



House of Representatives

General Assembly

File No. 401

February Session, 2016

Substitute House Bill No. 5297

House of Representatives, April 4, 2016

The Committee on Banking reported through REP. LESSER of the 100th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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2 statutes is repealed and the following is substituted in lieu thereof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 from passage*):

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 of motor vehicles who charges, contracts for, receives or
150 collects a finance charge under this subsection shall disclose, in
151 writing, to the retail buyer purchasing the motor vehicle: (i) The
152 annual percentage rate of the retail seller's finance charge; (ii) the
153 identity of the sales finance company that offers the lowest annual
154 percentage rate and the amount of that rate; and (iii) any finance
155 charge markup imposed by the retail seller.

156 Sec. 3. Subsection (a) of section 36a-679 of the 2016 supplement to
157 the general statutes is repealed and the following is in lieu thereof
158 (*Effective from passage*):

159 (a) The commissioner may adopt regulations, in accordance with
160 chapter 54, to carry out the provisions of the Connecticut Truth-in-
161 Lending Act, sections 36a-567, 36a-568, subdivision [(13)] (14) of
162 subsection (c) of section 36a-770, as amended by this act, and sections
163 36a-771, 36a-774 and 36a-777. Such regulations shall be consistent with
164 the policy of this state as provided in section 36a-677 and the
165 Consumer Credit Protection Act.

166 Sec. 4. Section 36a-681 of the 2016 supplement to the general statutes
167 is repealed and the following is in lieu thereof (*Effective from passage*):

168 Any person who wilfully and knowingly (1) gives false or
169 inaccurate information or fails to provide information which such
170 person is required to disclose under the provisions of sections 36a-567,
171 36a-568 and the Connecticut Truth-in-Lending Act, subdivision [(13)]
172 (14) of subsection (c) of section 36a-770, as amended by this act, and
173 sections 36a-771, 36a-774, 36a-777 and 36a-786, or any regulation
174 adopted thereunder, (2) uses any chart or table authorized by the
175 Federal Reserve Board or the Bureau of Consumer Financial Protection
176 under 15 USC 1606, as amended from time to time, in such manner as
177 to consistently understate the annual percentage rate determined
178 under said sections, or (3) otherwise fails to comply with any

179 requirement imposed under said sections shall be fined not more than
180 five thousand dollars or imprisoned not more than one year or both.

181 Sec. 5. Subsection (a) of section 36a-684 of the 2016 supplement to
182 the general statutes is repealed and the following is in lieu thereof
183 (*Effective from passage*):

184 (a) The commissioner shall enforce the requirements of sections 36a-
185 567, 36a-568, the Connecticut Truth-in-Lending Act, subdivision [(13)]
186 (14) of subsection (c) of section 36a-770, as amended by this act, and
187 sections 36a-771, 36a-774 and 36a-777. The commissioner shall, in
188 addition to other powers granted by said sections or by other
189 provisions of law, receive and act on complaints, take action designed
190 to obtain voluntary compliance with said sections or commence
191 proceedings on the commissioner's own initiative pursuant to sections
192 36a-50 to 36a-53, inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-770
Sec. 2	<i>from passage</i>	36a-772(a)
Sec. 3	<i>from passage</i>	36a-679(a)
Sec. 4	<i>from passage</i>	36a-681
Sec. 5	<i>from passage</i>	36a-684(a)

Statement of Legislative Commissioners:

In Section 2, the effective date of "October 1, 2016" was changed to "from passage" for internal consistency and clarity, in Section 2, "as defined in section 36a-535, bank, credit union or other lender of the retail installment contract" was removed for consistency and "as defined in section 36a-770, as amended by this act," was removed to eliminate redundant language, and Sections 3, 4 and 5 of the bill were added to make conforming changes to the general statutes.

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which concerns interactions between private entities and individuals, does not result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5297

AN ACT CONCERNING INTEREST TRANSPARENCY.

SUMMARY:

This bill requires a motor vehicle retail seller who charges, contracts for, receives, or collects a finance charge on the sale of a vehicle, to make specific written disclosures regarding interest rates to the person purchasing the vehicle. By law, a finance charge is the amount above the cash price that the buyer agrees to pay in order to purchase the vehicle under an installment contract. It includes the finance company's annual percentage rate (APR) and the seller's markup.

The bill requires the seller, with regard to the installment contract, to disclose:

1. the seller's annual finance charge;
2. the identity of the sales finance company that offers the lowest APR and the amount of that rate; and
3. any finance charge markup the seller imposes (i.e., the difference between the seller's annual finance charge and the APR offered by the finance company that acquires the contract).

Under the bill, sales finance companies are companies engaged in acquiring retail installment contracts or installment loan contracts from holders in the state, including banks and credit unions.

It also makes conforming changes.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 14 Nay 4 (03/15/2016)