

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 468

Session of
1981

INTRODUCED BY WILSON, MAIALE, ANDERSON, PICCOLA, MANMILLER AND
DININNI, FEBRUARY 9, 1981

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE,
FEBRUARY 9, 1981

AN ACT

1 Amending the act of August 14, 1963 (P.L.1082, No.464), entitled
2 "An act defining and regulating home improvement installment
3 contracts for the modernization, rehabilitation, repair,
4 alteration or improvement upon or in connection with real
5 property; prescribing the requirements of such contracts and
6 limitations on the enforcement thereof; conferring powers and
7 imposing duties upon the courts of common pleas, the Attorney
8 General and district attorneys, and providing remedies and
9 penalties," further providing for finance charges, fees,
10 prepayment rights and credit insurance.

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

13 Section 1. Clauses (5), (12), (14) and (18) of section 102,
14 clause (f) of section 203, sections 205, 301, 303, 305, 306,
15 307, 308 and 407, act of August 14, 1963 (P.L.1082, No.464),
16 known as the "Home Improvement Finance Act," are amended to
17 read:

18 Section 102. Definitions.--The following words, terms and
19 phrases, when used in this act, shall have the meaning ascribed
20 to them in this section, except where the context clearly
21 indicates otherwise:

1 * * *

2 (5) "Finance charge" whether expressed as such or as "credit
3 service charge," "service charge," "time price differential" or
4 the like, means that amount by which the time sale price exceeds
5 the aggregate of the cash price and the amounts, if any,
6 included for insurance premiums and [official] permitted fees.

7 * * *

8 (12) "[Official] Permitted fees" means (i) the fees required
9 by law to be and actually paid to the appropriate public officer
10 for obtaining any permit or filing or recording or releasing any
11 judgment, mortgage or other lien or perfecting any security
12 interest taken or reserved as security in connection with a home
13 improvement installment contract; and (ii) fees or charges for
14 title examination, abstract of title, credit reports, surveys,
15 appraisals or financing agency credit approval incurred by the
16 home improvement contractor in connection with a home
17 improvement installment contract. Such fees shall not exceed
18 those that are usual and customary for said services.

19 * * *

20 (14) "Principal amount financed" means the cash price of the
21 goods and services which are the subject matter of the home
22 improvement installment sale minus the amount of the buyer's
23 down payment, plus the amounts, if any, included for insurance
24 and [official] permitted fees.

25 * * *

26 (18) "Time sale price" means the total of the cash price of
27 the goods and services or services, the finance charge and the
28 amounts, if any, included for insurance premiums and [official]
29 permitted fees.

30 Section 203. Mandatory Contract Items.--Except as provided

1 in sections 306, 307 and 308 of this act, a home improvement
2 installment contract shall contain the following:

3 * * *

4 (f) The amount of [official] permitted fees, if any.

5 * * *

6 Section 205. Insurance.--A buyer shall not be compelled to
7 purchase credit life or credit disability insurance in
8 connection with any home improvement installment contract. If
9 the premium paid for any group credit life or other insurance is
10 included in the home improvement installment contract and a
11 separate charge is made to the buyer for such insurance:

12 (a) The contract shall state whether the insurance is to be
13 procured by the buyer or the contractor.

14 (b) The amount, if any, included for such insurance, shall
15 not be in excess of rates established in the then current
16 published applicable manual of a recognized standard insurance
17 rating bureau, or the rates fixed or approved by authority of
18 the Commonwealth of Pennsylvania. If any such group credit life
19 or other insurance is cancelled, the refund for unearned
20 insurance premiums received or receivable by the holder of the
21 contract, or the excess of the amount included in the contract
22 for group credit life insurance over the premiums paid or
23 payable by the holder of the contract therefor, together with,
24 in either case, the unearned portion of the finance charge
25 applicable thereto, shall be credited to the final maturing
26 installments of the contract, provided that no such credit need
27 be made if the amount thereof would be less than one dollar.

28 (c) If the insurance is to be procured by the contractor or
29 holder, he shall, within thirty days after delivery of the goods
30 and furnishing of the services under the contract, deliver, mail

1 or cause to be mailed to the buyer, at his address, as specified
2 in the contract, a notice thereof or a copy of the policy or
3 policies of insurance or a certificate or certificates of the
4 insurance so procured.

5 Section 301. Finance Charge Limitation.--[(a)] The maximum
6 finance charge included in a home improvement installment
7 contract [payable in substantially equal successive monthly
8 installments beginning one month from the date the finance
9 charge accrues, shall not exceed eight dollars (\$8) per one
10 hundred dollars per annum. Such finance charge shall be computed
11 on the principal amount financed on the contract notwithstanding
12 that the time balance is required to be paid in installments]
13 shall not exceed the equivalent of seventeen and four-tenths per
14 cent per annum simple interest on the unpaid balance of the
15 principal amount financed. The finance charge shall not accrue
16 over a longer period than one which commences on the date of
17 substantial completion of the contract by the contractor and
18 ends on the date when the final installment is [payable. For a
19 period less or greater than twelve months or for amounts less or
20 greater than one hundred dollars (\$100), the amount of the
21 maximum finance charge shall be increased or decreased
22 proportionately. A fractional monthly period of fifteen days or
23 more may be considered a full month. If the finance charge
24 computed as above provided is less than twelve dollars (\$12), a
25 minimum finance charge of twelve dollars (\$12) may be made.

26 (b) Subject to the limitations in subsection (c) of this
27 section, when a contract is payable other than in substantially
28 equal successive monthly installments, as where payable in
29 irregular or unequal installments either in amount or periods
30 thereof, or in regular installments followed by or interspersed

1 with an irregular, unequal or larger installment or
2 installments, or if the finance charge accrues from a date more
3 than one month before the first installment is payable, the
4 finance charge may not exceed an amount which, having due regard
5 for the schedule of installment payments, will provide the same
6 yield as if the contract were payable in accordance with the
7 standard payment terms stated in subsection (a) hereof.

8 (c) If the amount of any installment is two times or more
9 the amount of any other installment except the down payment, the
10 amount of the finance charge in respect to the portion of the
11 principal amount financed included in such larger installment
12 shall not exceed the equivalent of six per cent per annum simple
13 interest for the period from the date on which finance charge
14 begins to accrue to the due date of such larger installment and
15 such portion of the finance charge shall be payable in
16 substantially equal periodic installments throughout such
17 period.] paid. No finance charge shall be paid or received in
18 advance, except if the first installment payment is due more
19 than thirty days after substantial completion of the contract by
20 the contractor, a finance charge may be paid and received in
21 advance for the period commencing upon the date of such
22 substantial completion and ending on the first day of the
23 following month.

24 Section 303. Prepayment.--[(a)] Notwithstanding the
25 provisions of any home improvement installment contract to the
26 contrary, any buyer may pay the contract in full or in part at
27 any time before maturity [and in so paying shall receive a
28 refund credit thereon. Except as provided in subsection (b) of
29 this section, the amount of any such refund credit shall
30 represent at least as great a proportion of the finance charge,

1 or if the contract has been extended, deferred or refinanced, of
2 the additional charge therefor, as the sum of the periodical
3 time balance scheduled by the contract to follow the installment
4 date after the day of prepayment bears to the sum of all the
5 periodical time balances under the schedule of installments in
6 the contract or, if the contract has been extended, deferred or
7 refinanced, as so extended, deferred or refinanced.

8 (b) If any part of the finance charge is computed on an
9 installment as provided in subsection (c) of section 301 of this
10 act, the amount of such refund credit applicable to that part of
11 the finance charge shall represent at least as great a
12 proportion of that part of the finance charge as the number of
13 months to elapse after the month in which prepayment is made to
14 the due date of that installment bears to the number of months
15 from the date the finance charge accrues to the due date of that
16 installment.

17 (c) Where the amount of the credit for anticipation of
18 payment is less than one dollar (\$1), no refund need be made.
19 Where the earned finance charge amounts to less than the minimum
20 finance charge, there may be retained an amount equal to the
21 minimum finance charge under section 301 hereof]. An improvement
22 installment contract may however provide that any partial
23 prepayment shall be in an amount not less than one hundred
24 dollars (\$100). When a home improvement installment contract is
25 paid in full the holder of such contract shall cancel any
26 credit, life or disability insurance obtained through a holder
27 of the home improvement contract and refund to the buyer, in
28 accordance with regulations promulgated by the Insurance
29 Department, any unearned premium for such insurance.

30 Section 305. Refinancing; Consolidation.--The holder of a

1 home improvement installment contract or contracts may, upon
2 agreement in writing with the buyer, refinance the payment of
3 the unpaid time balance or balances of the contract or contracts
4 by providing for a new schedule or schedules of installment
5 payments. The holder may charge and contract for the payment of
6 a refinance charge by the buyer and collect and receive the
7 same, but such refinance charge shall be based upon the amount
8 refinanced, plus any additional cost of insurance and of
9 [official] permitted fees incident to such refinancing[, after
10 the deduction of a refund credit in an amount equal to that to
11 which the buyer would have been entitled under section 303 if he
12 had prepaid in full his obligations under the contract or
13 contracts, computed without allowance for any minimum earned
14 finance charge]. Such refinance charge shall not exceed the rate
15 of finance charge provided under section 301 of this act. Such
16 agreement for refinancing may also provide for the payment by
17 the buyer of the additional cost to the holder of the contract
18 or contracts of premiums for continuing in force, until the
19 maturity of the contract or contracts as refinanced, any
20 insurance coverages provided therein. The refinancing agreement
21 shall set forth the amount of the unpaid time balance or
22 balances to be refinanced, [the amount of any refund credit,]
23 the amount to be refinanced [after the deduction of the refund
24 credit], any additional premiums paid for insurance and of
25 [official] permitted fees to the buyer, the amount of the
26 finance charge under the refinancing agreement, the new unpaid
27 time balance or balances and the new schedule or schedules of
28 installment payments. A refinancing agreement between a
29 financing agency and a buyer may consolidate the new unpaid time
30 balances of two or more home improvement installment contracts

1 by providing for a new schedule of consolidated installment
2 payments, and may provide for the acceleration of the
3 consolidated time balance upon a failure of the buyer to pay in
4 full any consolidated installment payment. A contractor may not
5 consolidate two or more home improvement installment contracts
6 except to the extent provided in sections 306, 307 and 308
7 hereof.

8 Section 306. Add-On Sales.--A home improvement installment
9 contract which otherwise conforms to the requirements of this
10 act may contain the provision that the contractor may at his
11 option add to such contract subsequent home improvement
12 installment sales made by such contractor to the buyer, and that
13 the total time balance of the goods and services covered by such
14 contract shall be increased by the principal amount financed
15 under the subsequent sale or sales, and that all finance charges
16 and installment payments may, at the contractor's option, be
17 increased proportionately and that all terms and conditions of
18 the contract shall apply equally to such sale or sales. In
19 addition, such contract may provide for the payment by the buyer
20 of the additional cost of premiums for continuing in force,
21 until the due date of the final installment of the consolidated
22 time balance, any insurance coverages provided for therein. [The
23 minimum finance charge as provided in section 301 may be used
24 but once in any series of add-on home improvement installment
25 sales.]

26 Section 307. Finance Charge; Add-On Sales.--[Subject to the
27 provisions of section 301, the finance charge to be included in
28 a consolidated time balance shall be determined by applying a
29 finance charge at a rate not exceeding the maximum rate
30 specified in that section to either:

1 (a) The total of the principal amount financed under the
2 subsequent sale and the unpaid balance of any previous contract
3 determined by deducting from the unpaid time balance thereof as
4 of the date the finance charge is to accrue on the subsequent
5 sale, any then unearned finance charge in an amount not less
6 than the refund credit provided for in section 303 computed
7 without the allowance of any minimum earned finance charge, for
8 the period from the date the finance charge is to accrue on the
9 subsequent sale to and including the date when the final
10 installment of such consolidated time balance is payable; or

11 (b) The principal amount financed under the subsequent sale
12 for the period from the date the finance charge is to accrue
13 thereon to and including the date when the final installment of
14 such consolidated time balance is payable and, if the due date
15 of the final installment of such consolidated time balance is
16 later than the due date of the final installment of any previous
17 contract included in the consolidated time balance, on the
18 unpaid time balance of such previous contract as of the date the
19 finance charge is to accrue on the subsequent sale for the
20 period from the date when the final installment on the previous
21 contract would have been payable to the date when the final
22 installment of such consolidated time balance is payable.] The
23 finance charge imposed with respect to the unpaid principal
24 balance of any additional sales made pursuant to section 306
25 shall not exceed the limit set forth in section 301.

26 Section 308. Memorandum; Add-On Sales.--When a subsequent
27 home improvement installment sale is made, the contractor shall
28 deliver to the buyer, prior to the due date of the first
29 installment, a memorandum which shall set forth the following:

30 (a) The name of the contractor, the place of business of the

1 contractor, the name and address of the buyer, as specified by
2 the buyer, the location of the premises to be improved, and a
3 description of the goods and services sufficient to identify
4 them.

5 (b) The cash price of the goods and services which are
6 subject matter of the subsequent sale.

7 (c) The amount of the buyer's down payment, in respect of
8 the subsequent sale, itemizing any allowance given by the
9 contractor, the amounts paid in money and in goods and
10 containing a brief description of the goods, if any, traded in.

11 (d) The unpaid cash balance which is the difference between
12 item (b) and item (c).

13 (e) The premium paid for each type of insurance, if any,
14 included in the subsequent sale for which a separate charge is
15 made, a statement as to whether the insurance is to be procured
16 by the contractor or buyer and a brief description of each type
17 of coverage and the term thereof.

18 (f) The amount of [official] permitted fees, if any, in
19 respect of the subsequent sale.

20 (g) The principal amount financed in respect of the
21 subsequent sale which is the sum of items (d), (e) and (f).

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

24 [(i) The amount of any refund credit in respect of the prior
25 contract or contracts.

26 (j) Item (h) less item (i).

27 (k) The premiums paid for any additional insurance and the
28 cost of official fees in respect of the prior contract or
29 contracts, a statement as to whether the insurance is to be
30 procured by the contractor or buyer, and a brief description of

1 each type of coverage and the term thereof.]

2 (l) The total principal amount financed, which is the sum of
3 items (g)[, (j) and (k)] and (h).

4 (m) The amount of the finance charge expressed in dollars.

5 (n) The consolidated time balance, which is the sum of items
6 (l) and (m), payable by the buyer to the contractor, the number
7 of installments required, the amount of each installment
8 expressed in dollars and the due date or period thereof.

9 (o) If any installment substantially exceeds in amount any
10 prior installment other than the down payment, the following
11 legend printed in ten point bold type or type-written and
12 underlined: This contract ("memorandum") is not payable in
13 installments of equal amounts. Followed, if there be but one
14 larger installment by: An installment of \$..... will be due
15 on, or if there be more than one
16 larger installment, by: Larger installments will be due as
17 follows: (insert the amount or
18 amounts of every larger installment and its due date).

19 The items need not be stated in the sequence or order set
20 forth above. Additional items may be included to explain the
21 computations made in determining the amount to be paid by the
22 buyer. The memorandum need not make any reference to [items (e),
23 (f) and (k)] item (e) or (f) if a charge for the item is not
24 included. The memorandum shall contain the statement that the
25 contractor is adding the subsequent home improvement installment
26 sale to the buyer's existing contract in accordance with the
27 provisions thereof. Until the contractor delivers to the buyer
28 the memorandum as provided in this section, the buyer shall be
29 obligated to pay only the cash price of the subsequent home
30 improvement installment sale.

1 Section 407. Prohibited Charges.--No person shall charge,
2 collect or receive from any buyer, directly or indirectly, any
3 further or other amount for costs, [credit investigation
4 charges,] insurance premiums, examination, [appraisal, service,]
5 brokerage, commission, interest, discount, expense, fee, fine,
6 penalty or other thing of value in connection with a home
7 improvement installment contract other than the charges
8 authorized by this act. Any such unauthorized charge shall be
9 unenforceable. Any payment thereof shall be applied to the next
10 maturing installment, or, if the contract has been fully paid,
11 remitted to the buyer and the buyer shall be entitled to recover
12 all such unauthorized charges.

13 Section 2. Nothing contained in this act shall be construed
14 to impair or affect any home improvement installment contract
15 executed prior to the effective date hereof.

16 Section 3. This act shall take effect in 30 days.