

Testimony of Tamera Jackson of Middletown, Connecticut
To the Banks Committees of the Connecticut General Assembly
Concerning Raised Bill No. 5297 – An Act Concerning Interest Transparency
February 25th 2016

Senator Leone, Representative Lesser, Senator Martin, and Representative Simanski, thank you for the opportunity to submit comments on behalf of the 270 members of the Connecticut Automotive Retailers Association (CARA). My name is Tamera Jackson, I am the President and dealer principal of Jackson Chevrolet, a family owned business started by my father located in Middletown, Connecticut. I am also a member of the board of CARA. I am here today to testifying in opposition to House Bill 5297, An Act Concerning Interest Transparency, which will damage consumer benefits of Dealer-Assisted Financing.

The members of CARA, the franchised new car dealers of this state, support transparency in the sales process for the sale of products and services. Last year the new car dealers of CARA and our 14,000 employees in this state sold \$10.5 billion dollars' worth of vehicles. Nearly 19% of all the retail sales in this state adding hundreds of millions of dollars to the state sales tax revenue and to local property taxes in the communities where our stores are located. Because of this volume of sales, it is no surprise that we as dealers are able to obtain lower credit rates for our customers from the captive finance companies and the banks that service consumer automotive loans. Our rates are far better than rates an individual might be able to obtain on their own with banks, credit unions and other direct lenders.

Dealer-assisted financing makes credit more readily available, makes credit cheaper, and saves Americans millions of dollars every year. The current dealer-assisted financing system offers access to thousands of banks, credit unions and other lenders all vying to provide vehicle financing to consumers. That access is what keeps the auto financing market so competitive. The automobile dealer's ability to "meet or beat" its competitors' rates produces vigorous marketplace competition that benefits consumers. In fact, a majority of car buyers choose to finance their purchases through optional, indirect financing at dealerships.

Dealers often discount interest rates to earn a customer's business. This bill threatens to steer consumers away from lower rates at a dealership and will

pressure finance sources into changing the way they compensate dealers to a “flat fee” that dealers cannot discount. This new approach would eliminate a dealer’s ability to “meet or beat” a competitor’s finance rate and, in the process, would limit the market competition that frequently provides customers a better APR than those offered by banks or credit unions.

Dealerships, of course, incur costs for serving as the “storefront” for banks, credit unions, and finance companies. Dealers only make a “profit” (which is often limited because dealers frequently lower their own compensation in order to discount the APR to beat a competitor’s rate) after paying fixed costs, including: advertising, payroll, overhead, and regulatory compliance costs. This fact refutes false claims that dealer-assisted finance results in an “overcharge” to consumers. Dealer reserve is simply the dealer’s retail margin for arranging affordable and competitive financing and represents the recovery of costs that any retailer of credit would necessarily incur.

I am very concerned that by mandating such additional disclosures with respect to dealer arranged financing, the unintended consequences will have a very detrimental impact on the low rates that our customers enjoy through our retail stores. I base this concern on what both the Federal Reserve Board (FRB) and the Federal Trade Commission (FTC) found.

FRB concluded, when considering similar issues at the national level (See attached 2-page Federal Reserve Board determination) that dealers are not required under Reg Z (which implements the Truth In Lending Act) to disclose either the fact or amount of dealer participation. Among the reasons for the FRB’s finding is that the APR provides consumers with the most relevant figure for comparing the cost of credit offered by different creditors ... and disclosing a component of the cost of credit, which this bill would mandate, can lead to consumer “confusion or misunderstanding” when engaging in this process.

In 2004, the Federal Trade Commission (FTC) Bureau of Economics conducted a study of a similar issue in the mortgage context – whether mortgage brokers should have to separately disclose Yield Spread Premiums - and came to the same conclusion: “The study finds that the disclosures are likely to confuse consumers, cause a significant number of consumers to choose loans that are more expensive than the available alternatives, and create a substantial consumer bias against broker loans, even when the broker loans cost the same or less than direct lender loans.”

The current dealer-assisted financing system provides broad credit availability and low credit prices for consumers. Among other things, an automobile dealer's ability to "meet or beat" its competitors' rates produces vigorous marketplace competition that benefits consumers. A majority of car buyers choose to finance their purchases through optional, indirect financing at dealerships.

The new Section 3 (a) of the bill (lines 158-164) duplicates much of existing state and federal truth in lending (Reg. M and Z) requirements. Keep in mind state law (Consumer Protection advertising regulations and Department of Motor Vehicles Dealer licensing requirements) goes even further requiring the purchase order and invoice to state warranty information, insurance information, conveyance fee and optional VIN etch service separately. (See attached purchase order). These are added along with all other separately stated ancillary products or services chosen by the consumer at time of purchase.

Finally, new Section 3 (b) requiring the dealer to list their profit for such products or services serves little or no value other than to confuse the consumer and share dealership proprietary information with its competitors. Section 3 (b) is akin to asking a supermarket to not only post the price of a box of Cheerios but also the profit the store is making on each box.

I urge you reject this legislation as counter to consumer interests.

RULES AND REGULATIONS

[Reg. Z; Docket No. R-0058]

PART 226—TRUTH IN LENDING

Interpretation on Disclosure of Amount of Dealer Participation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board hereby adopts an interpretation of Regulation Z stating that a dealer participation need not be identified or disclosed in Truth in Lending disclosures as a separate component of the finance charge. Simultaneous with the adoption of the interpretation, the Board withdraws a proposed amendment to regulation Z which would have required separate disclosure of the existence, but not the amount, of a dealer participation. The Board takes this action based on its conclusions (1) that a dealer participation is not a "finder's fee or similar charge" within the meaning of Regulation Z and so need not be separately disclosed under the present regulation, and (2) that amending the regulation to require separate disclosure of the existence of a dealer participation would not significantly aid consumers in shopping for credit but would result in more complex Truth in Lending disclosure statements and possible confusion or misunderstanding.

EFFECTIVE DATE: March 28, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20561, 202-452-2412.

SUPPLEMENTARY INFORMATION: On August 23, 1976, the Board of Governors published for comment a proposed Interpretation § 226.821 of Regulation Z relating to the separate disclosure of a dealer participation in a consumer credit transaction (41 FR 36556). A dealer participation is typically a portion of the interest component of a finance charge which is allocated to a seller of consumer goods either by a creditor which provides direct consumer financing arranged through the seller or by an assignee which purchases a retail installment contract from the seller. The Board was asked to determine whether a dealer participation constitutes a "finder's fee or similar charge" within the meaning of § 226.4(a)(3) of the regulation and so must be itemized and disclosed as a separate component of the finance charge pursuant to § 226.8(c)(8)(i). The proposed interpretation stated, in essence, that inasmuch as a dealer participation is simply a part of the single component of the finance charge computed by the application of a percentage rate or rates to the amount financed, it is not considered a finder's fee or similar charge and need not be separately identified or disclosed.

institution may exercise the option and rely on the presumption contained in paragraphs (a)(4)(ii) and (c) of § 203.4, as if it had lost its exemption and become subject to the regulation on July 1, 1976.

The following examples illustrate the points made in this interpretation. Assume that a depository institution having a calendar fiscal year ceases to be exempt under § 203.3(a)(2) on April 1, 1977, because of the enlargement of a standard metropolitan statistical area to include a county in which the institution has an office. Pursuant to § 203.3(a)(1)(iii), that institution would be required to prepare and make available publicly a disclosure statement by June 29, 1977, ninety days after its loss of exemption.

Under § 203.3(b), the disclosure statement would have to cover the institution's "last full fiscal year ending prior to the date it was no longer exempt," which, as indicated previously, would be 1976. Pursuant to § 203.4(a)(2)(i), read in view of § 203.3(b), the institution could compile the necessary loan information for 1976 by ZIP code, if it chose.

Also, under § 203.4(a)(2)(ii), it could elect to issue a separate disclosure statement, compiled on a ZIP-code basis, for the first three months of its current fiscal year—January, February, March 1977, if it also made that statement available on June 29, 1977. If it chose that option, then it would report on its relevant lending activities for the remainder of 1977 by census tract on March 31, 1978. The alternative to this latter option would be for the institution to report on all of its relevant lending activities during 1977 by census tract on March 31, 1978. Finally, the institution may exercise the reporting options and rely on the residence presumption set forth in § 203.4(a)(4)(ii) and 203.4(c) for its 1976 disclosure statement and the January through March 1977 statement if that option is chosen.

The second example assumes that a depository institution having a calendar fiscal year ceases to be exempt under § 203.3(a)(1) because its assets exceed \$10,000,000 as of December 31, 1977. Pursuant to the applicable provisions of the regulation as outlined in the preceding example, the institution would have to prepare a disclosure statement by March 31, 1978, covering its relevant lending activities during 1977 on a ZIP-code basis. Since the loss of exemption would not have occurred during the course of its fiscal year, no partial fiscal year report would be possible. The options and presumption contained in §§ 203.3(a)(4)(ii) and 203.4(c) respectively could be used, however, in preparing the 1977 disclosure statement.

By order of the Board of Governors, March 28, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-10618 Filed 4-11-77; 8:55 am]

The Board received more than 250 comments on the proposed interpretation, the vast majority favoring the interpretation. However, comments from Federal agencies and consumer representatives indicated to the Board that consumer benefits might be derived from disclosure of the existence of a dealer participation. Therefore, on January 6, 1977, the Board published for comment (42 FR 1268) a proposed amendment to Regulation Z which, if adopted, would have become § 226.8(c)(9) and which would have required that in credit sales the disclosure statement furnished to the consumer contain, where applicable, a disclosure of the existence but not the amount of a dealer participation. For convenient reference, the proposed amendment is republished below:

Section 226.8—Credit other than open end—specific disclosures.

(c) Credit sales. . . .

(9) A statement that the seller or other party to the transaction arranging credit may receive from another creditor in the transaction a portion of the finance charge imposed on that transaction.

The Board indicated in publishing the proposed amendment that it would take final action on the proposed Interpretation § 226.821 in connection with its final determination on the proposed amendment.

The Board received approximately 400 comments on the proposed amendment to Regulation Z. The comments came from financial institutions, automobile dealers and other merchants, trade associations, a Federal agency, State consumer agencies, consumer groups, a university consumer affairs office, private and legal services attorneys, and private individuals. The comments can readily be broken down into three broad categories: (1) more than 81 percent of the commenters expressed opposition to the amendment requiring disclosure of dealer participations, (2) over 12 percent favored the amendment, and (3) more than 6 percent expressed the belief that the amendment was not stringent enough or did not require enough disclosure and therefore should not be adopted. Additionally, a significant number of commenters, almost half of those in category 2 and almost all of those in category 3, felt that the amount as well as the fact of a dealer participation should be disclosed.

As a result of the comments received, both in response to the proposed Interpretation § 226.821 and the proposed amendment § 226.8(c)(9), the Board has reached certain conclusions which are set forth below.

Dealer participation is largely a phenomenon of the financing of automobile purchases, wherein the automobile dealer secures financing for a purchaser from a lending institution in connection with the sale of a car and receives some portion of the finance charge imposed by the lending institution. In an alternative mode of proceeding, the dealer may finance the purchase of a car for it cus-

tomers and thereafter assign the credit agreement to a financial institution and receive a portion of the finance charge imposed from that financial institution. Typically, in connection with the extension of credit to the customer, the dealer interviews the customer and takes a credit application, prepares the loan documents, and reviews the terms of the loan and relevant disclosures with the customer. The customer is generally able to complete all aspects of financing his or her purchase without leaving the dealer's place of business. Often the arrangement between the dealer and the lending institution provides for "recourse" by the lender against the dealer for any loss suffered by the lender if the consumer defaults on the loan. Because of these recourse arrangements, consumers with only marginal credit may be able to obtain financing for major purchases. The dealer's participation in the finance charge may serve as compensation for the work done in arranging the financing and for the risk of loss which is shared with the lending institution. Therefore, the Board believes that, in many instances, the portion of the finance charge which represents the dealer's participation is not an amount which the consumer could save by obtaining a direct loan from a lending institution.

Further, although rates available on direct loans are often somewhat lower than in dealer-arranged loans, the Board believes that consumers are generally aware of this fact. The Board feels that disclosure of the total finance charge, the annual percentage rate and the periodic payment, all required by the Truth in Lending Act and Regulation Z, together with the widespread advertisement of credit terms, have afforded and continue to afford consumers the most important information with which to comparison shop for credit. The Board does not believe that the proposed § 226.8(c)(9) would significantly enhance the consumer's ability to shop for credit. Conversely, the addition of another disclosure requirement to Regulation Z would result in more complex disclosure statements and could lead to confusion or misunderstanding by consumers. The adoption of an additional disclosure requirement of doubtful value to consumers is also contrary to the perceived need for simplification of Regulation Z.

For the reasons set forth above, the Board has determined to withdraw the proposed § 226.8(c)(9) and not to require the disclosure of the existence of a dealer participation. Furthermore, in the Board's view, Interpretation § 226.821 represents a proper application of the requirements of Regulation Z to the issue of dealer participation. A dealer participation of the type described in the interpretation differs from the finder's fee

or similar charge which must be disclosed pursuant to § 226.4(a)(3) and need not be separately itemized when it consists of a part of a finance charge attributable to the application of a percentage rate or rates to the amount financed. The Board also notes that its position is in accord with a recent appellate court decision on this issue, *Meyers v. Clearview Dodge Sales, Inc.*, 539 F.2d 511 (5th Cir. 1976).

The text of Interpretation § 226.821, effective immediately, is as follows:

§ 226.821 Disclosure of dealer participation.

(a) Section 226.8(c)(8)(i) requires the itemization of each component of a finance charge consisting of more than one type of charge. Section 226.4(a)(3) lists among the types of charges to be included in the finance charge a "finder's fee or similar charge." In certain credit transactions, such as the sale of automobiles and other consumer goods, where the finance charge is determined by application of a percentage rate or rates to the amount financed, a portion of that charge may be allocated to the dealer by the financial institution as a dealer participation. The question arises whether such allocations must be itemized as a separate component of the total finance charge in the nature of a finder's fee.

(b) The requirement for itemization of a finance charge which includes a finder's fee or other elements in addition to an interest component is intended to assure that the total finance charge disclosed to the customer properly reflects all components which must be included in that amount. Any component of the finance charge which is computed by the application of a percentage rate or rates to the amount financed constitutes a single charge of the type described in § 226.4(a)(3). As such, it must be included in the finance charge calculation and disclosure. A portion of such single component of the finance charge which is distributed to a dealer is not considered a "finder's fee or similar charge" and need not be separately identified or disclosed. The concept of a "finder's fee," as that term is used in § 226.4(a)(3), is intended to cover certain charges in the nature of brokerage fees which are imposed in addition to that portion of the finance charge attributable to the application of a percentage rate or rates to the amount financed. Any such separate fee must, of course, be separately itemized.

(Interprets and applies 12 CFR 226.8.)

By order of the Board of Governors,
March 28, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR D60-77-10662 Filed 4-11-77; 8:45 am]

Title 14—Aeronautics and Space
CHAPTER II—CIVIL AERONAUTICS
BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS
[Regulation ER-991, Amdt. 34]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Editorial Amendment

Effective: May 2, 1977.

Adopted: April 7, 1977.

AGENCY: Civil Aeronautics Board.

ACTION: Editorial Amendment.

SUMMARY: The amendment corrects a reference in § 221.120(a) to tariffs suspended by the Board under section 1002(g) of the Act. This reference does not reflect the Board's authority, under section 1002(j) of the Act to suspend foreign air transportation tariffs. The limited reference to subsection (g) of section 1002 of the Act is thus being deleted.

DATES: Effective: May 2, 1977;
Adopted: April 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Ellenberg, Rules Division,
Civil Aeronautics Board, 1825 Connecticut Avenue NW,
Washington, D.C.
20428, 202-673-5422

SUPPLEMENTARY INFORMATION: Part 221 sets forth provisions governing the filing of tariffs by U.S. air carriers and foreign air carriers pursuant to section 403 of the Act. This editorial amendment is being issued to correct a reference in § 221.120(a) to tariffs suspended by the Board under "section 1002(g)" of the Act. This limited reference fails to reflect the fact that the Board presently has authority to suspend not only domestic air transportation tariffs under section 1002(g) of the Act, but also foreign air transportation tariffs under section 1002(j) of the Act. (Pub. L. 92-259, Act of March 22, 1972, 86 Stat. 99.) In order to accurately reflect the Board's existing authority to suspend all air transportation tariffs, the limited reference to the Board's suspension authority under subsection (g) of section 1002 of the Act is therefore being deleted from § 221.120(a).

This editorial amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the General Counsel in 14 CFR § 385.19, and shall become effective on May 2, 1977. Procedures for review of this amendment are set forth in Subpart C of Part 385 (14 CFR §§ 385.40 through 385.54). Accordingly, the Board hereby amends § 221.120(a) to read as follows:

Vehicle Service Contract

\$2,678.00

120 Months 125,000 Miles

Comprehensive Disappearing Deductible
Mechanical repair protection for covered components of your vehicle. Protects you from unexpected repair expenses. Includes roadside assistance, towing, rental car and trip interruption coverage.

GAP

\$695.00

Covers the difference between your loan payoff and insurance settlement if vehicle is declared a total loss.

Road Hazard Tire and Wheel

\$690.00

Pays for repair or replacement of damaged tires & wheels caused by road hazards. Includes roadside assistance & towing coverage.

AUTO ARMOR

\$799.00

Guarantees the condition of your the vehicles interior and exterior, even normal wear and tear.

Key Replacement

\$399.00

In the event your key/remote is lost, stolen or destroyed we will pay for a replacement key/remote. Includes Emergency Road Service.

Paintless Dent Repair

\$559.00

Pays for repair cost of minor dents and dings on your vehicle's exterior surfaces.

ENTIRE CARE

\$1,889.00

COMBINES AUTO ARMOR, ROAD HAZARD/TIRE AND WHEEL, DENT PROTECTION, KEY REPLACEMENT AND WINDSHIELD/ROADSIDE ASSISTANCE

72 mths of 478.94 @ 2.90% (RD)^{*}
75 mths of 461.40 @ 2.90% (RD)^{*}

Vehicle Service Contract

\$2,678.00

120 Months 125,000 Miles

Comprehensive Disappearing Deductible
Mechanical repair protection for covered components of your vehicle. Protects you from unexpected repair expenses. Includes roadside assistance, towing, rental car and trip interruption coverage.

Road Hazard Tire and Wheel

\$690.00

Pays for repair or replacement of damaged tires & wheels caused by road hazards. Includes roadside assistance & towing coverage.

AUTO ARMOR

\$799.00

Guarantees the condition of your the vehicles interior and exterior, even normal wear and tear.

Paintless Dent Repair

\$559.00

Pays for repair cost of minor dents and dings on your vehicle's exterior surfaces.

72 mths of 431.55 @ 2.90% (RD)^{*}
75 mths of 415.74 @ 2.90% (RD)^{*}

Vehicle Service Contract

\$2,678.00

120 Months 125,000 Miles

Comprehensive Disappearing Deductible
Mechanical repair protection for covered components of your vehicle. Protects you from unexpected repair expenses. Includes roadside assistance, towing, rental car and trip interruption coverage.

Road Hazard Tire and Wheel

\$690.00

Pays for repair or replacement of damaged tires & wheels caused by road hazards. Includes roadside assistance & towing coverage.

AUTO ARMOR

\$799.00

Guarantees the condition of your the vehicles interior and exterior, even normal wear and tear.

72 mths of 422.54 @ 2.90% (RD)^{*}
75 mths of 407.07 @ 2.90% (RD)^{*}

Vehicle Service Contract

\$2,678.00

120 Months 125,000 Miles

Comprehensive Disappearing Deductible
Mechanical repair protection for covered components of your vehicle. Protects you from unexpected repair expenses. Includes roadside assistance, towing, rental car and trip interruption coverage.

72 mths of 398.55 @ 2.90% (RD)^{*}
75 mths of 383.96 @ 2.90% (RD)^{*}

^{*}RD = Retail, Use = Lease, Bin = Balloon All payments are offered WITH APPROVED CREDIT ONLY and Pending Lender Approval.
The above (share a generic description) of the products listed. Specific Benefits may not be available in all States. Please refer to the contract for more information.
^{**}Please note that the premium for this Product is based on the specific loan terms, interest rate and/or products selected. The specific premium quotes for other product/payment options are available upon request.

Stock Number:
 Vehicle: 2016 SUBARU FORESTER 2.5I LIMITED

Trade Allowance: \$0.00 Fees: \$905.00
 Payoff: \$0.00 Products: \$4,737.00
 Down Payment: \$0.00 Balance Due: \$37,733.80
 Retail Loan with 72 payments of \$54.94 with an APR of 1.90

Products Purchased

Vehicle Service Contract

\$2,490.00

120 Months 125,000 Miles
 Comprehensive Disappearing Deductible
 Mechanical repair protection for covered components of your vehicle. Protects you from unexpected repair expenses. Includes roadside assistance, towing, rental car and trip interruption coverage.

Complimentary Maintenance

\$0.00

24 Months
 7,500 Mile Interval
 Prepays for certain services e.g. oil change per Mfr. Recommendations.

Road Hazard Tire and Wheel

\$590.00

Pays for repair or replacement of damaged tires & wheels caused by road hazards. Includes roadside assistance & towing coverage.

AUTO ARMOR

\$599.00

Guarantees the condition of your the vehicles interior and exterior, even normal wear and tear.

Key Replacement

\$399.00

In the event your key/fob is lost, stolen or destroyed we will pay for a replacement key/service. Includes Emergency Road Service.

Paintless Dent Repair

\$559.00

Pays for repair cost of minor dents and dings on your vehicle's exterior surfaces.

The different product/payment options available have been explained to me. My signature below indicates the purchase option that I have voluntarily selected and represents my understanding of the disclaimers and notices herein, including the purchase of these optional products or services is voluntary and does not influence any credit terms.

Products Not Purchased

GAP

\$10,221/mth ***

Covers the difference between your loan payoff and insurance settlement if vehicle is declared a total loss.

Buyer _____

Date _____

Co-Buyer _____

Date _____

The Estimated Monthly Payment for the options available is based on the purchase of the vehicle plus the products listed under the Products Accepted section, and the credit terms and conditions described, which are subject to lender approval. The "price" or "premium" quoted does not include finance charges for these products. The actual financial terms and conditions agreed to by the lender, approving your loan, will be disclosed on your loan agreement, and the products you have purchased will be financed based on the same interest rate as your loan. This Summary supersedes and replaces any prior Summary relating to same.

The insurance premium(s) shown is/are based on the payment option you selected. The premium is calculated based upon the specific loan terms, interest rate and/or other products selected in the payment option, and therefore would be different for other payment options offered. The premium quotes for other options are available upon request.
 ***The price per month is an estimate and may change based upon the inclusion or exclusion of other products.