

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 248
90TH GENERAL ASSEMBLY

Reported from the Committee on Commerce and Environment, April 1, 1999, with recommendation that the Senate Committee Substitute do pass.

S0925.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 365.010 and 365.020, RSMo 1994, relating to retail installment contracts, and to enact in lieu thereof four new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 365.010 and 365.020, RSMo 1994, are repealed and four new sections enacted in lieu thereof, to be known as sections 365.010, 365.020, 365.200 and 427.195, to read as follows:

365.010. **Sections 365.010 to 365.160 of** this chapter may be cited as the "Missouri Motor Vehicle Time Sales Law".

365.020. Unless otherwise clearly indicated by the context, the following words and phrases have the meanings indicated:

(1) "Cash sale price", the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle which is the subject matter of the retail installment contract, if the sale had been a sale for cash or at a cash price instead of a retail installment transaction at a time sale price. The cash sale price may include any taxes, registration, certificate of title, license and other fees and charges for accessories and their installment and for delivery, servicing, repairing or improving the motor vehicle;

(2) "Director", the office of the director of the division of finance;

(3) "Holder" of a retail installment contract, the retail seller of the motor vehicle under the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee;

(4) "Insurance company", any form of lawfully authorized insurer in this state;

(5) "Motor vehicle", any new or used automobile, mobile home, motorcycle, truck, trailer, semitrailer, truck tractor, or bus having a cash sale price of seven thousand five hundred dollars or less primarily designed or used to transport persons or property on a public highway, road or street;

(6) "Official fees", the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction;

(7) "Person", an individual, partnership, corporation, association, and any other group however organized;

(8) "Principal balance", the cash sale price of the motor vehicle which is the subject matter of the retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits, **including any amounts paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest, lien or lease interest on property traded in** and official fees, minus the amount of the buyer's down payment in money or goods;

(9) "Retail buyer" or "buyer", a person who buys a motor vehicle from a retail seller in a retail installment transaction under a retail installment contract;

(10) "Retail installment contract" or "contract", an agreement evidencing a retail installment transaction entered into in this state pursuant to which the title to or a lien upon the motor vehicle, which is the subject matter of the retail installment transaction is retained or taken by the seller from the buyer as security for the buyer's obligation. The term includes a chattel mortgage, conditional sales contract and a contract for the bailment or leasing of the motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become or, for no further or a merely nominal consideration, has the option of becoming, the owner of the motor vehicle upon full compliance with the provisions of the contract;

(11) "Retail installment transaction", a sale of a motor vehicle by a retail seller to a retail buyer on time under a retail installment contract for a time sale price payable in one or more deferred installments;

(12) "Retail seller" or "seller", a person who sells a motor vehicle, not principally for resale, to a retail buyer under a retail installment contract;

(13) "Sales finance company", a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more sellers. The term includes but is not limited to a bank, trust company, loan and investment company, savings and loan association, financing institution, or registrant under sections 367.100 to 367.200, RSMo, if so engaged. The term shall not include a person who makes only isolated purchases of retail installment contracts, which purchases are not being made in the course of repeated or successive purchases of retail

installment contracts from the same seller;

(14) "Time price differential", the amount, however denominated or expressed, as limited by section 365.120, in addition to the principal balance to be paid by the buyer for the privilege of purchasing the motor vehicle on time to be paid for by the buyer in one or more deferred installments;

(15) "Time sale price", the total of the cash sale price of the motor vehicle and the amount, if any, included for insurance and other benefits if a separate identified charge is made therefor and the amounts of the official fees and time price differential.

365.200. 1. For any motor vehicle which is not subject to the motor vehicle time sales act in sections 365.010 to 365.160, a seller is permitted to include in the contractual time sale of a motor vehicle, the outstanding balance of a prior loan or lease of a motor vehicle used as a trade in. For the purpose of this section, a "time sale contract" is a contract evidencing an installment transaction entered into in this state pursuant to which the title to or a lien upon the motor vehicle, which is the subject of the installment transaction is retained or taken by the seller from the buyer as security for the buyer's obligation. The term includes a security agreement or a contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become or, has the option of becoming, the owner of a motor vehicle upon satisfying the contract. "Motor vehicle" is any new or used automobile, mobile home, motorcycle, truck, trailer, semitrailer, truck tractor, or bus.

2. Any seller under this section must first qualify as a retail seller under the motor vehicle time sales act.

427.195. Any person may hold personal property for lease, except as otherwise provided by law. A lease shall be in writing, signed by the lessee and may be either the functional equivalent of a loan or a true lease where the lessee pays compensation for the use of the leased property which is returned to the lessor at the end of the lease. A motor vehicle lease may include the outstanding balance of a prior loan or lease of a motor vehicle used as a trade in, as well as other items that are capitalized or amortized during the lease term. Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408, RSMo, are not applicable.

✓