



General Assembly

Amendment

January Session, 2007

LCO No. 9146

HB0689709146HRO

Offered by:
REP. HAMZY, 78th Dist.

To: Subst. House Bill No. 6897 File No. 903 Cal. No. 515

(As Amended by Senate Amendment Schedule "A")

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2008, and applicable to contracts*
4 *entered into, renewed or extended on or after said date*) (a) No provision in a
5 written contract for the purchase or lease of goods or services
6 primarily for personal, family or household purposes that provides for
7 the payment of liquidated damages in the event of a breach of the
8 contract shall be enforceable unless (1) the contract contains a
9 statement in boldface type at least twelve points in size immediately
10 following such liquidated damages provision stating "I
11 ACKNOWLEDGE THAT THIS CONTRACT CONTAINS A
12 LIQUIDATED DAMAGES PROVISION", and (2) the person against

13 whom such provision is to be enforced signs such person's name or
14 writes such person's initials next to such statement. Nothing in this
15 section shall validate a clause that is a penalty clause or is otherwise
16 invalid under the law of this state.

17 (b) The provisions of subsection (a) of this section shall not apply to
18 (1) contracts between a consumer and an agency of the state or any
19 political subdivision of the state or of the federal government, (2)
20 negotiable instruments, and (3) contract provisions for late fees,
21 prepayment penalties or default interest rates.

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 Section 49-10a of the general statutes is repealed and the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

24 (a) A mortgagee shall, upon written request of the mortgagor or the
25 mortgagor's attorney or other authorized agent provide a payoff
26 statement in writing to the person requesting [such] the payoff
27 statement on or before the date specified in such request, provided
28 such request date is at least ten business days [from] after the date of
29 receipt of the written request for a payoff statement. If the request is
30 made in connection with a default, the mortgagor's attorney may make
31 such written request directly to the mortgagee, provided such written
32 request contains a representation that the person requesting the payoff
33 statement is the mortgagor's attorney and that the mortgagor has
34 authorized the request.

35 (b) If the mortgagee fails to provide [such] the payoff statement on
36 or before such request date, the mortgagee shall not be entitled to the
37 payment of any interest on the mortgage loan which is secured by such
38 mortgage which accrues after the expiration of such request date. If the
39 mortgagee provides the payoff statement to the person requesting the
40 [same] payoff statement after the expiration of such request date,
41 interest on the mortgage loan which accrues after the receipt of [such]
42 the payoff statement by the person who has requested it shall again be
43 payable. The burden of proof shall be on the mortgagor with respect to
44 the receipt by the mortgagee of the mortgagor's request for a payoff

45 statement of the mortgage loan, and thereafter shall be on the
46 mortgagee with respect to the receipt of the payoff statement by the
47 mortgagor or the mortgagor's attorney or other authorized agent.

48 (c) The mortgagee shall not impose any fee or charge for the first
49 payoff statement requested within a calendar year, unless the
50 mortgagor or the mortgagor's attorney or other authorized agent
51 requests expedited delivery of the payoff statement, agrees to pay a fee
52 for such expedited delivery and the payoff statement is provided by
53 the agreed upon date.

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008, and applicable to contracts entered into, renewed or extended on or after said date</i>	New section
Sec. 2	<i>October 1, 2007</i>	49-10a
Sec. 3	<i>October 1, 2007</i>	36a-785(a)