

Act No. 431
Public Acts of 1996
Approved by the Governor
November 27, 1996
Filed with the Secretary of State
December 2, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Bouchard and Shugars

ENROLLED SENATE BILL No. 439

AN ACT to amend section 12 of Act No. 224 of the Public Acts of 1966, entitled "An act to regulate retail installment sales transactions, agreements, charges and disclosures; and to provide for the enforcement thereof and penalties for violations," as amended by Act No. 167 of the Public Acts of 1995, being section 445.862 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 12 of Act No. 224 of the Public Acts of 1966, as amended by Act No. 167 of the Public Acts of 1995, being section 445.862 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 12. (a) A retail charge agreement shall be in writing and signed by the buyer or the authorized representative of the buyer. A retail charge agreement shall be considered signed and accepted by the buyer if after a request for a retail charge account the agreement or application for a retail charge account is in fact signed by the buyer or if the retail charge account is used by the buyer or by another person authorized by the buyer. The agreement may provide that it does not become effective until the seller or holder extends credit to the buyer, the buyer has received the disclosures required under the federal truth-in-lending act, 15 U.S.C. 1601 to 1608, 1610 to 1613, 1615, 1631 to 1635, 1637 to 1638, 1640 to 1647, and 1661 to 1667e, and the buyer or a person authorized by the buyer uses the retail charge account. A copy of the agreement shall be delivered or mailed to the buyer before the date the first payment is due under the agreement. The acknowledgment by the buyer of delivery of a copy of the agreement shall be in a size equal to at least 10-point boldfaced type and shall appear directly above the buyer's signature or the signature of the authorized representative of the buyer. An agreement shall not be signed by the buyer when it contains blank spaces for essential provisions of the transaction. The buyer's acknowledgment of delivery of a copy of an agreement in accordance with this section is presumptive proof in any action or proceeding of the delivery and that the agreement did not contain any blank spaces. A retail charge agreement shall state the maximum amount and rate of the time price differential to be charged and paid under the agreement. An agreement shall contain substantially the following notice printed or typed in a size equal to at least 10-point boldfaced type. "Notice to the buyer—Do not sign this agreement before you read it or if it contains blank spaces. You are entitled to a copy of the agreement you sign."

(b) The buyer under the retail charge agreement shall promptly be supplied with a statement if at the end of a monthly period, which need not be a calendar month, or other regular period agreed upon in writing, there is an unpaid balance under the agreement. The statement shall contain all of the following:

(1) The unpaid balance under the retail charge agreement at the beginning and at the end of the period.

(2) The cash sale price of each purchase by the buyer during the period and, unless a sales slip or a memorandum of each purchase is attached to the statement, the purchase or posting date and a brief description or identification of each purchase.

(3) The payments made by the buyer and any other credits to the buyer during the period.

(4) The amount, if any, of any time price differential for that period.

(5) A statement that the buyer at any time may pay his or her total unpaid balance or any part of that balance.

(c) A retail charge agreement may provide for, and the seller or holder may then charge, collect, and receive, a time price differential for the privilege of paying in installments under the agreement at a rate not greater than the rate permitted a regulated lender by the credit reform act, Act No. 162 of the Public Acts of 1995, being sections 445.1851 to 445.1864 of the Michigan Compiled Laws. The time price differential under this subsection shall be computed on all amounts unpaid under the agreement from month to month, which need not be calendar months, or other regular periods. If the regular period is other than a monthly period, the time price differential may be computed proportionately. The time price differential may be computed for all unpaid balances within a range of \$10.00 or less on the basis of the median amount within that range if as so computed the time price differential is applied to all unpaid balances within that range. A minimum time price differential of not more than 70 cents per month may be charged, received, and collected.

(d) The time price differential for purchases made under a retail charge agreement shall not be computed or imposed on an amount charged for the sale of goods or services until those goods or services have been delivered to the purchaser. If the time price differential is charged before delivery of the goods or services, the charges applied before the delivery date shall be adjusted upon the request of the purchaser in accordance with chapter 4 of the truth in lending act, title I of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1666 to 1666j.

(e) A retail charge agreement may also provide for the payment of an attorney's reasonable fee if it is referred for collection to an attorney not a salaried employee of the holder of the retail charge agreement or holder of an unpaid balance under the agreement, and for court costs.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.