

Act No. 17
Public Acts of 2013
Approved by the Governor
April 23, 2013
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Rep. Kurtz

ENROLLED HOUSE BILL No. 4053

AN ACT to amend 1966 PA 224, entitled "An act to regulate retail installment sales transactions, agreements, charges and disclosures; and to provide for the enforcement thereof and penalties for violations," by amending section 2 (MCL 445.852), as amended by 1995 PA 167.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) "Cash sale price" means the price of a good or service a retail buyer would pay if he or she paid for the good or service in cash, and that is stated in a retail installment contract or in a sales slip or other memorandum furnished by a retail seller to a retail buyer pursuant to a retail charge agreement for that good or service. The cash sale price may include any taxes and charges for delivery, installation, servicing, repairs, alterations, or improvements.

(b) "Goods" means all tangible chattels purchased primarily for personal, family, or household use and not for commercial, agricultural, or business use. Goods include chattels that are furnished or used for the modernization, rehabilitation, repair, alteration, improvement, or construction of real property in a manner that they become a severable or nonseverable part of the property, if those chattels are not covered by the home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431. Goods include merchandise certificates or coupons issued by a retail seller that are not redeemable in cash and that are to be used in their face amount instead of cash, in exchange for goods or services sold by the seller. Goods do not include a motor vehicle, money, a thing in action, intangible personal property, or their equivalent.

(c) "Holder" means a retail seller of goods or services covered by a retail installment contract or retail charge agreement, or an assignee of that seller.

(d) "Motor vehicle" means that term as defined in section 2 of the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.102. The term does not include a mobile home as defined in section 719a of the Michigan vehicle code, 1949 PA 300, MCL 257.719a.

(e) "Official fees" means fees prescribed by law and charged and paid by the seller or holder for filing, recording, or otherwise perfecting, releasing, or satisfying, a retained title, lien, or other security interest created by a retail installment transaction.

(f) "Person" means an individual, partnership, joint venture, corporation, limited liability company, association, or other legal entity.

(g) "Principal balance" means the cash sale price of the goods or services covered by a retail installment contract plus the amounts, if any, included in the cash sale price if a separate identified charge is made and stated in the contract for insurance or official fees, less the amount of the buyer's down payment in money or goods, or both.

(h) "Retail buyer" or "buyer" means a person that buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished from a retail seller.

(i) "Retail charge agreement" means an instrument prescribing the terms of a secured or unsecured retail installment transaction that may be made under the instrument from time to time and under the terms of which a time price differential is to be computed in relation to the buyer's unpaid balance from time to time.

(j) "Retail installment contract" means an instrument entered into in this state evidencing a secured or unsecured retail installment transaction, and includes a chattel mortgage, a security agreement, a conditional sale contract, or a bailment or lease contract if the bailment or lease contract requires the bailee or lessee to pay an amount equal to or greater than the value of the bailed or leased good, and additionally provides that the bailee or lessee shall become, for no additional consideration or for nominal consideration, the owner of the good on full compliance with the bailment or lease contract. Retail installment contract does not include any of the following:

(i) A rental-purchase agreement as defined in section 2 of the rental-purchase agreement act, 1984 PA 424, MCL 445.952.

(ii) A retail charge agreement.

(iii) An instrument evidencing a sale made pursuant to a retail charge agreement.

(k) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract or a retail charge agreement that provides for a time price differential and under which the buyer agrees to pay the unpaid balance in 1 or more installments. Retail installment transaction does not include a rental-purchase agreement as defined in section 2 of the rental-purchase agreement act, 1984 PA 424, MCL 445.952.

(l) "Retail seller" or "seller" means a person regularly and principally engaged in the business of selling goods or services to retail buyers, but does not include the services of a professional person licensed by the state to perform legal or dental services or medical services as a medical doctor or a doctor of osteopathy.

(m) "Services" means work, labor, advice, counseling, or instruction if purchased primarily for personal, family, or household use and not for commercial or business use. Services do not include any of the following:

(i) Work, labor, advice, counseling, or instruction for which the cost is fixed by law or subject to the approval or disapproval of the United States or this state.

(ii) Educational counseling or instruction provided by an accredited college or university or a primary or secondary school providing education required by the state.

(iii) Counseling or instruction of a kindergarten or nursery school.

(n) "Time price differential" means the amount a buyer pays or is required to pay for the privilege of purchasing goods or services in installments over a period of time. Time price differential does not include the amount, if any, charged for insurance premiums, delinquency charges, attorney fees, court costs, or official fees, but does include all other charges included in a finance charge as that term is defined in section 106 of chapter I of the truth in lending act, 15 USC 1605.


(o) "Time sale price" means the cash sale price of goods or services and the amount, if any, included for official fees, the time price differential, and, if a separate identified charge is made, for insurance.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4052 of the 97th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor

Compiler's note: House Bill No. 4052, referred to in enacting section 1, was filed with the Secretary of State April 23, 2013, and became 2013 PA 16, Imd. Eff. Apr. 23, 2013.