

No. 1978-130

AN ACT

HB 1838

Amending the act of June 28, 1947 (P.L.1110, No.476), entitled "An act defining and regulating certain installment sales of motor vehicles; prescribing the conditions under which such sales may be made and regulating the financing thereof; regulating and licensing persons engaged in the business of making or financing such sales; prescribing the form, contents and effect of instruments used in connection with such sales and the financing thereof; prescribing certain rights and obligations of buyers, sellers, persons financing such sales and others; limiting incidental charges in connection with such instruments and fixing maximum interest rates for delinquencies, extensions and loans; regulating insurance in connection with such sales; regulating repossessions, redemptions, resales and deficiency judgments and the rights of parties with respect thereto; authorizing extensions, loans and forbearances related to such sales; authorizing investigations and examinations of persons engaged in the business of making or financing such sales; prescribing penalties and repealing certain acts," further providing for the rate of finance charge for mobile homes and the rights and duties of buyers and persons financing installment sales of mobile homes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3, act of June 28, 1947 (P.L.1110, No.476), known as the "Motor Vehicle Sales Finance Act," is amended by adding a clause and subsection A. of section 19, amended June 19, 1974 (P.L.364, No.121), is amended to read:

Section 3. Definitions.—The following words, terms and phrases when used in this act shall have the meaning ascribed to them in this section, except where the context clearly indicates otherwise:—

* * *

21. "Mobile homes" shall mean those vehicles defined as such in section 102 of Title 75, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, added June 17, 1976 (P.L.162, No.81).

Section 19. Finance Charges.—

A. A seller licensed under the provisions of this act shall have the power and authority to charge, contract for, receive or collect a finance charge, as defined in this act, on any installment sale contract covering the retail sale of a motor vehicle in this Commonwealth, which shall not exceed the rates indicated for the respective classification of motor vehicles as follows:

Class I. New motor vehicles, except those having a cash price of ten thousand dollars (\$10,000) or more and used primarily for commercial purposes **and except mobile homes**, six percent (6%) per year.

Class II. Used motor vehicles of a model designated by the manufacturer by a year not more than two (2) years prior to the year in which the sale is made, nine percent (9%) per year.

Class III. Older used motor vehicles of a model designated by the manufacturer by a year more than two (2) years prior to the year in which the sale is made, twelve percent (12%) per year.

Class IV. New motor vehicles having a cash price of ten thousand dollars (\$10,000) or more and used primarily for commercial purposes, seven and one-half percent (7 ½%) per year.

Class V. New mobile homes, such percent established as a maximum finance charge for mobile homes by regulation of the Federal Housing Administration, pursuant to the National Housing Act of June 27, 1934 (48 Stat. 1246), whether or not the mobile home is subject to a sale on credit or loan insured or guaranteed in whole or in part by such administration.

* * *

Section 2. Section 23 of the act is amended by adding a subsection to read:

Section 23. Repossession.—

* * *

G. 1. Before any holder may accelerate the maturity of any installment sale contract for a mobile home, commence any legal action to recover under such obligation, or take possession of any security of the installment buyer for such contract, such person shall give the installment buyer notice of such intention at least thirty (30) days in advance as provided in this subsection. Notice of intention to take action as specified in this subsection shall be in writing, and sent to the installment buyer by registered or certified mail at the address where the mobile home is located. The written notice shall clearly and conspicuously state:

(a) the particular obligation or security interest;

(b) the nature of the default claimed;

(c) the right of the installment buyer to cure the default as provided in this subsection and exactly what performance including what sum of money, if any, must be tendered to cure the default;

(d) that the installment buyer may cure the default at any time before title to the mobile home is lawfully transferred from the installment buyer which shall be at least forty-five (45) days after receipt of the notice; and

(e) the method or methods by which the installment buyer's ownership or possession of the mobile home may be terminated.

2. The notice of intention to accelerate, commence legal action or repossess provided in this subsection shall not be required where the installment buyer has abandoned or voluntarily surrendered the property which is the subject of the mobile home installment sale.

3. Notwithstanding the provisions of any other law, after a notice of intention to accelerate, commence legal action or repossess has been given pursuant to paragraph 1, at any time before title to the mobile home is lawfully transferred from the installment buyer for default upon a mobile home installment sales contract, the installment buyer or any one in his behalf, not more than three (3) times in any calendar year, may cure his

default and prevent sale or other disposition of the mobile home and avoid acceleration, if any, by tendering the amount or performance specified in this paragraph.

To cure a default under this subsection, an installment buyer shall:

(a) Pay or tender in the form of cash, cashier's check or certified check, all sums which would have been due at the time of payment or tender in the absence of default and the exercise of an acceleration clause, if any.

(b) Perform any other obligation which he would have been bound to perform in the absence of default or the exercise of an acceleration clause, if any.

(c) Pay or tender any reasonable fees allowed under paragraph 6 and the reasonable costs of proceeding to commence legal action as specified in writing by the holder actually incurred to the date of payment.

(d) Pay any reasonable late penalty, if provided for in the security document.

(e) Pay the costs which are reasonable and actually incurred by the holder for detaching and transporting the mobile home to the site of the sale.

4. Cure of a default in the payment of a mobile home contract pursuant to this subsection restores the installment buyer to the same position as if the default had not occurred.

5. Mobile home installment contracts contracted for on or after the effective date of this amendatory act may be prepaid without any penalty or other charge for such prepayment at any time before the end of the period of the loan.

6. With regard to mobile home installment contracts, no holder shall contract for or receive attorneys' fees from an installment buyer except as follows:

(a) Upon commencement of legal action with respect to a mobile home installment contract, attorneys' fees which are reasonable and actually incurred by the holder may be charged to the installment buyer.

(b) Prior to commencement of legal action attorneys' fees which are reasonable and actually incurred not in excess of fifty dollars (\$50) provided that no attorneys' fees may be charged for legal expenses incurred prior to the thirty-day notice provided in paragraph 1.

7. Notwithstanding any other law, the provisions of this subsection may not be waived by any oral or written agreement executed by any person.

Section 3. This act shall take effect immediately.

APPROVED—The 1st day of July, A. D. 1978.

MILTON J. SHAPP