

No. 1996-197

AN ACT

HB 2617

Amending the act of October 28, 1966 (1st Sp.Sess., P.L.55, No.7), entitled "An act defining, regulating and relating to retail installment contracts for all goods and services except certain motor vehicles and home improvements; prescribing the requirements of such contracts and limitations on the enforcement thereof; and providing remedies and penalties," further providing for installment contract service charges and installment account service charges and for the minimum service charge.

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

Section 1. Sections 501 and 904 of the act of October 28, 1966 (1st Sp.Sess., P.L.55, No.7), known as the Goods and Services Installment Sales Act, amended March 25, 1982 (P.L.199, No.68) and reenacted May 27, 1994 (P.L.253, No.39), are amended to read:

Section 501. (a) A seller may, in a retail installment contract, contract for and, if so contracted for, the holder thereof may charge, receive and collect a service charge measured for a period between the date of such contract and the due date of the last installment and calculated for that period according to the actuarial method of computation or by application of the United States rule at a rate which **[does not exceed the equivalent of eighteen percent (18%) simple interest per annum.]** *is agreed upon by the seller or holder and the buyer.*

(b) Notwithstanding the rates provided for in this section, no issuer of a credit card primarily engaged as a seller or distributor of gasoline shall be permitted to charge, receive or collect a service charge in excess of fifteen percent (15%) simple interest per annum on unpaid balances.

(b.1) Notwithstanding the rates provided for in this section, no bailor or lessor of goods shall be permitted to charge, receive or collect a service charge in excess of eighteen percent (18%) simple interest per annum on unpaid balances in a contract under which the bailee or lessee: (1) agrees to pay as compensation for use of the goods a sum substantially equivalent to or in excess of the value of the goods; and (2) has an option to become the owner of the goods for no additional or nominal additional consideration. This subsection shall not apply to a rental-purchase agreement as defined in 42 Pa.C.S. § 6902 (relating to definitions).

(c) A minimum service charge of ~~[seventy cents (70¢)]~~ *fifty cents (50¢)* per month may be made for each month if the service charge so computed is less than that amount; such minimum service charge may be imposed for a minimum period of six months.

Section 904. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the service charge authorized by this act. The service charge shall not exceed the following rates computed on the outstanding balances from month to month:

(a) On the outstanding balance, **[one and one-half percent (1 1/2%) per month.] a rate which is agreed upon by the seller or holder and the buyer.**

(b) A minimum service charge of **[seventy cents (70¢)] fifty cents (50¢)** per month may be made for each month if the service charge so computed is less than that amount; such minimum service charge may be imposed for a minimum period of six months.

(b.1) Notwithstanding the rate provided for in clause (a), no issuer of a credit card primarily engaged as a seller or distributor of gasoline shall be permitted to charge, receive or collect a service charge in excess of fifteen percent (15%) simple interest per annum on unpaid balances.

(b.2) Notwithstanding the rates provided for in clause (a), no bailor or lessor of goods shall be permitted to charge, receive or collect a service charge in excess of eighteen percent (18%) simple interest per annum on unpaid balances in a contract under which the bailee or lessee: (1) agrees to pay as compensation for use of the goods a sum substantially equivalent to or in excess of the value of the goods; and (2) has an option to become the owner of the goods for no additional or nominal additional consideration. This clause shall not apply to a rental-purchase agreement as defined in 42 Pa.C.S. § 6902 (relating to definitions).

(c) The service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than five dollars (\$5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

Section 2. Section 904.2 of the act, reenacted and amended July 11, 1989 (P.L.573, No.57) and May 27, 1994 (P.L.253, No.39), is amended to read:

Section 904.2. (a) Notwithstanding any other provision of this act, there shall be no limitation on the rate of the service charge imposed in connection with retail installment accounts issued to buyers domiciled outside Pennsylvania by a seller or holder of a retail installment account who is otherwise subject to this section: Provided further, That the rate of such service charge shall be set forth in writing and delivered to the buyer. In determining whether a buyer is domiciled in Pennsylvania, a seller or holder of a retail installment account may conclusively assume that such buyer is domiciled outside Pennsylvania if the seller or holder has not mailed any solicitation to the buyer at a Pennsylvania residential address, has not entered into a retail installment account with the buyer pursuant to a personal meeting at an office of the seller or holder in Pennsylvania and does not mail the buyer monthly billing statements to a Pennsylvania residential address.

(b) The Secretary of Banking shall report annually to the General Assembly on the impact of subsection (a) upon the availability of retail installment accounts in Pennsylvania.

[(c) Subsection (a) of this section shall expire July 1, 1998, unless extended by statute. Subsection (b) of this section shall expire three (3) years from February 26, 1988, unless extended by statute.]

Section 3. Section 904.3 of the act is repealed.

Section 4. This act shall take effect immediately.

APPROVED—The 20th day of December, A.D. 1996.

THOMAS J. RIDGE