

GOODS AND SERVICES INSTALLMENT SALES ACT

Act of Oct. 28, 1966, Special Session 1, P.L. 55, No. 7 Cl. 12

Special Session No. 1 of 1966

No. 1966-7

AN ACT

Defining, regulating and relating to retail installment contracts for all goods and services except certain motor vehicles and home improvements; prescribing the requirements of such contracts and limitations on the enforcement thereof; and providing remedies and penalties.

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

ARTICLE I
GENERAL PROVISIONS

Section 101. This act shall be known and may be cited as the "Goods and Services Installment Sales Act."

Section 102. Any waiver by the buyer of the provisions of this act shall be deemed contrary to public policy and shall be unenforceable and void.

Section 103. Contracts within this Act.--For the purposes of this act a retail installment contract, contract, retail installment account, installment account, or revolving account is made in Pennsylvania and, therefore, subject to the provisions of this act if either the seller offers or agrees in Pennsylvania to sell to a resident buyer of Pennsylvania or if such resident Pennsylvania buyer accepts or makes the offer in Pennsylvania to buy, regardless of the situs of the contract as specified therein.

Any solicitation or communication to sell, verbal or written, originating outside the Commonwealth of Pennsylvania but forwarded to and received in Pennsylvania by a resident buyer of Pennsylvania shall be construed as an offer or agreement to sell in Pennsylvania.

Any solicitation or communication to buy, verbal or written, originating within the Commonwealth of Pennsylvania from a resident buyer of Pennsylvania, but forwarded to and received by a retail seller outside the Commonwealth of Pennsylvania shall be construed as an acceptance or offer to buy in Pennsylvania.

Section 104. Application.--Notwithstanding any other act, this act shall exclusively govern and regulate the terms and conditions of all extensions of credit by the means of credit cards or credit card operations for the purchase of goods and services within this Commonwealth but excluding cash advances.

(104 added Mar. 25, 1982, P.L.199, No.68)

ARTICLE II
DEFINITIONS

Section 201. Unless the context or subject matter otherwise requires, the definitions given in this article govern the construction of this act.

(1) "Goods" means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for such goods, but does not include goods which come within the provisions of the act of August 14, 1963 (P.L.1082), known as the "Home Improvement

Finance Act," and does not include any vehicle covered by the act of June 28, 1947 (P.L.1110), known as the "Motor Vehicle Sales Finance Act."

(2) "Services" means work, labor and services for other than a commercial or business use, including services furnished in connection with the sale or repair of goods as defined in section 201 (1) or furnished in connection with the repair of motor vehicles, but does not include the services which come within the provisions of the act of August 14, 1963 (P.L.1082), known as the "Home Improvement Finance Act," and does not include any vehicle covered by the act of June 28, 1947 (P.L.1110), known as the "Motor Vehicle Sales Finance Act," or services for which the tariffs, rates, charges, costs, or expenses, including in each instance the time sale price, is required by law to be filed with or approved by the Commonwealth or Federal Government or any official department, commission, or agency of the Commonwealth of Pennsylvania or the United States.

(3) "Retail seller" or "seller" means a person engaged in the business of selling goods or furnishing services to retail buyers.

(4) "Retail buyer" or "buyer" means a person who buys goods or obtains services from a retail seller in a retail installment sale and not principally for the purpose of resale.

(5) "Retail installment sale" or "sale" means the sale of goods or the furnishing of services by a retail seller to a retail buyer for a time sale price payable in installments.

(6) "Retail installment contract" or "contract" means any contract for a retail installment sale between a buyer and a seller which provides for repayment in installments, whether or not such contract contains a title retention provision, and in which a time price differential is computed upon and added to the unpaid balance at the time of sale or where no time price differential is added but the goods or services are available at a lesser price if paid by cash or where the buyer, if he had paid cash, would have received any additional goods or services or any higher quality goods or services at no added cost over the total amount he pays in installments. When taken or given in connection with a retail installment sale, the term includes but is not limited to a security agreement and a contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of their value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the goods upon full compliance with the terms of the contract. The term also includes any contract, obligation or agreement in the form of bailment or lease if the bailee or lessee has the option to renew the contract by making the payments specified in the contract, the contract obligates the bailor or lessor to transfer ownership of the property to the bailee or lessee upon full compliance by the bailee or lessee with his obligations under the contract, including any obligation incurred with respect to the exercise of an option by the bailee or lessee to renew the contract, and the payments contracted for by bailee or lessee, including those payments pursuant to the exercise of an option by the bailee or lessee to renew the contract, are substantially equivalent to or in excess of the aggregate value of the property and services involved. With respect to a sale described in the previous sentence, the disclosures required under this title shall be calculated on the assumption that the bailee or lessee will exercise all of his options to renew the

contract, make all payments specified in the contract, and become the owner of the property involved. ((6) reenacted July 11, 1989, P.L.573, No.57)

(7) "Retail installment account" or "installment account" or "revolving account" means an account established by an agreement pursuant to which the buyer promises to pay, in installments, to a retail seller or to a financing agency, his outstanding balance incurred in retail installment sales, whether or not a security interest in the goods sold is retained by the seller, and which provides for a service charge which is expressed as a percent of the periodic balances to accrue thereafter providing such charge is not capitalized or stated as a dollar amount in such agreement.

(8) "Cash sale price" means the cash sale price stated in a retail installment contract for which the seller would sell or furnish to the buyer and the buyer would buy or obtain from the seller the goods or services which are the subject matter of a retail installment contract if the sale were a sale for cash instead of a retail installment sale. The cash sale price may include any taxes and cash sale prices for accessories and services, if any, included in a retail installment sale.

(9) "Time sale price" means the total of the cash sale price of the goods or services and the amounts, if any, included for insurance, official fees and service charge.

(10) "Time price differential" or "service charge" means the amount however denominated or expressed which the retail buyer contracts to pay or pays for the privilege of purchasing goods or services to be paid for by the buyer in installments; it does not include the amounts, if any, charged for insurance premiums, delinquency charge, attorney's fees, court costs, collection expenses or official fees. Wherever either of such terms is required to be used under the provisions of this act the other may be used interchangeably.

(11) "Unpaid balance" means the cash sale price of the goods or services which are the subject matter of the retail installment sale, plus the amounts, if any, included in a retail installment sale for insurance and official fees, minus the amount of the buyer's down payment in money or goods.

(12) "Time balance" means the total of the unpaid balance and the amount of the service charge, if any.

(13) "Holder" means the retail seller who acquires a retail installment contract or installment account executed, incurred or entered into by a retail buyer, or if the contract or installment account is purchased by a financing agency or other assignee, the financing agency or other assignee. The term does not include the pledgee of or the holder of a security interest in an aggregate number of such contracts or installment accounts to secure a bona fide loan thereon.

(14) "Official fees" means the fees required by law and actually to be paid to the appropriate public officer to perfect a lien or other security interest, retained or taken by a seller under a retail installment contract or installment account.

(15) "Person" means an individual, partnership, corporation, association or other group, however organized.

(16) "Financing agency" means a person engaged in this Commonwealth in whole or in part in the business of purchasing retail installment contracts, or installment accounts from one or more retail sellers. The term includes but is not limited to a bank, bank and trust company, private banker, or investment company.

(17) "Purchase money loan" means a cash advance which is received by a customer in return for a service charge,

time-price differential, finance charge or interest which is applied, in whole or substantial part, to a purchase of goods or services from a seller who is affiliated with the creditor by common control or business arrangement. ((17) added Mar. 25, 1982, P.L.199, No.68)

(18) "Purchase money lender" means any creditor or financing agency who makes or extends purchase money loans. ((18) added Mar. 25, 1982, P.L.199, No.68)

ARTICLE III PROVISIONS OF RETAIL INSTALLMENT CONTRACTS

Section 301. A retail installment contract shall be dated and in writing; the printed portion thereof shall be in at least eight-point type.

Section 302. Except as provided in sections 309 and 803, every retail installment contract shall be contained in a single document which shall contain:

(a) The entire agreement of the parties with respect to the cost and terms of payment for the goods and services, including any promissory notes or any other evidences of indebtedness between the parties relating to the transaction, and including any promise, whether made in writing or orally, by the seller, made as an inducement to the buyer to become a party to the contract or which is part of the contract or which is made incidental to negotiations between the seller and the buyer with respect to the sale of the goods or services that are the subject of the contract, that the seller will compensate the buyer for referring customers or prospective customers to the seller for goods or services which the seller has for sale or for referring the seller to such customers or prospective customers. In any case in which, pursuant to the preceding provisions, the contract contains a promise to compensate the buyer for referring customers or prospective customers to the seller or the seller to such customers, the contract must contain a provision to the effect that the amount otherwise owing under the contract at any time is reduced by the amount of compensation owing pursuant to such promise.

(b) Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "Security Agreement" or "Lien Contract," as the case may be, shall appear in at least ten-point bold type where a security interest in the goods is retained or a lien on other goods or realty is obtained by the seller as security for the goods or services purchased. Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "Retail Installment Contract," shall appear in at least ten-point bold type where security is not obtained by the seller for the goods or services purchased: Provided, That a revolving charge agreement or account need not be signed again but a memorandum shall be sent to the buyer by the seller at the time of the issuance of new credit under the contract.

(c) A notice in at least eight-point bold type reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the service charge."

Section 303. Except as provided in Article VIII of this act, a contract shall contain the following:

(a) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods or services sufficient to identify them. Services or multiple items of goods may be described in general terms and may be described in detail sufficient to identify them in a separate writing.

(b) The cash sale price of the goods, services and accessories which are the subject matter of the retail installment sale.

(c) The amount of the buyer's down payment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.

(d) The difference between item (b) and item (c).

(e) The amount, if any, included for insurance, specifying the coverages and the cost of each type of coverage.

(f) The amount, if any, of official fees.

(g) The unpaid balance, which is the sum of items (d), (e) and (f).

(h) The amount of the service charge, if any.

(i) The time balance, which is the sum of items (g), and (h), payable by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars and the due date or period thereof.

(j) The time sale price.

(k) The following provision in at least ten-point, boldface type:

NOTICE

Any holder of this consumer credit contract is subject to all claims and defenses which the debtor could assert against the seller of goods or services obtained pursuant hereto or with the proceeds hereof. Recovery hereunder by the debtor shall not exceed amount paid by the debtor hereunder.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer.

(303 amended Mar. 25, 1982, P.L.199, No.68)

Section 304. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed.

Section 305. If the cost of any insurance is included in the contract and a separate charge is made to the buyer for such insurance, the seller and the buyer shall comply in all respects with the act of September 2, 1961 (P.L.1232), known as the "Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance."

Section 306. A contract may provide for the payment by the buyer of a delinquency charge on each installment in default for a period of not less than ten days in an amount not in excess of five percent (5%) of such installment or five dollars (\$5), whichever is less, but a minimum charge of one dollar (\$1) may be made. Only one such delinquency charge may be collected on any such installment regardless of the period during which it remains in default. The contract may also provide for payment of any actual and reasonable costs of collection occasioned by removal of the goods from the Commonwealth without written permission of the holder, or by the failure of the buyer to notify the holder of any change of residence, or by the failure of the buyer to communicate with the holder for a period of forty-five (45) days after any default in making payments due under the contract.

Section 306.1. On each retail installment account or revolving account a late fee may be assessed on each minimum payment not paid in full on the payment due date of the statement on which such minimum payment first appears.

(306.1 amended June 22, 2001, P.L.587, No.44)

Section 306.2. A seller or holder may increase the late fee by providing the buyer with a notice of the increase to the extent required and in the manner specified by the Truth in Lending Act (Public Law 90-321, 15 U.S.C. § 1601 et seq.) and the regulations issued pursuant thereto by the Board of Governors of the Federal Reserve System (Regulation Z) as such act and regulations may from time to time be amended.

(306.2 added June 22, 2001, P.L.587, No.44)

Section 307. The seller shall deliver to the buyer, or mail to him, at his address shown on the contract, a legible copy thereof completed in accordance with the provisions of this act. Until the seller does so, the buyer shall be obligated to pay only the cash sale price. Any acknowledgment by the buyer of delivery of a copy of the contract shall be printed or written in a size equal to at least ten-point bold type and, if contained in the contract shall also appear directly above the space reserved for the buyer's signature. The buyer's written acknowledgment, conforming to the requirements of this section of delivery of a copy of a contract shall be a rebuttable presumption of such delivery and of compliance with this section and section 304, in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when he purchases the contract. If the holder furnishes the buyer a copy of the contract, or a notice containing the items required by section 303 and stating that the buyer should notify the holder in writing within fifteen (15) days if he was not furnished a copy of the contract, and no such notification is given, it shall be conclusively presumed in favor of the third party that a copy was furnished as required by sections 304 and 307.

Section 308. Retail installment sales negotiated and entered into by mail or telephone without personal solicitation by a salesman or other representative of the seller, where the seller's cash and deferred payment prices and other terms are clearly set forth in a catalog or other printed solicitation of business which is generally available to the public, may be made as hereinafter provided. All of the provisions of this act shall apply to such sales except that the seller shall not be required to deliver a copy of the contract to the buyer as provided in section 307, and, if when the proposed retail installment sale contract is received by the seller from the buyer, there are blank spaces to be filled in, the seller may insert in the appropriate blank spaces the amounts of money and other terms which are set forth in the seller's catalog which is then in effect. In lieu of the copy of the contract provided for in section 307 the seller shall, prior to the due date of the first installment, furnish to the buyer a written statement of the items inserted in such blank spaces.

Section 309. If a retail installment sale is sale of goods or services for a cash sale price of fifty dollars (\$50) or less, then the retail installment contract need not be contained in a single document. If the contract is contained in more than one document, one such document shall be an original document signed by the retail buyer, stated to be applicable to purchases of goods or services to be made by the retail buyer from time to time. In such case such document, together with the sales slip, account book or other written statement relating to each

purchase, shall set forth all of the information required by section 303 and shall constitute a separate retail installment contract for each purchase. On each succeeding purchase pursuant to such original document, the sales slip, account book or other written statement may at the option of the seller constitute the memorandum required by section 803.

ARTICLE IV RESTRICTIONS ON RETAIL INSTALLMENT CONTRACTS

Section 401. No contract, obligation or agreement shall contain any provision by which: (Par. amended Mar. 25, 1982, P.L.199, No.68)

(a) The buyer agrees not to assert against a seller a claim or defense arising out of the sale or agrees not to assert against an assignee such a claim or defense other than as provided in section 402.

(b) In the absence of the buyer's default in the performance of any of his obligations, the holder may accelerate the maturity of any part or all of the amount owing thereunder.

(c) The seller or holder of the contract or other person acting on his behalf is given authority to enter upon the buyer's premises unlawfully or to commit any breach of the peace in the repossession of goods.

(d) The buyer waives any right of action against the seller or holder of the contract or other person acting on his behalf, for any illegal act committed in the collection of payments under the contract or in the repossession of goods.

(e) The buyer executes a power of attorney appointing the seller or holder of the contract, or other person acting on his behalf, as the buyer's agent in collection of payments under the contract or in the repossession of goods.

(f) The buyer relieves the seller from liability for any legal remedies which the buyer may have against the seller under the contract or any separate instrument executed in connection therewith.

(g) The buyer agrees to the payment of any charge by reason of the exercise of his right to rescind or avoid the contract.

(h) The seller or holder of the contract is given the right to commence an action on a contract under the provisions of this act in a county other than the county in which the contract was in fact signed by the buyer, the county in which the buyer resides at the commencement of the action, the county in which the buyer resided at the time that the contract was entered into, or in the county in which the goods purchased pursuant to such contract have been so affixed to real property as to become a part of such real property.

(i) An assignment of wages is given.

(j) The seller or holder of the contract or any person acting on his behalf is given authority to execute upon a judgment by confession. ((j) added Mar. 25, 1982, P.L.199, No.68)

(k) The seller or holder of the contract or any person acting on his behalf is given authority to take a mortgage or other security against residential real estate of the buyer or any other obligee to the contract. ((k) added Mar. 25, 1982, P.L.199, No.68)

Section 402. No right of action or defense arising out of a retail installment sale which the buyer has against the seller, other than as provided in section 1202, and which would be cut off by assignment, shall be cut off by assignment of the

contract to any third party whether or not he acquires the contract in good faith and for value.

No purchase money lender shall take or receive any instrument which evidences or embodies a debt arising from a purchase money loan nor shall any seller accept as full or partial payment for such sale the proceeds of any purchase money loan, unless any instrument which evidences or embodies a debt made in connection with such purchase money loan contains the following provision in at least ten-point boldface type:

NOTICE

Any holder of this consumer credit contract is subject to all claims and defenses which the debtor could assert against the seller of goods or services obtained with the proceeds hereof. Recovery hereunder by the debtor shall not exceed amount paid by the debtor hereunder.

(402 amended Mar. 25, 1982, P.L.199, No.68)

Section 403. No contract other than one for services shall provide for a lien on any goods theretofore fully paid for or which have not been sold by the seller.

Section 404. Any provision in a contract which is prohibited by this act shall be void but shall not otherwise affect the validity of the contract.

ARTICLE V
SERVICE CHARGE LIMITATION

Section 501. (a) A seller may, in a retail installment contract, contract for and, if so contracted for, the holder thereof may charge, receive and collect a service charge measured for a period between the date of such contract and the due date of the last installment and calculated for that period according to the actuarial method of computation or by application of the United States rule at a rate which is agreed upon by the seller or holder and the buyer.

(b) Notwithstanding the rates provided for in this section, no issuer of a credit card primarily engaged as a seller or distributor of gasoline shall be permitted to charge, receive or collect a service charge in excess of fifteen percent (15%) simple interest per annum on unpaid balances.

(b.1) Notwithstanding the rates provided for in this section, no bailor or lessor of goods shall be permitted to charge, receive or collect a service charge in excess of eighteen percent (18%) simple interest per annum on unpaid balances in a contract under which the bailee or lessee: (1) agrees to pay as compensation for use of the goods a sum substantially equivalent to or in excess of the value of the goods; and (2) has an option to become the owner of the goods for no additional or nominal additional consideration. This subsection shall not apply to a rental-purchase agreement as defined in 42 Pa.C.S. § 6902 (relating to definitions).

(c) A minimum service charge of fifty cents (50¢) per month may be made for each month if the service charge so computed is less than that amount; such minimum service charge may be imposed for a minimum period of six months.

(501 amended Dec. 20, 1996, P.L.1519, No.197)

Section 502. Contracts may be payable in successive monthly, semi-monthly or weekly installments.

Section 503. When a retail installment contract provides for unequal or irregular installments, the service charge shall be at the effective rate provided for in section 501, having due regard for the schedule of installments.

Section 504. The service charge shall be inclusive of all charges incident to investigating and making the contract and for the extension of the credit provided for in the contract, and no fee, expense or other charge whatsoever shall be taken, received, reserved or contracted for except as otherwise provided in this act.

ARTICLE VI PAYMENT

Section 601. Unless the buyer has notice of actual or intended assignment of a contract or installment account, payment thereunder made by the buyer to the last known holder of such contract or installment account, shall to the extent of the payment, discharge the buyer's obligation.

Section 602. At any time after its execution, but not later than one year after the last payment thereunder, the holder of a contract shall, upon written request of the buyer made in good faith, promptly give or forward to the buyer a detailed written statement which will state with accuracy the total amount, if any, unpaid thereunder. Such a statement shall be supplied by the holder once each year without charge; if any additional statement is requested by the buyer, the holder shall supply such statement to the buyer at a charge not exceeding one dollar (\$1) for each additional statement supplied to the buyer. The provisions of this section shall not apply to those transactions wherein, instead of periodic statements of account, the buyer is provided with a passbook or payment book in which all payments, credits, charges and the unpaid balance is entered.

Section 603. (a) Notwithstanding the provisions of any contract to the contrary, any buyer may pay the contract in full at any time before maturity and in so paying it shall receive a refund credit thereon for such anticipation. In addition, pursuant to any contract provision so stating and subject to the restrictions of this act, as amended, a seller or holder may accelerate the balance due on an installment sales contract, but shall provide a refund credit thereon calculated as of the date of the acceleration. The amount of any such refund credit shall be computed pursuant to the actuarial method. Actuarial method means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from the unpaid balance of the amount financed. Where the amount of the credit for anticipation of payment is less than one dollar (\$1) no refund need be made. Where the earned service charge amounts to less than the minimum service charge, there may be retained an amount equal to the minimum service charge applicable.

(b) As used in this section "actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge at the interest rate stated in the contract, as defined in Regulation Z, Appendix J, adopted under the Federal Truth in Lending Act.

(603 amended Mar. 25, 1982, P.L.199, No.68)

Section 604. After the payment of all sums for which the buyer is obligated under a contract and upon demand made by the buyer, the holder shall deliver, or mail to the buyer at his last known address, such one or more good and sufficient instruments as may be necessary to acknowledge payment in full and to release all security in the goods under such contract.

A seller or holder shall not, in the course of collecting an obligation pursuant to this act, communicate or threaten to communicate with the buyer's employer or any agent of the employer (other than to verify employment or to leave a message for the buyer to return a telephone call), or any other person not liable for the obligation other than the buyer's spouse, an adult member of the buyer's household or the attorney of the buyer, except to acquire location information with regard to the buyer from such person (without disclosing the fact of the obligation) or as permitted by order of a court or as reasonably necessary to effectuate a post-judgment judicial remedy.

(604 amended Feb. 21, 1991, P.L.1, No.1)

Section 605. (a) A judgment by confession shall not serve as the basis for a levy, execution or garnishment in any action by a seller, holder or assignee arising out of a retail installment sale, contract or account. To enforce a judgment entered by confession, plaintiff shall file an appropriate proceeding and proceed against defendant as in any original proceeding. A judgment entered by confession may be amended or modified by the court in a proceeding filed for the purpose of enforcing the judgment entered by confession; however, the priority of any lien based on the confessed judgment shall not be affected thereby. The parties to the enforcement proceeding shall have the same rights as parties in other original proceedings.

(b) Within sixty (60) days after payment of the full amount due on a judgment entered by confession, plaintiff shall satisfy the judgment and discontinue with the prejudice any proceeding brought for the purpose of enforcing a judgment entered by confession or satisfy any judgment entered in said proceeding. Plaintiff shall not require any act or payment by the defendant to cover the cost of satisfying the judgment. Any such confessed judgment not revived within one (1) year from the date on which the lien of said judgment has lapsed by operation of law shall be considered satisfied and may not thereafter be revived.

(c) The prevailing party in any action to remove, suspend or enforce such a judgment entered by confession shall be entitled to recover reasonable attorney's fees and costs as determined by the court.

(605 added Mar. 25, 1982, P.L.199, No.68)

ARTICLE VII REFINANCING AND CONSOLIDATION

Section 701. The holder of a retail installment contract may, upon agreement with the buyer, extend the scheduled due date or defer the scheduled payment of all or of any part of any installment or installments payable thereunder. No charge shall be made for any such extension or deferment unless the agreement for such extension or deferment is in writing and signed by the parties thereto. The holder may charge and contract for the payment of an extension or deferral charge by the buyer and collect and receive the same, but such charge may not exceed an amount equal to one percent (1%) per month simple interest on the amount of the installment or installments, or part thereof, extended or deferred for the period of extension or deferral. Such period shall not exceed the period from the date when such extended or deferred installment or installments, or part thereof, would have been payable in the absence of such extension or deferral, to the date when such installment or installments, or part thereof, are made payable under the agreement of extension or deferment; except that a minimum

charge of one dollar (\$1) for the period of extension or deferral may be made in any case where the extension or deferral charge, when computed at such rate, amounts to less than one dollar (\$1). Such agreement may also provide for the payment by the buyer of the additional cost to the holder of the contract or premiums for continuing in force, until the end of such period of extension or deferral, any insurance coverages provided for in the contract, subject to the provisions of section 305.

Section 702. The holder of a retail installment contract or contracts may, upon agreement in writing with the buyer, refinance the payment of the unpaid time balance or balances of the contract or contracts by providing for a new schedule of installment payments. The holder may charge and contract for the payment of a refinance charge by the buyer and collect and receive the same, but such refinance charge (1) shall be based upon the amount refinanced, plus any additional cost of insurance and of official fees incident to such refinancing, after the deduction of a refund credit in an amount equal to that to which the buyer would have been entitled under section 603 if he had prepaid in full his obligations under the contract or contracts, but in computing such refund credit there shall not be allowed the minimum earned service charge as authorized by such section; and (2) may not exceed the rate of service charge provided under Article V of this act. Such agreement for refinancing may also provide for the payment by the buyer of the additional cost to the holder of the contract or contracts of premiums for continuing in force, until the maturity of the contract or contracts as refinanced, any insurance coverages provided for therein, subject to the provisions of section 305. The refinancing agreement shall set forth the amount of the unpaid time balance or balances to be refinanced, the amount of any refund credit, the amount to be refinanced after the deduction of the refund credit, the amount of the service charge under the refinancing agreement, any additional cost of insurance and of official fees to the buyer, the new unpaid time balance and the new schedule of installment payments. Where there is a consolidation of two or more contracts then the provisions of sections 801 and 802 shall apply.

Section 703. In the event a contract provides for the payment of any installment which is more than double the amount of the average of the preceding installments the buyer, upon default of this installment, shall be given an absolute right to obtain a new payment schedule. Unless agreed to by the buyer, the periodic payments under the new schedule shall not be greater than the average of the preceding installments.

ARTICLE VIII ADD-ON SALES

Section 801. A retail installment contract which otherwise conforms to the requirements of this act may contain the provision that the seller may at his option add subsequent purchases made by the buyer to the contract, and that the total price of the goods or services covered by the contract shall be increased by the price of such additional goods or services, and that all service charges and installment payments may at the seller's option be increased proportionately, and that all terms and conditions of the contract shall apply equally to such additional goods or services. The contract may also provide that the goods purchased under the previous contract or contracts shall be security for the goods purchased under the

subsequent contract but only until such time as the time sale price under the previous contract or contracts is fully paid.

Section 802. When a subsequent purchase is made, the entire amount of all payments made previous thereto shall be deemed to have been applied toward the payment of the previous time sale price or time sale prices. Each payment thereafter received shall be deemed to be allocated to all of the various time sale prices in the same proportion or ratio as the original cash sale prices of the various purchases bear to one another; where the amount of each installment payment is increased in connection with the subsequent purchase, the subsequent payments (at the seller's election) may be deemed to be allocated as follows: an amount equal to the original rate, to the previous time sale price, and an amount equal to the increase, to the subsequent time sale price. However, the amount of any initial or down payment on the subsequent purchase shall be deemed to be allocated in its entirety to such purchase.

Section 803. When a subsequent purchase is made the seller shall deliver to the buyer, prior to the due date of the first installment, a memorandum which shall set forth the following:

(a) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods and services sufficient to identify them. Services or multiple items of goods may be described in general terms and may be described in detail in a separate writing.

(b) The cash sale price of the goods, services and accessories which are the subject matter of the new retail installment sale.

(c) The amount of the buyer's down payment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.

(d) The difference between item (b) and item (c).

(e) The amount, if any, included for insurance, specifying the coverages and the cost of each type of coverage.

(f) The amount, if any, of official fees.

(g) The unpaid balance, which is the sum of items (d), (e) and (f).

(h) The unpaid time balance of the prior contract or contracts.

(i) The new unpaid balance, which is the sum of items (g) and (h).

(j) The amount of the service charge computed in conformity with section 805.

(k) The consolidated time balance, which is the sum of items (i) and (j), payable by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars and the due date or period thereof.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computation made in determining the amount to be paid by the buyer.

This memorandum shall contain the statement that the seller is adding the subsequent purchase to the buyer's existing contract in accordance with the provisions thereof.

Section 804. Until the seller delivers to the buyer the memorandum as provided in section 803 the buyer shall be obligated to pay only the cash sale price of the subsequent purchase.

Section 805. Subject to the other provisions of Article V, the service charge to be included in a consolidated time balance

shall be determined by applying the service charge at the applicable rate specified in that article to either:

(a) The total of the unpaid balance of the subsequent contract and the unpaid balance of any previous contract included in the consolidated total determined by deducting from the then unpaid time balance thereof any then unearned service charge in an amount not less than the refund credit for anticipation provided for in Article VI of this act (computed, however, without the allowance of any minimum earned service charge), for the period from the date thereof to and including the date when the final installment of such consolidated total is payable; or

(b) The principal balance of the subsequent contract for the period from the date thereof to and including the date when the final installment of such consolidated total is payable and, if the due date of the final installment of such consolidated total is later than the due date of the final installment of any previous contract included in the consolidated total, on the time balance then unpaid on such previous contract from the date when the final installment thereof was payable to the date when the final installment of such consolidated total is payable.

Section 806. The minimum service charge as provided in subsection (b) of section 501 may be used but once in any series of add-on transactions.

ARTICLE IX RETAIL INSTALLMENT ACCOUNTS

Section 901. A retail installment account may be established by the seller upon the request of a buyer or prospective buyer. A statement setting forth the rates of service charge, which shall not exceed those authorized by this article, and describing the balance on which such service charge will be computed, shall be printed in type no smaller than eight point in every application form used by the seller and shall be stated to the applicant when such installment accounts are negotiated by telephone.

Subject to the other provisions of this article, a retail installment account may be established by a financing agency on behalf of one or more sellers from whom the financing agency may, with the buyer's consent purchase or acquire indebtedness of the buyer to be paid in accordance with the agreement.

(901 reenacted July 11, 1989, P.L.573, No.57)

Section 902. At the time a seller accepts the credit of the buyer and establishes a retail installment account for his use, the seller shall confirm this fact to the buyer in writing. Such confirmation shall contain the same disclosures as required by section 901. This confirmation shall also contain a legend that the buyer may at any time pay his entire balance.

(a) The confirmation shall be in type no smaller than elite typewriter characters.

(b) If no copy of the confirmation is retained by the seller, a notation in his permanent record showing that such confirmation was mailed, and the date of the mailing, shall serve as prima facie evidence of such mailing.

(c) Every confirmation given to a buyer after October 1, 1988, must be:

(1) Written in a clear and coherent manner using words with common and everyday meanings.

(2) Appropriately divided and captioned by its various sections.

(d) Any financing agency or retail seller who fails to comply with subsection (c) shall be liable to a consumer who is a party to a retail installment account governed by this act in an amount equal to any actual damages sustained plus a penalty of fifty dollars (\$50). The total class action penalty against any such financing agency or retail seller shall not exceed ten thousand dollars (\$10,000) in any class action or series of class actions arising out of the use by a financing agency or retail seller of a form of confirmation which fails to comply with subsection (c). No action under this subsection may be brought after both parties to the retail installment account have fully performed their obligation under such account, nor shall any financing agency or retail seller who attempts in good faith to comply with subsection (c) be liable for such penalties. Subsection (c) shall not prohibit the use of words or phrases or forms of agreement required by State or Federal law, rule or regulation or by a governmental instrumentality. A violation of the provisions of subsection (c) shall not render any retail installment account void or voidable nor shall it constitute:

(1) a defense to any action or proceeding to enforce the terms of such account; or

(2) a defense to any action or proceeding for breach of contract.

(902 reenacted July 11, 1989, P.L.573, No.57)

Section 903. Each retail seller, before he can avail himself of the service charges permitted by this article, shall display prominently in his main place of business and in each branch thereof, a statement outlining the service charge rates which will conform to this article.

(903 reenacted July 11, 1989, P.L.573, No.57)

Section 904. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the service charge authorized by this act. The service charge shall not exceed the following rates computed on the outstanding balances from month to month:

(a) On the outstanding balance, a rate which is agreed upon by the seller or holder and the buyer.

(b) A minimum service charge of fifty cents (50¢) per month may be made for each month if the service charge so computed is less than that amount; such minimum service charge may be imposed for a minimum period of six months.

(b.1) Notwithstanding the rate provided for in clause (a), no issuer of a credit card primarily engaged as a seller or distributor of gasoline shall be permitted to charge, receive or collect a service charge in excess of fifteen percent (15%) simple interest per annum on unpaid balances.

(b.2) Notwithstanding the rates provided for in clause (a), no bailor or lessor of goods shall be permitted to charge, receive or collect a service charge in excess of eighteen percent (18%) simple interest per annum on unpaid balances in a contract under which the bailee or lessee: (1) agrees to pay as compensation for use of the goods a sum substantially equivalent to or in excess of the value of the goods; and (2) has an option to become the owner of the goods for no additional or nominal additional consideration. This clause shall not apply to a rental-purchase agreement as defined in 42 Pa.C.S. § 6902 (relating to definitions).

(c) The service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than five dollars (\$5), provided that

it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

(904 amended Dec. 20, 1996, P.L.1519, No.197)

Section 904.1. (904.1 repealed Feb. 26, 1988, P.L.78, No.15 and repealed July 11, 1989, P.L.573, No.57)

Section 904.2. (a) Notwithstanding any other provision of this act, there shall be no limitation on the rate of the service charge imposed in connection with retail installment accounts issued to buyers domiciled outside Pennsylvania by a seller or holder of a retail installment account who is otherwise subject to this section: Provided further, That the rate of such service charge shall be set forth in writing and delivered to the buyer. In determining whether a buyer is domiciled in Pennsylvania, a seller or holder of a retail installment account may conclusively assume that such buyer is domiciled outside Pennsylvania if the seller or holder has not mailed any solicitation to the buyer at a Pennsylvania residential address, has not entered into a retail installment account with the buyer pursuant to a personal meeting at an office of the seller or holder in Pennsylvania and does not mail the buyer monthly billing statements to a Pennsylvania residential address.

(b) The Secretary of Banking shall report annually to the General Assembly on the impact of subsection (a) upon the availability of retail installment accounts in Pennsylvania.

(c) (Deleted by amendment).

(904.2 amended Dec. 20, 1996, P.L.1519, No.197)

Section 904.3. (904.3 repealed Dec. 20, 1996, P.L.1519, No.197)

Section 905. The seller or holder of a retail installment account shall promptly provide the buyer with a statement as of the end of each monthly period (which need not be a calendar month) setting forth the following:

(a) The balance due to the seller or holder from the buyer at the beginning of the monthly period.

(b) The dollar amount of each purchase by the buyer during the monthly period and, (unless a sales slip or memorandum of each purchase has previously been furnished the buyer or is attached to the statement) the purchase or posting date, a brief description and the cash price of each purchase.

(c) The payments made by the buyer to the seller or holder and any other credits to the buyer during the monthly period.

(d) The amount of the service charge. ((d) amended Mar. 25, 1982, P.L.199, No.68)

(e) The total balance in the account at the end of the monthly period.

(f) A legend to the effect that the buyer may at any time pay his total balance.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer.

Section 906. The service charge shall include all charges incident to investigating the making of the retail installment account. No fee, expense, delinquency, collection or other charge whatsoever shall be taken, received, reserved or contracted by the seller or holder of a retail installment account except as provided in this article. A seller may, however, in an agreement which is signed by the buyer and of which a copy is given or furnished to the buyer provide for the payment of attorney's fees and costs in conformity with Article X of this act.

Section 907. If the cost of any insurance is to be separately charged to the buyer, there shall be an agreement to this effect, signed by both the buyer and the seller, a copy of which shall be given or furnished to the buyer. Such agreement shall state whether the insurance is to be procured by the buyer or the seller or holder. If the insurance is to be procured by the seller or holder, the seller or holder shall comply with the provisions of section 305.

Section 908. Nothing in this article prohibits the execution of an agreement between a buyer and seller whereby the seller retains a security interest in goods sold to the buyer until full payment therefor has been made. The provisions of section 802 are applicable to goods sold under such an agreement.

Section 909. No retail installment account shall require or entail the execution of any note or series of notes by the buyer which when separately negotiated will cut off as to third parties any right of action or defense which the buyer may have against the seller.

Section 910. The provisions of sections 601 and 604 shall be applicable to retail installment accounts.

Section 911. Nothing in this article shall be construed to affect the validity of any agreement or contractual relationship entered into prior to April 1, 1967, except that any rate in excess of that allowed by this article shall be reduced to the permissible rate on or before April 1, 1967.

Section 912. Consistent with the provisions of this act, a seller or holder may increase the rate of the service charge by providing the buyer with a notice of the increase to the extent required and in the manner specified by the Truth in Lending Act, Title I of the Federal Consumer Credit Protection Act (Public Law 90-321) and the regulations issued pursuant thereto by the Board of Governors of the Federal Reserve System (Regulation Z) as such act and regulations may from time to time be amended. Any such increase shall be limited in its application to indebtedness incurred after the effective date of this act.

(912 added Mar. 25, 1982, P.L.199, No.68)

ARTICLE X ATTORNEY'S FEES AND COURT COSTS; RATE CHARTS

Section 1001. Reasonable attorney's fees and costs shall be awarded to the prevailing party in any action on a contract or installment account subject to the provisions of this act regardless of whether such action is instituted by the seller, holder or buyer. Where the defendant alleges in his answer that he tendered to the plaintiff the full amount to which he was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be a prevailing party within the meaning of this article.

Section 1002. (1002 repealed Mar. 25, 1982, P.L.199, No.68)

ARTICLE XI REPOSSESSION AND RESALE

Section 1101. In the event of any default by the buyer in the performance of his obligations under a contract or installment account, the holder, pursuant to any rights granted therein, in proceeding to recover judgment for the balance due or in retaking the goods, shall comply with and be limited by all the requirements of the Uniform Commercial Code.

Section 1102. A seller or holder may not accelerate the maturity of a retail installment contract, commence any legal action or repossess without legal process unless the buyer is in default and unless the seller or holder shall provide the buyer with notice, sent by certified mail, to the buyer's last known address or delivered personally to the residence of the buyer, informing the buyer (1) of his right to cure the default upon payment of the amount in default plus delinquency or deferral charges within twenty-one (21) days of the date of receipt of such notice, (2) the name, address and telephone number of the seller or holder, (3) total amount due, including amount of delinquency charges, (4) exact date by which the amount due must be paid, (5) name, address and telephone number of the person to whom payment must be made, and (6) other performance necessary to cure a default arising from other than nonpayment herein and the buyer is given the rights so specified. The seller or holder shall not be required to provide such notice more than once in any twelve (12) month period. The act of curing a default restores to the buyer his rights under the retail installment contract as though no default had occurred.

(1102 added Mar. 25, 1982, P.L.199, No.68)

ARTICLE XII PENALTIES

Section 1201. Any person who wilfully and intentionally violates, or shall direct or consent to the violation of, any provision of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year, or both.

Section 1202. In case of failure by any person to comply with the provisions of this act, such person or any person who acquires a contract or installment account with knowledge of such noncompliance is barred from recovery of any time price differential or service charge or of any delinquency, collection, extension, deferral or refinance charge imposed in connection with such contract or installment account and the buyer shall have the right to recover from such person an amount equal to any of such charges paid by the buyer.

Section 1203. Notwithstanding the provisions of this article, any failure to comply with any provision of the act may be corrected by the holder in accordance with the provisions of this section, provided that a wilful violation may not be corrected, and a correction which will increase the amount owed by the buyer or the amount of any payment shall not be effective unless the buyer concurs in writing with the correction. If a violation is corrected by the holder in accordance with the provisions of this section, neither the seller nor the holder shall be subject to any penalty under this article. The correction shall be made by delivery to the buyer of a corrected copy of the contract within thirty days of the execution of the original contract by the buyer. Any amount improperly collected from the buyer shall be credited against the indebtedness evidenced by the contract.

Section 1204. In any case in which a person wilfully violates any provision of this act in connection with the imposition, computation or disclosures of or relating to a time price differential or service charge on a consolidated total of two or more contracts under the provisions of Article VIII of this act, the buyer may recover from such person an amount

equal to three times the total of the time price differentials or service charges and any delinquency, collection, extension, deferral or refinance charges imposed, contracted for or received on all contracts included in the consolidated total and the seller shall be barred from the recovery of any such charges.

Section 1205. An action on a contract under the provisions of this act shall be commenced in the county in which the contract was in fact signed by the buyer, in the county in which the buyer resided at the time the contract was entered into, in the county in which the buyer resides at the commencement of the action, or in the county in which the goods purchased pursuant to such contract have been so affixed to real property as to become a part of such real property.

ARTICLE XIII
CONSTRUCTION, REPEALER AND EFFECTIVE DATE

Section 1301. All acts or parts of acts inconsistent herewith are hereby repealed.

Section 1302. Severability.--If any provision of this act or the application thereof to any person or circumstance is held unconstitutional, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 1303. This act shall take effect April 1, 1967.