

# HOUSE BILL No. 5259

November 6, 1989, Introduced by Representatives Bennett and Middaugh and referred to the Committee on Corporations and Finance.

A bill to amend sections 2 and 13 of Act No. 27 of the Public Acts of the First Extra Session of 1950, entitled as amended

"Motor vehicle sales finance act,"

section 2 as amended by Act No. 339 of the Public Acts of 1984, being sections 492.102 and 492.113 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 2 and 13 of Act No. 27 of the Public  
2 Acts of the First Extra Session of 1950, section 2 as amended by  
3 Act No. 339 of the Public Acts of 1984, being sections 492.102  
4 and 492.113 of the Michigan Compiled Laws, are amended to read as  
5 follows:

6       Sec. 2. ~~The following words, terms, and phrases when used~~  
7 ~~in this act shall have the meaning ascribed to them in this~~

1 ~~section, except where the context clearly indicates otherwise~~ AS  
2 USED IN THIS SECTION:

3 (A) ~~1.~~ "Motor vehicle" means a self-propelled device by  
4 which a person or property may be transported upon a public  
5 highway. Motor vehicle does not include tractors, motorcycles,  
6 trailers, semitrailers, buses, trucks, power shovels, road  
7 machinery, agricultural machinery, and other machinery not  
8 designed primarily for highway transportation ~~, but which may~~  
9 ~~incidentally~~ TO transport persons or property. ~~on a public~~  
10 ~~highway.~~ Motor vehicle also does not include devices which move  
11 upon or are guided by a track or travel through the air.

12 (B) ~~2.~~ "Person" means an individual, partnership, associa-  
13 tion, business corporation, financial institution, nonprofit cor-  
14 poration, ~~common law trust, joint stock company,~~ or any other  
15 ~~group of individuals however organized, and the officers, direc-~~  
16 ~~tors, employees, and agents of those persons~~ LEGAL ENTITY.

17 (C) ~~3.~~ "Installment buyer" or "buyer" means a person who  
18 buys, hires, or leases a motor vehicle under an installment sale  
19 contract or a legal successor in interest to that person, and  
20 shall continue to designate that person notwithstanding that he  
21 or she may have entered into 1 or more extensions, deferments,  
22 renewals, or other revisions of the original contract.

23 (D) ~~4.~~ "Installment seller" or "seller" means a person  
24 engaged in the business of selling, offering for sale, or hiring  
25 or leasing motor vehicles under installment sale contracts or a  
26 legal successor in interest to that person. As used in this  
27 subdivision, "business" does not include an isolated sale.

1 (E) ~~5.~~ "Holder" means a person, including a seller, who is  
 2 currently entitled to the rights of a seller under an installment  
 3 sale contract.

4 (F) ~~6.~~ "Sales finance company" means a person, INCLUDING A  
 5 FINANCIAL INSTITUTION, engaged as principal, agent, or broker in  
 6 the business of financing or soliciting the financing of install-  
 7 ment sale contracts made between other parties, ~~and includes~~  
 8 INCLUDING, but ~~is~~ not limited to, the business of acquiring,  
 9 investing in, or lending money or credit on the security of the  
 10 retail seller's interest in ~~such~~ THE contracts whether by dis-  
 11 count, purchase, or assignment of those contracts, or otherwise.  
 12 ~~The term~~ SALES FINANCE COMPANY does not include a person ~~7~~  
 13 ~~financial institution, or sales finance company~~ that takes  
 14 assignments of, or an interest in, an aggregation of installment  
 15 sale contracts only as security for bona fide commercial loans  
 16 under which, in the absence of default or other bona fide breach  
 17 of the loan contract, ownership of the contracts remains vested  
 18 in the assignor and collection of payments on the contracts is  
 19 made by the assignor, nor a person who purchases installment sale  
 20 contracts from a sales finance company or a financial  
 21 institution. The term includes a person, whether or not licensed  
 22 under this act, who as a seller finances installment sale con-  
 23 tracts for other sellers or sales finance companies. ~~The term~~  
 24 ~~includes a financial institution.~~

25 (G) ~~7.~~ "Financial ~~institutions~~ INSTITUTION" means a  
 26 state or national bank, ~~or~~ A state or federal savings and loan

1 association, or A state or federal credit union that elects to  
2 come under the provisions of this act.

3 (H) ~~8.~~ "Retail sale" means the sale of a motor vehicle for  
4 use by the buyer or for the benefit or satisfaction which the  
5 buyer may derive from the use of the motor vehicle by another.

6 (I) ~~9.~~ "Installment sale contract" or "contract" means a  
7 contract for the retail sale of a motor vehicle ~~, or which has a~~  
8 ~~similar purpose or effect,~~ under which part or all of the price  
9 is payable in 2 or more scheduled payments, ~~subsequent to the~~  
10 ~~making of the contract, or as to which the obligor undertakes to~~  
11 ~~make 2 or more scheduled payments or deposits that can be used to~~  
12 ~~pay part or all of the purchase price,~~ whether or not the seller  
13 has retained a security interest in the motor vehicle or has  
14 taken collateral security for the buyer's obligation, and  
15 includes a loan, mortgage, conditional sale contract,  
16 purchase-money chattel mortgage, hire-purchase agreement, or con-  
17 tract for the bailment or leasing of a motor vehicle. ~~under~~  
18 ~~which the hire purchaser, the bailee, or the lessee contracts to~~  
19 ~~pay as compensation a sum substantially equivalent to or in~~  
20 ~~excess of the value of the motor vehicle, and any other form of~~  
21 ~~contract which has a similar purpose or effect.~~ The terms do not  
22 include a sale or contract for sale upon an open book account in  
23 which the seller has not retained or taken a security interest in  
24 the motor vehicle sold or collateral security for the buyer's  
25 obligation, the buyer is not required to pay any sum other than  
26 the cash price of the motor vehicle sold in connection with  
27 ~~such~~ THE sale or extension of credit, and the buyer is

1 obligated to pay for the motor vehicle in full within 90 days  
2 after the time the sale or contract for sale was made. ~~These~~  
3 THE terms ~~also mean and apply to~~ SHALL INCLUDE any extension,  
4 deferment, renewal, or other revision of an installment sale  
5 contract.

6 (J) ~~+0.~~ "Cash price" means the price INCLUDING ACCESSO-  
7 RIES, EXTENDED SERVICE CONTRACTS, OR OTHER ITEMS OR SERVICES,  
8 measured in dollars at which the seller would in good faith sell  
9 to the buyer ~~or to any other buyer under like circumstances,~~  
10 and the buyer would in good faith buy from the seller, the motor  
11 vehicle which is the subject matter of the installment sale con-  
12 tract, if the sale were a sale for cash instead of an installment  
13 sale.

14 (K) ~~++.~~ "Down payment" means all partial payments, whether  
15 made in cash or otherwise, received by or for the benefit of the  
16 seller before or substantially contemporaneous with either the  
17 execution of the installment sale contract or the delivery of the  
18 goods sold under that contract, whichever occurs later.

19 (L) ~~+2.~~ "Principal amount financed" means the unpaid cash  
20 price balance after deducting the down payment, adding the cost  
21 of any insurance premiums required or obtained as security for or  
22 by reason of the sale of a motor vehicle under an installment  
23 sale contract, and adding other costs necessary or incidental to  
24 the sale of the motor vehicle under ~~such~~ THE contract which the  
25 seller contracts to pay on behalf of the buyer and for the amount  
26 of which the seller agrees to extend credit to the buyer and for  
27 which the buyer contracts voluntarily.

1       (M) ~~+3.~~ "Finance charge" means the amount of the  
2 consideration in excess of the cash price which the buyer is  
3 required to pay to the seller for the credit extended by the  
4 seller to the buyer in conjunction with the sale of a motor vehi-  
5 cle AND OTHER ITEMS OR SERVICES under an installment sale con-  
6 tract or the differential between the cash sale price of the  
7 motor vehicle AND OTHER ITEMS OR SERVICES and the installment  
8 sale price, exclusive of insurance premium costs and other costs  
9 necessary or incidental to an installment sale, which are specif-  
10 ically authorized by this act to be included in an installment  
11 sale contract.

12       (N) ~~+4.~~ "Time balance" means the sum of the principal  
13 amount financed and the finance charge.

14       (O) ~~+5.~~ "Security interest" means a property right in the  
15 motor vehicle which is the subject of an installment sale con-  
16 tract, if the right is retained to secure performance of an obli-  
17 gation of the buyer under that contract and an extension, defer-  
18 ment, renewal, or other revision of that contract. The term  
19 includes a lien or encumbrance against that motor vehicle, a  
20 mortgage interest in that motor vehicle, and a reservation of  
21 title to that motor vehicle, whether or not expressed to be abso-  
22 lute, if the title is in substance retained for security only.

23       (P) ~~+6.~~ "Collateral security" means security, other than a  
24 security interest in a motor vehicle which is the subject of an  
25 installment sale contract, which is given to secure performance  
26 of an obligation of the buyer, or of any surety or guarantor for  
27 the buyer, under an installment sale contract or an extension,

1 deferment, renewal, or other revision of that contract. The term  
2 includes the undertakings of any surety or guarantor for the  
3 buyer and any interest in, encumbrance on, or pledge of real or  
4 personal property other than the motor vehicle which is the  
5 subject of the installment sale contract.

6 (Q) ~~+7.~~ "Administrator" means the commissioner of the  
7 financial institutions bureau.

8 (R) ~~+8.~~ "Licensee" means a person issued a license under  
9 this act as an installment seller or a sales finance company,  
10 which license has not expired or has not been surrendered or  
11 revoked, and, in the plural, means any or all persons so licensed  
12 under any or all of these 2 classifications. The term includes  
13 financial institution as defined in this section.

14 (S) ~~+9.~~ "Public sale" means a public sale after advertise-  
15 ment of each motor vehicle in at least 2 successive publications  
16 in a newspaper having general circulation in the village, city,  
17 or township in which the sale is to be held. The advertisement  
18 shall disclose the place at which the motor vehicle is stored and  
19 may be inspected, ~~—~~ the date, time, and place of the sale, ~~—~~  
20 and the make, model, and serial number of the vehicle.

21 Sec. 13. (1) ~~(a)~~ Every installment sale contract shall  
22 state the full names and addresses of all the parties ~~thereto~~  
23 TO THE CONTRACT, the date when signed by the buyer and shall con-  
24 tain a description of the motor vehicle sold ~~which shall be~~  
25 sufficient for accurate identification.

1       (2) ~~(b) Every~~ AN installment sale contract shall set forth  
2 ALL OF the following separate items ~~as such and~~ in the  
3 following order:

4       1. Cash price of the motor vehicle. This amount may  
5 include any TRANSFER FEE FOR WARRANTY OR SERVICE CONTRACTS, taxes  
6 and costs of agreed upon accessories and installation, ~~of same~~  
7 AND OTHER ITEMS OR SERVICES ADDED TO THE CASH SALES PRICE,  
8 INCLUDING DOCUMENTARY AND INSPECTION FEES. DOCUMENTARY PREPARA-  
9 TION FEES SHALL NOT EXCEED \$40.00.

10       2. Down payment made by the buyer at the time of or ~~prior~~  
11 ~~to~~ BEFORE execution of the contract, indicating whether made in  
12 cash, or represented by the agreed value of a "trade-in" motor  
13 vehicle, or other goods, or both. The amount of cash ~~and/or~~  
14 AND the value of any "trade-in" shall be shown separately. A  
15 description of the "trade-in", if any, sufficient for identifica-  
16 tion shall be shown.

17       3. Unpaid cash price balance, which shall be the difference  
18 between the cash price (item 1) and the down payment (item 2)  
19 above.

20       4. Insurance premiums and costs of travel emergency bene-  
21 fits pertaining to the operation of the automobile for the pay-  
22 ment of which the seller agrees to extend credit to the buyer.  
23 The term of ~~such~~ THE insurance, a concise description of the  
24 coverage, and ~~such~~ THE travel emergency benefits shall be set  
25 forth. If the precise cost of the insurance is not available at  
26 the time the contract is signed, an estimated amount, ascertained  
27 from the current published applicable manual of a recognized



1 standard insurance rating bureau may be set forth in the  
 2 contract. The seller shall, within 25 days after making the  
 3 installment contract, mail or cause to be mailed to the buyer at  
 4 his OR HER address as shown on the installment contract a certifi-  
 5 cate or policy of insurance and a statement, showing exact cost  
 6 ~~thereof. From and after January 1, 1958, all~~ OF THE  
 7 INSURANCE. ALL installment sale contracts shall contain the fol-  
 8 lowing warning, which shall be printed prominently in red ink and  
 9 in 12-point type or larger, directly preceding the notice pro-  
 10 vided for in ~~subdivision (d) of section 12 of this act, as~~  
 11 ~~amended~~ SECTION 12(D), and shall be enclosed by a continuous  
 12 heavy line:

13  
 14 Warning: The insurance afforded hereunder does not cover  
 15 liability for injury to persons or damage to property of others  
 16 unless so indicated hereon.  
 17

18 5. Other costs, necessary or incidental, which the seller  
 19 contracts to pay on behalf of the buyer and for the amount of  
 20 which the seller agrees to extend credit to the buyer as autho-  
 21 rized by this act. ~~Such~~ THE costs shall be itemized in the  
 22 contract as to nature and amount.

23 6. Principal amount financed, which shall be the total of  
 24 the unpaid cash price balance (item 3) plus the insurance premium  
 25 and travel emergency benefit costs (item 4) plus other costs

1 (item 5) for which the seller agrees to extend credit to the  
2 buyer.

3 7. Finance charge, which is the consideration in excess of  
4 the cash price (item 1), excluding insurance premium and travel  
5 emergency benefit costs (item 4) and other costs (item 5), which  
6 the buyer agrees to pay to the seller for the privilege of pur-  
7 chasing the motor vehicle under the installment sale contract.

8 8. Time balance, which shall be the total of the principal  
9 amount financed (item 6) plus the finance charge (item 7) and  
10 which shall represent the total obligation of the buyer which he  
11 OR SHE agrees to pay in 2 or more scheduled payments.

12 9. Payment schedule, which shall state the number of pay-  
13 ments, the amount of the payments and the time of the payments  
14 required to liquidate the time balance.

15 (3) ~~(c) Every~~ AN installment sale contract shall state  
16 clearly any collateral security taken for the buyer's obligation  
17 under the contract.

18 (4) ~~(d) Every~~ AN installment sale contract shall contain a  
19 summary notice of the buyer's principal legal rights respecting  
20 prepayment of the contract and rebate of finance charge and rein-  
21 statement of the contract in the event of repossession.

22 (5) ~~(e) Every~~ AN installment sale contract shall contain  
23 specific provisions as to the buyer's liability respecting  
24 default charges, repossession, and sale of the motor vehicle ~~—~~  
25 in case of default or other breach of contract, and respecting  
26 the collateral security, if any.