



General Assembly

Substitute Bill No. 6897

January Session, 2007

* _____ HB06897JUD__041307_____ *

AN ACT CONCERNING LIQUIDATED DAMAGES PROVISIONS IN CONTRACTS, REQUESTS FOR MORTGAGE PAYOFF STATEMENTS AND THE REPOSSESSION OF MOTOR VEHICLES IN BANKRUPTCY CASES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) No provision in a
2 contract for the purchase or lease of goods or services primarily for
3 personal, family or household purposes that provides for the payment
4 of liquidated damages in the event of a breach of the contract shall be
5 valid or enforceable unless (1) the contract contains a statement in
6 boldface type at least ten points in size immediately following such
7 liquidated damages provision stating "I HAVE READ THIS
8 LIQUIDATED DAMAGES PROVISION AND UNDERSTAND ITS
9 MEANING", and (2) the person against whom such provision is to be
10 enforced signs such person's name or writes such person's initials next
11 to such statement.

12 Sec. 2. Section 49-10a of the general statutes is repealed and the
13 following is substituted in lieu thereof (*Effective October 1, 2007*):

14 (a) A mortgagee shall, upon written request of the mortgagor or the
15 mortgagor's attorney or other authorized agent, provide a payoff
16 statement in writing to the person requesting [such] the payoff
17 statement on or before the date specified in such request, provided

18 such request date is at least [ten] eight business days [from] after the
19 date of receipt of the written request for a payoff statement. If the
20 request for a payoff statement is made in connection with a default on
21 the mortgage, the mortgagor's attorney may make such written request
22 directly to the mortgagee, provided such written request contains a
23 representation that the person requesting the payoff statement is the
24 mortgagor's attorney and that the mortgagor has authorized the
25 request.

26 (b) If the mortgagee fails to provide [such] the payoff statement on
27 or before such request date, the mortgagee shall not be entitled to the
28 payment of any interest on the mortgage loan which is secured by such
29 mortgage which accrues after the expiration of such request date. If the
30 mortgagee provides the payoff statement to the person requesting the
31 [same] payoff statement after the expiration of such request date,
32 interest on the mortgage loan which accrues after the receipt of [such]
33 the payoff statement by the person who has requested it shall again be
34 payable. The burden of proof shall be on the mortgagor with respect to
35 the receipt by the mortgagee of the mortgagor's request for a payoff
36 statement of the mortgage loan, and thereafter shall be on the
37 mortgagee with respect to the receipt of the payoff statement by the
38 mortgagor or the mortgagor's attorney or other authorized agent.

39 (c) The mortgagee shall not impose any fee or charge for the first
40 payoff statement requested within a calendar year, unless the
41 mortgagor or the mortgagor's attorney or other authorized agent
42 requests expedited delivery of the payoff statement, agrees to pay a fee
43 for such expedited delivery and the payoff statement is provided by
44 the agreed upon date.

45 Sec. 3. Subsection (a) of section 36a-785 of the general statutes is
46 repealed and the following is substituted in lieu thereof (*Effective*
47 *October 1, 2007*):

48 (a) When the retail buyer is in default in the payment of any sum
49 due under the retail installment contract or installment loan contract,

50 or in the performance of any other condition which such contract
 51 requires [him] the retail buyer to perform, or in the performance of any
 52 promise, the breach of which is by such contract expressly made a
 53 ground for the retaking of the goods, the holder of the contract may
 54 retake possession thereof, except that the filing of a petition in
 55 bankruptcy under Chapter 7 of Title 11 of the United States Code by
 56 the retail buyer of a motor vehicle, or such retail buyer's status as a
 57 debtor in bankruptcy under said chapter, shall not by itself be a default
 58 or a ground for the retaking of the motor vehicle for the purposes of
 59 this subsection. Unless the goods can be retaken without breach of the
 60 peace, [it] the goods shall be retaken by legal process, but nothing
 61 [herein contained] in this section shall be construed to authorize a
 62 violation of the criminal law. In the case of repossession of any motor
 63 vehicle without the knowledge of the retail buyer, the local police
 64 department shall be notified of such repossession immediately
 65 thereafter. In the absence of a local police department or if the local
 66 police department cannot be reached for notification, the state police
 67 shall be promptly notified of such repossession.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	49-10a
Sec. 3	<i>October 1, 2007</i>	36a-785(a)

JUD *Joint Favorable Subst.*