecessary, unreasonable or exorbitant, or such as would not have been incurred by a prudent person under similar circumstances.

* * *

Section 17. Sections 25, 31, 36 and 37 of the act are amended to read:

Section 25. Redemption and Termination of Contract after Repossession.—

A. ***[When] Unless the right of redemption is waived in a nonconsumer transaction under 13 Pa.C.S. § 9624(c) (relating to waiver), if repossession of a motor vehicle which is the subject of an installment sale contract is effected within or outside the Commonwealth of Pennsylvania otherwise than by legal process, the holder shall retain such repossessed motor vehicle [within the county in which it was retaken] for a period of fifteen (15) days after mailing of notice of repossession to the buyer. [If such repossession is made outside of the Commonwealth of Pennsylvania, the motor vehicle, at the option of the holder, may be retained in the vicinity of retaking for such fifteen (15) day period or brought back to the county in Pennsylvania in which it was originally sold to the buyer under such contract and retained in such county for such fifteen (15) day period.]***

B. During such fifteen (15) day period the buyer may redeem the motor vehicle and terminate the contract by payment or tender of payment to the holder of the following amounts, subject to the conditions hereinafter indicated:

1. When default at the time of repossession was less than fifteen (15) days, the amount of the unpaid time balance, plus the amount of any accrued default charges authorized by this act, plus any other amount lawfully due under the contract, excluding costs of retaking, repairing and storage, less rebate of unearned finance charge.

2. When default at the time of repossession exceeded fifteen (15) days, the amount of the unpaid time balance, plus the amount of any accrued default charges authorized by this act, plus costs of retaking, repairing, repossessing and storing authorized by this act, plus any other amount lawfully due under the contract, less rebate of unearned finance charge.

C. ***If the buyer redeems the motor vehicle and terminates the contract by payment or tender as provided in subsection B, the holder shall return the motor vehicle and any other collateral in any manner consistent with 13 Pa.C.S. § 9623 (relating to right to redeem collateral). Property will be deemed to be returned in a manner in compliance with this act and 13 Pa.C.S. § 9623 by delivery to one of the following sites designated by the buyer:***

1. *the county in this Commonwealth or within a comparable governmental unit outside this Commonwealth where repossession occurred;*

2. *a county in this Commonwealth where the buyer resides; or*

3. *the county in this Commonwealth in which the vehicle was purchased under such contract.*

D. ***Upon receipt of the funds necessary to redeem the motor vehicle as provided in subsection B, the holder shall return the repossessed motor***

vehicle as soon as is reasonably possible, but not later than ten (10) business days from the receipt of the funds.

Section 31. Prohibited Charges.—

A. A licensee under this act shall not charge, contract for, collect, or receive from the buyer, directly or indirectly, any further or other amount for costs, charges, examination, appraisal, service, brokerage, commission, expense, interest, discount, fees, fines, penalties or other thing of value in connection with the retail sale of a motor vehicle under an installment sale contract in excess of **[the cost of] charges for insurance [premiums], other [costs] charges necessary or incidental to the sale of the motor vehicle, the finance charges, refinance charges, default charges, recording and satisfaction fees, court costs, attorney's fees and expenses of retaking, repairing and storing a repossessed motor vehicle which are [authorized by the provisions of this act] disclosed as required by subsection B of section 14.**

B. A licensee under this act shall not collect any charge whatsoever in connection with a contemplated sale of a motor vehicle under an installment sale contract, if such contract is not consummated: Provided, however, That nothing contained herein shall affect the legal status of a deposit paid by a prospective buyer to a seller as a binder on the contemplated purchase of a motor vehicle.

C. An installment sale contract, wherein the seller or any subsequent holder has charged, contracted for, collected, or received from the buyer any prohibited **[costs or] charges whatsoever shall be unenforcible as to such prohibited [costs or] charges.**

Section 36. Exemptions.—

A. This act shall not affect or impair any business conducted lawfully under license issued pursuant to the act of April eighth, one thousand nine hundred thirty-seven (Pamphlet Laws, two hundred sixty-two), known as the "Consumer Discount Company Act," or supplements or amendments thereto.

B. This act shall not apply to an extension of credit for the purchase of a motor vehicle, including the financing of any other costs or charges necessary or incidental to the sale or financing of a motor vehicle, made pursuant to the act of November 30, 1965 (P.L.847, No.356), known as the "Banking Code of 1965."

Section 37. Penalties.—

A. Any person, partner, association, business corporation, banking institution, nonprofit corporation, common law trust, joint stock company or any other group of individuals, however organized, or any owner, partner, member, officer, director, trustee, employe, agent, broker or representative thereof who or which shall engage in this Commonwealth in business as installment seller, sales finance company or collector-repossessor as defined in this act without having obtained a license, as required under this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be

sentenced to pay a fine of not less than **[five hundred dollars (\$500)] two thousand dollars (\$2,000)**, or more than **[five thousand dollars (\$5,000)] ten thousand dollars (\$10,000)**, or to suffer imprisonment of not **[less than six (6) months or,] more than three (3) years**, or both, at the discretion of the court.

B. Any licensee conducting business under this act as an installment seller, sales finance company or collector-repossessor or any owner, partner, member, officer, director, trustee, employe, agent, broker or representative thereof who shall violate any provision of this act, or shall direct **[or consent to]** such violation shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than **[five hundred dollars (\$500)] two thousand dollars (\$2,000)** for the first offense; and for each subsequent offense a like fine and/or suffer imprisonment not to exceed one (1) year in the discretion of the court.

C. Any licensed seller or sales finance company as holder of a motor vehicle installment sale contract who hires, authorizes or permits an unlicensed collector-repossessor, as defined in this act, to collect payments on any such contract or to repossess any motor vehicle sold under such contract within this Commonwealth shall be guilty of a violation of this act, and subject to the penalties imposed by the foregoing provisions of this section.

D. *Any person required to be licensed under this act that violates this act or directs a violation or who engages in any activity for which a license could be suspended or revoked under section 10 shall be subject to a civil penalty levied by the department of not more than two thousand dollars (\$2,000) for each offense.*

E. *A sales finance company licensed pursuant to this act engaged in the purchase, sale, assignment, securitization or servicing of installment sale contracts shall not be held liable under this act for excessive mark-ups by installment sellers to charges described in subsection E of section 18 or for failures to make disclosures in subsection G of section 13.*

Section 18. The act is amended by adding a section to read:

Section 37.1. Regulations and Orders.—The department is authorized to promulgate regulations and to issue orders, statements of policy and written interpretations as necessary or appropriate for the interpretation or enforcement of this act.

Section 19. The General Assembly finds and declares as follows:

(1) All citizens are entitled to fair dealing with those who sell and finance motor vehicles in this Commonwealth. The act became law in 1947, and its purpose is to protect Pennsylvania's consumers from improper sales and financing practices.

(2) Because citizens can now choose to purchase products and services related to the purchase of a motor vehicle which were not available or even contemplated when the act was enacted and include those items in the amount financed, it is now desirable to amend the act

to provide for additional disclosures to consumers who purchase incidental items in conjunction with the purchase of a motor vehicle.

(3) It is further desirable to amend the act to provide for the imposition of civil penalties against those sellers and lenders that engage in fraudulent or abusive practices to the detriment of consumers in this Commonwealth.

(4) Uncertainty has arisen with regard to the intent of certain provisions of the act as enacted in 1947. In order to provide for continued consumer protection and financing options, this act is intended to clarify the intent of the act to facilitate the financing of vehicles and related products and services.

Section 20. Because many of the circumstances and events that led to the initial adoption of the act in 1947 have substantially changed due to substantial improvements in business practices and expanded Federal regulations, a study of proposals to update and modernize the act shall be conducted by the Joint State Government Commission and the recommendations of the commission reported to the General Assembly. In addition to changes to the act, the commission shall also consider the advisability of merging the provisions of the act of October 28, 1966 (1st Sp.Sess., P.L.55, No.7), known as the Goods and Services Installment Sales Act, and other consumer finance legislation into a consolidated Consumer Credit Code which avoids duplication of Federal law and regulations and promotes uniformity of law among the states. The study shall be conducted by a task force established by the commission consisting of four members of the Senate, two appointed by the President pro tempore of the Senate and two appointed by the Minority Leader of the Senate and four members of the House of Representatives, two appointed by the Speaker of the House of Representatives and two appointed by the Minority Leader of the House of Representatives. In addition, the commission shall appoint an advisory committee to assist the task force that shall include a representative of the Department of Banking, the Consumer Protection Division of the Office of Attorney General, the Pennsylvania Automotive Association, the Pennsylvania Retailers' Association, the Pennsylvania Bankers Association and other individuals with knowledge and expertise regarding motor vehicle sales finance, installment sales and consumer protection laws and regulations and a member of the public.

Section 21. All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 22. The following apply:

(1) This act shall not adversely affect the adequacy of actions taken to comply with this act prior to the effective date of this act, including disclosures provided prior to the effective date of this act.

(2) The following provisions are intended to clarify and confirm the meaning of the act and not to change the meaning or interpretation of the act:

(i) The amendment or addition of clauses 13, 13.1, 13.2, 14 and 16 of section 3 of the act.

(ii) The amendment or addition of provisions of the act which utilize the definitions referred to in subparagraph (i).

(iii) The amendment of sections 16, 17 and 18 of the act.

(iv) The amendment of subsection D of section 19 of the act.

(v) The amendment of sections 21, 25 and 31 of the act.

(vi) The addition of subsection B of section 36 of the act.

(vii) The addition of subsection E of section 37 of the act.

(3) To the extent necessary to clarify the meaning or interpretation of the act, the provisions referred to in paragraph (2) shall apply retroactively to causes of action which arose on or before the effective date of this act.

(4) As to the amendment of section 14 of the act:

(i) The amendment of section 14 of the act constitutes a clarification and confirmation of the meaning of the act in accordance with paragraph (2) to the extent that the amendment:

(A) provides that amounts disclosed under clauses 1 and 5 of subsection B of section 14 of the act may include charges and are not limited to actual costs incurred by a seller or finance company, except as otherwise provided by section 18 of the act and clause 13.2 of section 3 of the act; and

(B) allows the disclosure of charges for service contracts and warranties at the option of the seller or sales finance company as either:

(I) part of the cash price under clause 1 of subsection B of section 14 of the act; or

(II) other charges necessary or incidental to the sale of a motor vehicle under clause 5 of subsection B of section 14 of the act.

(ii) The amendment of section 14 of the act constitutes a change in the law to the extent that the amendment imposes new disclosure requirements.

Section 23. This act shall take effect in 90 days.

APPROVED—The 9th day of December, A.D. 2002.

MARK S. SCHWEIKER