House Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 93

HOUSE BILL 2607

AN ACT

AMENDING SECTION 44-291, ARIZONA REVISED STATUTES; RELATING TO THE MOTOR VEHICLE TIME SALES DISCLOSURE ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 44-291, Arizona Revised Statutes, is amended to read:

44-291. Computation of interest; prepayment rebate; additional charges; secondary motor vehicle finance transaction; definitions

A. Except as provided in subsections G and H of this section, under a retail installment contract it is lawful to charge and receive interest not to exceed the maximum rate set by contract.

B. The finance charge may be computed either at a single annual percentage rate using the actuarial method or it may be precomputed on the assumption that all payments will be made in the amount and on the dates scheduled. If the finance charge is precomputed, the fact that payments are made either before or after the date due does not affect the amount of finance charge which the seller or holder may charge or receive. If the precomputed contract balance is prepaid in full by cash, a new loan, refinancing or otherwise, the seller or holder shall charge only for the finance charge which has been earned and unpaid late payment or delinquency charges as of the date of prepayment, and the buyer shall receive a rebate of that portion of the precomputed finance charge which is the difference between the total precomputed finance charges and the charges at the contract finance charge computed on the unpaid principal balance based on the number of days or months to maturity based on either a thirty day month - three hundred sixty day year or daily three hundred sixty-five or three hundred sixty-six day year on the number of days remaining to final maturity, except that the number of days shall be the same as that used in calculating the finance charge as prescribed in subsection C of this section. The amount of such rebate shall not be computed pursuant to the method commonly known as the "rule of 78's". To simplify the calculation of earned finance charge, it is permissible to assume that all payments were made as originally scheduled or as otherwise mutually agreed.

C. It is permissible to calculate a finance charge on an annual basis of twelve months of thirty days each, or on a daily basis if a day is counted as 1/360th, 1/365th, or 1/366th of a year, as the buyer and seller or holder may agree by writing. The seller or holder may also charge a late payment or delinquency charge, in addition to all finance charges permitted, on each installment not paid in full ~~upon~~ ON the tenth day after its due date in an amount not to exceed five per cent of the unpaid balance of the installment ~~or ten dollars, whichever is less~~.

D. In addition to the cash sale price of the vehicle, the seller may charge for any insurance premiums incurred in connection with the retail installment transaction.

E. Notwithstanding the late payment or delinquency charge provided in subsection C of this section, in a commercial transaction, the seller or holder may charge a late payment or delinquency charge, in addition to all

finance charges permitted, on each installment not paid in full ~~upon~~ ON the tenth day after its due date in an amount of not more than five per cent of the unpaid balance of the installment.

F. Any sales finance company may purchase or acquire or agree to purchase or acquire from any seller any contract on such terms and conditions as may be agreed ~~upon~~ ON between them. Filing of the assignment notice to the buyer of the assignment and any requirement that the holder maintain dominion over the payments or the motor vehicle if repossessed is not necessary to the validity of a written assignment of a contract as against creditors, subsequent purchasers, pledgees, mortgagees and lien claimants of the seller. Unless the buyer has notice of the assignment of his contract, payment under the contract made by the buyer to the last known holder of such contract is binding ~~upon~~ ON all subsequent holders.

G. If the retail installment contract is a secondary motor vehicle finance transaction, the seller, bailor, lender or lessor shall determine the annual secondary motor vehicle finance rate and all charges relating to the sale, conditional sale, bailment or lease and repurchase of the vehicle. The seller, bailor, lender or lessor shall calculate the annual secondary motor vehicle finance rate by multiplying the monthly secondary motor vehicle finance rate by twelve. A retail installment contract that is a secondary motor vehicle finance transaction is subject to the following maximum finance rates on a secondary motor vehicle finance contract in the original principal amount of:

1. Five hundred dollars or less, a monthly finance rate of seventeen per cent.

2. More than five hundred dollars but not more than two thousand five hundred dollars, a monthly finance rate of fifteen per cent.

3. More than two thousand five hundred dollars but not more than five thousand dollars, a monthly finance rate of thirteen per cent.

4. More than five thousand dollars, a monthly finance rate of ten per cent.

H. Except as the result of an accidental or bona fide error, if the licensee charges, contracts for or receives any amount in excess of the finance charges and other fees expressly permitted by this chapter, the secondary motor vehicle transaction is voidable and the licensee has no right to collect or receive any principal, finance charges or other fees in connection with that secondary motor vehicle finance transaction. Any secondary motor vehicle finance transaction that is made by a person who is required to be licensed pursuant to this chapter but who is not licensed is void, and the person has no right to collect, receive or retain any principal, finance charges or other fees in connection with that secondary motor vehicle finance transaction.

I. Section 44-287, subsection B does not apply to a secondary motor vehicle finance transaction if the contract complies with the disclosure requirements prescribed in federal law. The seller shall conspicuously disclose in the contract the annual secondary motor vehicle finance rate.

J. For the purposes of this section:

1. "Actuarial method" means the method of allocating payments made on a debt between the unpaid principal balance and the finance charge pursuant to which a payment is applied first to the finance charge due and any remainder is subtracted from the unpaid principal balance.

2. "Commercial transaction" means a transaction in which the motor vehicle is intended by the borrower for use primarily for other than personal, family or household purposes.

APPROVED BY THE GOVERNOR APRIL 19, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2010.

Passed the House March 11, 2010

by the following vote: 44 Ayes,

14 Nays, 1 Not Voting 1 vacancy

Speaker of the House

Pro Tempore

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 12, 2010

by the following vote: 26 Ayes,

3 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

13 day of April, 2010

at 8:50 o'clock A. M.

Secretary to the Governor

Approved this 19th day of

April

at 5:05 ~~o'clock~~ P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 20th day of April, 2010

at 10:21 o'clock a M.

Secretary of State

H.B. 2607