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ASSEMBLY, No. 2164

STATE OF NEW JERSEY

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By Assemblymen BATEMAN, COHEN and Senator Inverso

1 AN ACT concerning financing of home repairs and amending P.L.1960,
2 c.41.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.1960, c.41 (C.17:16C-62) is amended to read
8 as follows:

9 1. Unless the context otherwise indicates,

10 (a) "Goods" means all chattels personal which are furnished or
11 used in the modernization, rehabilitation, repair, alteration or
12 improvement of real property except those furnished or used for a
13 commercial or business purpose or for resale, and except stoves,
14 freezers, refrigerators, air conditioners other than those connected
15 with a central heating system, hot water heaters and other appliances
16 furnished for use in a home and designed to be removable therefrom
17 without material injury to the structure, and except chattels personal
18 under a contract in which the cash price is \$300.00 or less and which
19 is subject to the **[Retail Installment Sales Act of 1960]** "Retail
20 Installment Sales Act of 1960," P.L.1960, c.40 (C.17:16C-1 et seq.);

21 (b) "Services" means labor, equipment and facilities furnished or
22 used in connection with the installation or application of goods in the
23 modernization, rehabilitation, repair, alteration or improvement of real
24 property;

25 (c) "Home repair contract" means an agreement, whether contained
26 in one or more documents, between a home repair contractor and an
27 owner to pay the time sales price of goods or services in installments
28 over a period of time greater than 90 days;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AFI committee amendments adopted September 16, 1996.

² Assembly floor amendments adopted December 12, 1996.

- 1 (d) "Home repair contractor" means any person engaged in the
2 business of selling goods or services pursuant to a home repair
3 contract;
- 4 (e) "Commissioner" means the Commissioner of Banking ¹and
5 Insurance¹ of New Jersey and includes any deputies or employees of
6 the department designated by him to administer and enforce this act;
- 7 (f) "Official fees" means the fees to be paid to a public officer for
8 obtaining any permit or filing any lien or mortgage taken or reserved
9 as security pursuant to a home repair contract;
- 10 (g) "Cash price" means the cash sales price for which the home
11 repair contractor would sell the goods or services which are the
12 subject matter of a home repair contract if the sale were a sale for cash
13 rather than an installment sale;
- 14 (h) "Down payment" means all payments made in cash to the home
15 repair contractor and all allowances given by the home repair
16 contractor to the owner prior to or substantially contemporaneous
17 with the execution of the home repair contract;
- 18 (i) "Credit service charge" means that amount by which the time
19 sales price exceeds the aggregate of the cash price and the amounts
20 specifically included for official fees and, if a separate charge is made
21 therefor, the amount included for insurance and other benefits as
22 provided in paragraph (4) of subsection (a) of section 6 [(d)] of
23 P.L.1960, c.41 (C.17:16C-67);
- 24 (j) "Time sales price" means the total amount to be paid pursuant
25 to the contract excluding default charges authorized under this act;
- 26 (k) "Owner" means a person, including a tenant, who buys goods
27 or services pursuant to a home repair contract;
- 28 (l) "Home financing agency" means any person, other than a home
29 repair contractor, engaged, directly or indirectly, in the business of
30 purchasing, acquiring, soliciting or arranging for the acquisition of
31 home repair contracts or any obligation in connection therewith by
32 purchase, discount, pledge or otherwise;
- 33 (m) "Holder" means any person who is entitled to the rights of a
34 home repair contractor under a home repair contract;
- 35 (n) "Home repair salesman" means any individual who obtains a
36 bona fide home repair contract;
- 37 (o) "Payment-period" means the period of time scheduled by a
38 home repair contract to elapse between the days upon which
39 installment payments are scheduled to be made on such contract;
40 except that, where installment payments are scheduled by the home
41 repair contract to be omitted, "payment-period" means the period of
42 time scheduled by the contract to elapse between the days upon which
43 installment payments are scheduled to be made during that portion of
44 the contract period in which no installment payment is scheduled to be
45 omitted;
- 46 (p) "Contract period" means the period beginning on the date of a

1 home repair contract and ending on the date scheduled by the contract
2 for the payment of the final installment;

3 (q) "Actuarial method" means the method of applying payments
4 made on a home repair contract between principal and credit service
5 charge pursuant to which a payment is applied first to accumulated
6 credit service charge and the remainder is applied to the unpaid
7 principal balance of the home repair contract in reduction thereof;

8 (r) "Precomputed credit service charge" means an amount equal to
9 the whole amount of credit service charge payable on a home repair
10 contract for the period from the making of the contract to the date
11 scheduled by the terms of the contract for the payment of the final
12 installment;

13 (s) "Precomputed contract" means a home repair contract in which
14 the face amount of the payment due consists of the balance so
15 evidenced and the credit service charge thereon; and

16 (t) "Nonprecomputed contract" means a home repair contract in
17 which the face amount of the payment due consists solely of the
18 balance due on the contract, or a home repair contract in which the
19 credit service charge is imposed on the outstanding balance from
20 month to month.

21 (cf: P.L.1980, c.174, s.1)

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23 2. Section 6 of P.L.1960, c.41 (C.17:16C-67) is amended to read
24 as follows:

25 6. (a) Every home repair contract shall state separately:

26 [(a)] (1) the cash price of the goods or services to be furnished;

27 [(b)] (2) the down payment;

28 [(c)] (3) the unpaid cash balance which is the difference between
29 [subsections (a) and (b)] paragraphs (1) and (2) of this subsection (a);

30 [(d)] (4) the amount, if any, if a separate charge is made therefor,
31 included for credit life insurance and other benefits pursuant to
32 [chapter 169 of the laws of 1958] N.J.S.17B:29-1 et seq., specifying
33 the coverages and benefits;

34 [(e)] (5) the official fees;

35 [(f)] (6) the principal balance, which is the sum of [subsections (c),
36 (d) and (e)] paragraphs (3), (4) and (5) of this subsection (a);

37 [(g)] (7) the credit service charge;

38 [(h)] (8) the time balance, which is the sum of [subsections (f) and
39 (g)] paragraphs (6) and (7) of this subsection (a), the number of
40 installments required, the amount of each installment and the due dates
41 thereof;

42 (b) In lieu of the disclosures specified in paragraphs (1) through (8)
43 of subsection (a) of this section, a precomputed or a nonprecomputed
44 home repair contract shall be deemed to be in compliance with the
45 requirements of this section if the home repair contract provides the
46 disclosures required by the federal "Truth in Lending Act," 15 U.S.C.

1 §1601 et seq. and the regulations implementing that act, 12
2 C.F.R. §226 et seq., for open-end or closed-end loans, as applicable.
3 (cf: P.L.1968, c.220, s.6)

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5 3. Section 8 of P.L.1960. c.41 (C.17:16C-69) is amended to read
6 as follows:

7 8. ²a. ² A home repair contractor may impose and receive a credit
8 service charge in amount or amounts agreed to by the home repair
9 contractor and the owner on the amount owing on the unpaid principal
10 balance of the contract. This section shall not limit or restrict the
11 manner of contracting for the credit service charge, whether by way of
12 add-on, discount, periodic rate or otherwise, so long as the charge
13 does not exceed that permitted by this section. In the case of a
14 precomputed contract, the charge may be computed on the assumption
15 that all scheduled payments will be made when due, and all scheduled
16 installment payments made on a precomputed contract may be applied
17 as if they were received on their scheduled due dates. In the case of
18 nonprecomputed loans, all installment payments shall be applied no
19 later than the [next day, other than a public holiday, after the] date of
20 receipt, and a day shall be counted as 1/365 of a year.

21 [Effective on the first day of the twelfth month following the
22 effective date of this act, notwithstanding] ²b. ² Notwithstanding the
23 provisions of section [73] 12 of P.L.1960, c.41 (C.17:16C-73), when
24 the unpaid balance owing upon a contract is paid in full or the maturity
25 of the unpaid balance of such contract is accelerated, before the date
26 scheduled for the payment of the final installment, the holder of [the]
27 a precomputed contract shall allow a credit on account of the credit
28 service charge, calculated according to the actuarial refund method, as
29 if all payments were made as scheduled, or if deferred, as deferred;
30 provided, however, that if the contract is prepaid within 12 months
31 after the first payment is due, a holder may charge a prepayment
32 penalty of not more than ²[(a)] (1)² \$20.00 on any contract up to and
33 including \$2,000.00; ²[(b)] (2)² an amount equal to 1% of the loan on
34 any contract greater than \$2,000.00 and up to and including
35 \$5,000.00; and ²[(c)] (3)² \$100.00 on any contract exceeding
36 \$5,000.00.

37 ²c. With respect to nonprecomputed contracts, the regularly
38 scheduled minimum monthly payments of principal and credit service
39 charges, irrespective of any other charges permitted under P.L.1960,
40 c.41 (C.17:16C-62 et seq), for any debt incurred for the purchase of
41 a home improvement shall result in positive amortization of the debt
42 and shall not increase the amount of debt outstanding.²
43 (cf: P.L.1981, c.103, s.15)

44
45 4. This act shall take effect immediately and shall apply to home
46 repair contracts entered into on and after the effective date of this act.

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4 Provides for open-end financing of home repairs.