



General Assembly

February Session, 2016

Raised Bill No. 5297

LCO No. 1301



Referred to Committee on BANKING

Introduced by:
(BA)

AN ACT CONCERNING INTEREST TRANSPARENCY.

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

1 Section 1. Section 36a-770 of the 2016 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 (a) The Uniform Commercial Code. A transaction subject to sections
5 36a-770 to 36a-788, inclusive, as amended by this act, 42-100b and 42-
6 100c is also subject to the Uniform Commercial Code, title 42a, but in
7 case of any conflict the provisions of sections 36a-770 to 36a-788,
8 inclusive, as amended by this act, 42-100b and 42-100c shall control.

9 (b) Filing and recording. Section 42a-9-310 determines the need for
10 filing or recording to perfect a security interest, section 42a-9-317
11 determines the persons who take subject to an unperfected security
12 interest, and sections 42a-9-311 and 42a-9-501 to 42a-9-526, inclusive,
13 determine the place for such filing or recording.

14 (c) Definitions. As used in sections 36a-770 to 36a-788, inclusive, as

15 amended by this act, 42-100b and 42-100c, unless the context otherwise
16 requires:

17 (1) "Boat" means any watercraft, as defined in section 22a-248, other
18 than a seaplane, used or capable of being used as a means of
19 transportation on water, by any power including muscular.

20 (2) "Cash price" means the total amount in dollars at which the seller
21 and buyer agreed the seller would transfer unqualified title to the
22 goods, if the transaction were a cash sale instead of a sale under a retail
23 installment contract.

24 (3) "Commercial vehicle" means any domestic or foreign truck or
25 truck tractor of ten thousand or more pounds gross vehicular weight
26 or any trailer or semitrailer designed for use in connection with any
27 truck or truck tractor of ten thousand or more pounds gross vehicular
28 weight and which is not used primarily for personal, family or
29 household use.

30 (4) "Filing fee" means the fee prescribed by law for filing, recording
31 or otherwise perfecting and releasing or satisfying a security interest,
32 as defined in subdivision (35) of subsection (b) of section 42a-1-201,
33 retained or created by a retail installment contract or installment loan
34 contract.

35 (5) "Finance charge" means the amount in excess of the cash price of
36 the goods agreed upon by the retail seller and the retail buyer, to be
37 paid by the retail buyer for the privilege of purchasing the goods
38 under the retail installment contract or installment loan contract.

39 (6) "Finance charge markup" means the difference between the
40 annual percentage rate of the retail seller's finance charge and the
41 annual percentage rate offered by the sales finance company that
42 acquires the retail installment contract.

43 [(6)] (7) "Goods" means (A) "consumer goods", as defined in

44 subdivision (23) of subsection (a) of section 42a-9-102 and motor
45 vehicles included under such definition, having an aggregate cash
46 price of fifty thousand dollars or less, and (B) "equipment", as defined
47 in subdivision (33) of subsection (a) of section 42a-9-102, having an
48 aggregate cash price of sixteen thousand dollars or less, provided such
49 consumer goods or such equipment is included in one retail
50 installment contract or installment loan contract.

51 [(7)] (8) "Installment loan contract" means any agreement made in
52 this state to repay in installments the amount loaned or advanced to a
53 retail buyer for the purpose of paying the retail purchase price of
54 goods and by virtue of which a security interest, as defined in
55 subdivision (35) of subsection (b) of section 42a-1-201, is taken in the
56 goods for the payment of the amount loaned or advanced. For
57 purposes of this subdivision, "installment loan contract" does not
58 include agreements to repay in installments loans made by the United
59 States or any department, agency or instrumentality thereof.

60 [(8)] (9) "Lender" means a person who extends or offers to extend
61 credit to a retail buyer under an installment loan contract.

62 [(9)] (10) A retail installment contract or installment loan contract is
63 "made in this state" if: (A) An offer or agreement is made in
64 Connecticut by a retail seller or a lender to sell or extend credit to a
65 resident retail buyer, including, but not limited to, any verbal or
66 written solicitation or communication to sell or extend credit
67 originating outside the state of Connecticut but forwarded to and
68 received in Connecticut by a resident retail buyer; or (B) an offer to buy
69 or an application for extension of credit, or an acceptance of an offer to
70 buy or to extend credit, is made in Connecticut by a resident retail
71 buyer, regardless of the situs of the contract which may be specified
72 therein, including, but not limited to, any verbal or written solicitation
73 or communication to buy or to have credit extended, originating
74 within the state of Connecticut but forwarded to and received by a
75 retail seller or a lender outside the state of Connecticut. For purposes

76 of this subdivision, a "resident retail buyer" means a retail buyer who
77 is a resident of the state of Connecticut.

78 [(10)] (11) "Motor vehicle" means any device in, upon or by which
79 any person or property is or may be transported or drawn upon a
80 highway by any power other than muscular. For purposes of this
81 subdivision, "motor vehicle" does not include self-propelled
82 wheelchairs and invalid tricycles, tractors, power shovels, road
83 machinery, implements of husbandry and other agricultural
84 machinery, or other machinery not designed primarily for highway
85 transportation but which may incidentally transport persons or
86 property on a highway, or devices which move upon or are guided by
87 a track or travel through the air.

88 [(11)] (12) "Retail buyer" means a person who buys or agrees to buy
89 one or more articles of goods from a retail seller not for the purpose of
90 resale or lease to others in the course of business and who executes a
91 retail installment contract or an installment loan contract in connection
92 therewith.

93 [(12)] (13) "Retail installment contract" means any security
94 agreement, as defined in subdivision (74) of subsection (a) of section
95 42a-9-102, made in this state, including one in the form of a mortgage,
96 conditional sale contract or other instrument evidencing an agreement
97 to pay the retail purchase price of goods, or any part thereof, in
98 installments over a period of time and pursuant to which a security
99 interest, as defined in subdivision (35) of subsection (b) of section 42a-
100 1-201, is retained or taken by the retail seller for the payment of the
101 amount of such retail installment contract. For purposes of this
102 subdivision, "retail installment contract" does not include a rent-to-
103 own agreement, as defined in section 42-240.

104 [(13)] (14) "Retail installment sale" means any sale evidenced by a
105 retail installment contract or installment loan contract wherein a retail
106 buyer buys goods from a retail seller at a time sale price payable in two

107 or more installments. The cash price of the goods, the amount, if any,
108 included for other itemized charges which are included in the amount
109 of the credit extended but which are not part of the finance charge
110 under sections 36a-675 to 36a-686, inclusive, and the finance charge
111 shall together constitute the time sale price. For purposes of this
112 subdivision, "retail installment sale" does not include a rent-to-own
113 agreement, as defined in section 42-240.

114 [(14)] (15) "Retail seller" means a person who sells or agrees to sell
115 one or more articles of goods under a retail installment contract to a
116 retail buyer.

117 [(15)] (16) "Sales finance company" means any person engaging in
118 this state in the business, in whole or in part, of acquiring retail
119 installment contracts from retail sellers or installment loan contracts
120 from holders thereof, by purchase, discount or pledge, or by loan or
121 advance to the holder of either on the security thereof, or otherwise.

122 Sec. 2. Subsection (a) of section 36a-772 of the 2016 supplement to
123 the general statutes is repealed and the following is substituted in lieu
124 thereof (*Effective October 1, 2016*):

125 (a) A retail seller of motor vehicles may charge, contract for, receive
126 or collect a finance charge expressed as an annual percentage rate on
127 any retail installment contract covering the retail sale of a motor
128 vehicle in this state, which charge shall not exceed the rates indicated
129 for the respective classifications of motor vehicles as follows: (1) On
130 sales made prior to October 1, 1985, of (A) new motor vehicles,
131 eighteen per cent; (B) used motor vehicles of a model designated by
132 the manufacturer by a year not more than three years prior to the year
133 in which the sale is made, nineteen and one-quarter per cent; and (C)
134 used motor vehicles of a model designated by the manufacturer by a
135 year more than three years prior to the year in which the sale is made,
136 twenty-one and one-half per cent; (2) on sales made on or after October
137 1, 1985, and prior to October 1, 1987, (A) new motor vehicles, sixteen

138 per cent; (B) used motor vehicles of a model designated by the
139 manufacturer by a year not more than two years prior to the year in
140 which the sale is made, eighteen per cent; (C) used motor vehicles of a
141 model designated by the manufacturer by a year more than two years
142 prior to the year in which the sale is made, twenty per cent; and (3) on
143 sales made on or after October 1, 1987, (A) new motor vehicles, fifteen
144 per cent; (B) used motor vehicles of a model designated by the
145 manufacturer by a year not more than two years prior to the year in
146 which the sale is made, seventeen per cent; (C) used motor vehicles of
147 a model designated by the manufacturer by a year more than two
148 years prior to the year in which the sale is made, nineteen per cent. A
149 retail seller who charges, contracts for, receives or collects a finance
150 charge under this subsection shall disclose, in writing, to the retail
151 buyer purchasing the motor vehicle: (i) The annual percentage rate of
152 the retail seller's finance charge; (ii) the identity of the sales finance
153 company, as defined in section 36a-535, bank, credit union or other
154 lender of the retail installment contract that offers the lowest annual
155 percentage rate and the amount of that rate; and (iii) any finance
156 charge markup, as defined in section 36a-770, as amended by this act,
157 imposed by the retail seller.

158 Sec. 3. (NEW) (*Effective October 1, 2016*) (a) For purposes of this
159 section, "ancillary product or service" includes, but is not limited to: (1)
160 Guaranteed auto protection or guaranteed asset protection insurance,
161 (2) an extended warranty or vehicle service contract, and (3) finishing
162 items or equipment that may be purchased with a motor vehicle,
163 including, but not limited to, paint protection, vehicle identification
164 number etching and stolen vehicle recovery systems.

165 (b) A retail installment contract from a retail seller of motor vehicles
166 shall disclose to the retail buyer purchasing a motor vehicle from the
167 retail seller pursuant to such contract, at the time of the execution of
168 such contract, that (1) any ancillary product or service offered to such
169 individual seller is optional, (2) the total cost or retail price of each
170 ancillary product or service and the percentage of such cost or retail

171 price being retained by the retail seller, and (3) the amount by which
172 such monthly payment on the installment loan originating from such
173 contract will increase as a result of purchasing such ancillary product
174 or service.

175 Sec. 4. Section 36a-786 of the general statutes is repealed and the
176 following is substituted in lieu thereof (*Effective October 1, 2016*):

177 A wilful violation of any provision of sections 36a-770 to 36a-788,
178 inclusive, as amended by this act, 42-100b, [and] 42-100c or section 3 of
179 this act, except a violation with respect to disclosure which is subject to
180 the provisions of section 36a-683, by any person, firm, association or
181 corporation shall bar recovery of any finance, delinquency or collection
182 charge by the owner or holder of the retail installment contract or any
183 interest, delinquency or collection charge by the owner or holder of an
184 installment loan contract involved, provided such owner or holder
185 approved of or had knowledge of such violation and after such
186 approval or knowledge retained the benefits, proceeds, profits or
187 advantages accruing from such violation or otherwise ratified such
188 violation.

189 Sec. 5. Section 36a-787 of the general statutes is repealed and the
190 following is substituted in lieu thereof (*Effective October 1, 2016*):

191 Any person and any responsible officer, partner or employee of
192 such person who wilfully and deliberately fails to comply with or
193 violates any of the provisions of sections 36a-770 to 36a-788, inclusive,
194 as amended by this act, 42-100b, [and] 42-100c or section 3 of this act,
195 except a violation with respect to disclosure which is subject to the
196 provisions of section 36a-681, shall, in addition to the penalty
197 prescribed in section 36a-786, as amended by this act, be fined not less
198 than twenty-five dollars nor more than five hundred dollars for each
199 offense, except that in the case of a violation by a licensed motor
200 vehicle dealer the penalty provided in section 14-64 shall apply.

201 Sec. 6. Section 36a-788 of the general statutes is repealed and the

202 following is substituted in lieu thereof (*Effective October 1, 2016*):

203 Whenever it appears to the commissioner that any person has
204 violated, is violating or is about to violate any provision of sections
205 36a-770 to 36a-788, inclusive, as amended by this act, 42-100b, [and] 42-
206 100c or section 3 of this act, the commissioner may take action against
207 such person in accordance with sections 36a-50 and 36a-52.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-770
Sec. 2	<i>October 1, 2016</i>	36a-772(a)
Sec. 3	<i>October 1, 2016</i>	New section
Sec. 4	<i>October 1, 2016</i>	36a-786
Sec. 5	<i>October 1, 2016</i>	36a-787
Sec. 6	<i>October 1, 2016</i>	36a-788

Statement of Purpose:

To inform individuals of finance charges imposed by retail sellers of motor vehicles.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]