

MISSISSIPPI MOTOR VEHICLE SALES FINANCE LAW

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SEC. 63-19-1. Short title.

This chapter may be cited as "The Motor Vehicle Sales Finance Law."

SOURCES: Codes, 1942, Sec. 8075-23; Laws, 1958, ch. 495, Sec. 36, eff from and after 90 days after passage (approved April 22, 1958).

Research and Practice References-

7A Am Jur 2d, Automobiles and Highway Traffic Secs. 25 et seq.

60 CJS, Motor Vehicles Secs. 39 et seq.

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-3. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context or subject matter otherwise requires:

- (a) "Motor vehicle" means any self-propelled or motored device designed to be used or used primarily for the transportation of passengers or property, or both, and having a gross vehicular weight of less than fifteen thousand (15,000) pounds.
- (b) "Commercial vehicle" means any self-propelled or motored device designed to be used or used primarily for the transportation of passengers or property, or both, and having a gross vehicular weight of fifteen thousand (15,000) pounds or more; provided, however, that wherever "motor vehicle" appears in this chapter, except in Section 63-19-43, the same shall be construed to include commercial vehicles where such construction is necessary in order to give effect to this chapter.
- (c) "Retail buyer" or "buyer" means a person who buys a motor vehicle or commercial vehicle from a retail seller, not for the purpose of resale, and who executes a retail installment contract in connection therewith.
- (d) "Retail seller" or "seller" means a person who sells a motor vehicle or commercial vehicle to a retail buyer under or subject to a retail installment contract.
- (e) The "holder" of a retail installment contract means the retail seller of the motor vehicle or commercial vehicle under or subject to the contract or if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee.

(f) "Retail installment transaction" means any transaction evidenced by a retail installment contract entered into between a retail buyer and a retail seller wherein the retail buyer buys a motor vehicle or commercial vehicle from the retail seller at a time price payable in one or more deferred installments. The cash sale price of the motor vehicle or commercial vehicle, the amount included for insurance and other benefits if a separate charge is made therefor, official fees and the finance charge shall together constitute the time price.

(g) "Retail installment contract" or "contract" means an agreement entered into in this state pursuant to which the title to or a lien upon the motor vehicle or commercial vehicle which is the subject matter of a retail installment transaction is retained or taken by a retail seller from a retail buyer as security for the buyer's obligation. The term includes a chattel mortgage, a conditional sales contract and a contract for the bailment or leasing of a motor vehicle or commercial vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the motor vehicle upon full compliance with the provisions of the contract.

(h) "Cash sale price" means the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle or commercial vehicle which is the subject matter of the retail installment contract, if such sale had been a sale for cash instead of a retail installment transaction. The cash sale price may include any taxes, registration, certificate of title, if any, license and other fees and charges for accessories and their installation and for delivery, servicing, repairing or improving the motor vehicle or commercial vehicle.

(i) "Official fees" means the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying a retained title or a lien created by a retail installment contract, if recorded.

(j) "Finance charge" means the amount agreed upon between the buyer and the seller, as limited in this chapter, to be added to the aggregate of the cash sale price, the amount, if any, included for insurance and other benefits and official fees, in determining the time price.

(k) "Sales finance company" means a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more retail sellers. The term includes but is not limited to a bank, trust company, private banker, industrial bank or investment company, if so engaged. The term also includes a retail seller engaged, in whole or in part, in the business of creating and holding retail installment contracts which exceed a total aggregate outstanding indebtedness of Five Hundred Thousand Dollars (\$500,000.00). The term does not include the pledgee to whom is pledged one or more of such contracts to secure a bona fide loan thereon.

(l) "Person" means an individual, partnership, corporation, association and any other group however organized.

(m) "Administrator" means the State Comptroller of Banks or his duly authorized representative.

Words in the singular include the plural and vice versa.

SOURCES: Codes, 1942, Sec. 8075-01; Laws, 1958, ch. 495, Secs. 1-14; 1968, ch. 537, Sec. 1; 1975, ch. 316, Sec. 1; 1990, ch. 303, Sec. 1, eff from and after July 1, 1990.

Editor's Note-

Section 81-1-117 abolished the office of state comptroller, and provided that the functions, duties and responsibilities would be assumed by the commissioner of banking and consumer finance.

ALR Annotations-

What constitutes "finance charge" under Sec. 106(a) of the Truth in Lending Act (15 USCS Sec. 1605(a)) or applicable regulations. 46 ALR Fed 657.

SEC. 63-19-5. [Repealed.]

[Codes, 1942, Sec. 8075-01; Laws, 1958, ch. 495, Secs. 1-14; 1968, ch. 537, Sec. 1] [Brought forward Laws, 1990, ch. 303, Sec. 2] Repealed by Laws 1991, ch. 319, Sec. 1, eff from and after July 1, 1991.

Editor's Note-

Former Sec. 63-19-5 related to effect of retail installment contract on rights of subsequent lien holders or purchasers.

JUDICIAL DECISIONS

In abrogating the doctrine of caveat emptor, in connection with instalment sales of motor vehicles, the legislature recognized that the seller needed protection for a reasonable period of time intervening between a sale of a motor vehicle and the filing of the conditional sales contract with a chancery clerk of the county of the purchaser's residence. *England Motor Co. v Murdock Acceptance Corp.* (1962) 244 Miss 75, 140 So 2d 289.

The 10-day recording provision in this section [Code 1942, Sec. 8075-01] did not have the effect to render an instrument unrecordable and void if not recorded within 10 days, but gives the grantee the same protection for a reasonable length of time that he would have had if his conditional sales contract had been actually a matter of record. *England Motor Co. v Murdock Acceptance Corp.* (1962) 244 Miss 75, 140 So 2d 289.

A conditional sales contract was valid and binding as against a subsequent purchaser for value without notice where the contract, although not filed within 10 days as required by this section [Code 1942, Sec. 8075-01], was filed before the sale to the subsequent purchaser. *England Motor Co. v Murdock Acceptance Corp.* (1962) 244 Miss 75, 140 So 2d 289.

As a general rule, constructive notice is not afforded by the recordation of chattel mortgages on goods and chattels such as automobiles left in the hands of the dealer for resale as against purchasers for valuable consideration. *Green v Bohuslav* (1967, Miss) 204 So 2d 870.

A bank which made a loan to an automobile dealer secured by a chattel mortgage on an automobile which it knew he had purchased for resale cannot recover the vehicle in replevin from one who purchased it from the dealer. *Green v Bohuslav* (1967, Miss) 204 So 2d 870.

SEC. 63-19-7. Requirement of license.

No person shall engage in the business of a sales finance company in this state without a license therefor as provided in this chapter. However, no bank, trust company, private banker, industrial bank or investment company authorized to do business in this state shall be required to obtain a license under this chapter. They shall, however, comply with all of the other provisions of this chapter.

SOURCES: Codes, 1942, Sec. 8075-02; Laws, 1958, ch. 495, Sec. 15, eff from and after 90 days after passage (approved April 22, 1958).

Cross References-

Finance charge limitations, see Sec. 63-19-43.

License required of person engaged in loaning money on personal property where property is deposited with lender and pledged for such loan, see Sec. 75-67-3.

License required of person handling loans or lending money under Small Loan Regulatory Law, see Sec. 75-67-105.

License required of person handling loans or lending money under Small Loan Privilege Tax Law, see Sec. 75-67-205.

Banks and financial institutions generally, see Secs. 81-1-54 et seq.

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-9. Application for license.

The application for such license shall be in writing, under oath and in the form prescribed by the administrator. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers; and such other pertinent information as the administrator may require.

SOURCES: Codes, 1942, Sec. 8075-03; Laws, 1958, ch. 495, Sec. 16, eff from and after 90 days after passage (approved April 22, 1958).

SEC. 63-19-11. License fee.

With each initial application for a license, the applicant shall pay to the commissioner at the time of making the application a license fee of Seven Hundred Fifty Dollars (\$750.00), and for renewal applications, an annual renewal fee of Four Hundred Seventy-five Dollars (\$475.00) for each calendar year for each place of business so operated.

Sources: Codes, 1942, § 8075-04; Laws, 1958, ch. 495, § 17; Laws, 1975, ch. 437, § 1; Laws, 2000, ch. 621, § 2, eff from and after passage (approved May 23, 2000.)

SEC. 63-19-13. Issuance and duration of license; transfer or assignment of license; transaction of business under different name.

Upon the filing of an application, and the payment of the required fee, the administrator shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. Such license shall not be transferable or assignable. No licensee shall transact any business provided for by this chapter under any other name.

SOURCES: Codes, 1942, Sec. 8075-06; Laws, 1958, ch. 495, Sec. 16, eff from and after 90 days after passage (approved April 22, 1958).

SEC. 63-19-15. Specification as to location of office in license; display of license; effect of change of location.

Each license shall specify the location of the office and must be conspicuously displayed there.

SOURCES: Codes, 1942, Sec. 8075-05; Laws, 1958, ch. 495, Sec. 18, eff from and after 90 days after passage (approved April 22, 1958).

SEC. 63-19-17. Grounds for denial, suspension or revocation of license.

The renewal of a license originally granted under this chapter may be denied, or a license may be suspended, denied or revoked by the administrator on the following grounds:

1. Material misstatement in application for license;
2. Willful failure to comply with provision of this chapter relating to retail installment contracts;
3. Defrauding any retail buyer to the buyer's damage;

4. Fraudulent misrepresentation, circumvention or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the retail buyer under this chapter.

SOURCES: Codes, 1942, Sec. 8075-07; Laws, 1958, ch. 495, Sec. 20, eff from and after 90 days after passage (approved April 22, 1958).

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-19. Liability of licensee for acts of agents.

If a licensee is a firm, association or corporation, it shall be sufficient cause for the suspension or revocation of a license that any officer, director or trustee of a licensed firm, association or corporation, or any member of a licensed partnership, has so acted or failed to act as would be cause for suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of any or all of his employees while acting as his agent, if such licensee after actual knowledge of said acts retained the benefits, proceeds, profits or advantages accruing from said acts or otherwise ratified said acts.

SOURCES: Codes, 1942, Sec. 8075-08; Laws, 1958, ch. 495, Sec. 21, eff from and after 90 days after passage (approved April 22, 1958).

SEC. 63-19-21. Procedure for denial, suspension or revocation of license; judicial review.

No license shall be denied, suspended or revoked except after hearing thereon. The administrator shall give the licensee at least ten days' written notice, in the form of an order to show cause, of the time and place of such hearing by certified mail addressed to the principal place of business in this state of such licensee. The said notice shall contain the grounds of complaint against the licensee. Any order suspending or revoking such license shall recite the grounds upon which the same is based. The order shall be entered upon the records of the administrator and shall not be effective until after thirty days' written notice thereof given after such entry forwarded by registered mail to the licensee at such principal place of business. No revocation, suspension or surrender of any license shall impair or affect the obligation of any lawful retail installment contract acquired previously thereto by the licensee.

Within thirty days after any such denial, suspension or revocation of a license the person aggrieved may apply for a review thereof by an application to any chancellor or judge of the chancery court of the county wherein is located the principal place of business in this state of such licensee in accordance with the practice of said court. Any chancellor or judge of the chancery court of the county wherein is located the principal place of business in this state of such licensee shall determine de novo all questions, both of fact and of law, touching upon the legality and reasonableness of the determination of the administrator, and shall render such judgment as shall be lawful and just.

SOURCES: Codes, 1942, Sec. 8075-09; Laws, 1958, ch. 495, Sec. 22, eff from and after 90 days after passage (approved April 22, 1958).

SEC. 63-19-23. Investigations and examinations of licensees.

The administrator shall, at intermittent periods, make such investigations and examinations of any licensee or other person as he deems necessary to determine compliance with this chapter. For such purpose he may examine the books, accounts, records and other documents or matters of any licensee or other person. He shall have the power to compel the production of all relevant books, records and other documents and materials relative to an examination or investigation. Such investigations and examinations shall not be made more often than once during a year unless the administrator has reason to believe the licensee is not complying with the provisions of this chapter.

SOURCES: Codes, 1942, Sec. 8075-10; Laws, 1958, ch. 495, Sec. 23, eff from and after 90 days after passage (approved April 22, 1958).

SEC. 63-19-25. Filing and examination of complaints against licensees.

Any retail buyer having reason to believe that this chapter relating to his retail installment contract has been violated may file with the administrator a written complaint setting forth the details of such alleged violation. The administrator, upon receipt of such complaint, may inspect the pertinent books, records, letters and contracts of the licensee and of the retail seller involved, relating to such specific written complaint.

SOURCES: Codes, 1942, Sec. 8075-11; Laws, 1958, ch. 495, Sec. 24, eff from and after 90 days after passage (approved April 22, 1958).

SEC. 63-19-27. Payment of expenses of investigation by licensee.

The commissioner may charge the licensee an examination fee in an amount not less than Three Hundred Dollars (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each office or location within the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

All expense fees paid to the commissioner shall be deposited by the commissioner in the State Treasury in a special and separate fund to be known as the "Consumer Finance Fund."

Sources: Codes, 1942, § 8075-17; Laws, 1958, ch. 495, § 30; Laws, 1975, ch. 440, § 1; Laws, 1985, ch. 345, § 1; brought forward, 1990, ch. 303, § 3; Laws, 2000, ch. 621, § 4; Laws, 2004, ch. 450, § 1, eff from and after passage (approved Apr. 28, 2004.)

SEC. 63-19-29. Issuance of subpoenas; administration of oaths; enforcement of subpoenas, etc.

The administrator shall have power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before him in any matter over which he has jurisdiction, control or supervision pertaining to this chapter. The administrator shall have the power to administer oaths and affirmations to any person whose testimony is required.

If any person shall refuse to obey any such subpoena, or to give testimony, or to produce evidence as required thereby, any judge or chancellor of the chancery court of the first judicial district of Hinds County may, upon application and proof of such refusal, make an order awarding process of subpoena, or subpoena duces tecum, out of said court, for the witness to appear before the administrator and to give testimony, and to produce evidence as required thereby. Upon filing such order in the office of the clerk of the said chancery court, the clerk shall issue process of subpoena, as directed, under the seal of said court, requiring the person to whom it is directed, to appear at the time and place therein designated.

If any person served with any such subpoena shall refuse to obey the same, and to give testimony, and to produce evidence as required thereby, the administrator may apply to any judge or chancellor of the chancery court of the first judicial district of Hinds County for an attachment against such person, as for a contempt. The judge, or chancellor, upon satisfactory proof of such refusal, shall issue an attachment, directed to any sheriff, constable or police officer, for the arrest of such person, and upon his being brought before such judge, proceed to a hearing of the case. The judge, or chancellor, shall have power to enforce obedience to such subpoena, and the answering of any question, and the production of any evidence, that may be proper by imposition of a fine, not exceeding one hundred dollars (\$100.00), or by imprisonment in the county jail, or by both imposition of a fine and imprisonment, and to compel such witness to pay the costs of such proceeding to be taxed.

SOURCES: Codes, 1942, Sec. 8075-12; Laws, 1958, ch. 495, Sec. 25, eff from and after 90 days after passage (approved April 22, 1958).

Cross References-

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any violation of Title 63, see Sec. 99-19-73.

SEC. 63-19-31. Execution, terms and delivery of retail installment contract.

(1) (a) A retail installment contract shall be in writing, shall be signed by both the buyer and the seller, and shall be completed as to all essential provisions prior to the signing of the contract by the buyer.

(b) The printed portion of the contract, other than instructions for completion, shall be in at least eight-point type. The contract shall contain in a size equal to at least ten-point bold type:

(i) A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case; and

(ii) The following notice: "Notice to the Buyer: 1. Do not sign this contract before you read it or if it contains any blank spaces. 2. You are entitled to an exact copy of the contract you sign."

(c) The seller shall deliver to the buyer, or mail to him at his address shown on the contract, a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the motor vehicle shall have the right to rescind his agreement and to receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract, or if such goods cannot be returned, the value thereof. Any acknowledgment by the buyer of the delivery of a copy of the contract shall be in a size equal to at least ten-point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

(d) The contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the motor vehicle including its make, year model, model and identification numbers or marks.

(2) The contract shall contain the following items:

(a) The cash sale price of the motor vehicle;

(b) The amount of the buyer's down payment, and whether made in money or goods, or partly in money and partly in goods;

(c) The difference between items (a) and (b);

(d) The amount, if any, included for insurance and other benefits specifying the types of coverage and benefits;

(e) The amount of official fees;

(f) The principal balance, which is the sum of items (c), (d), and (e);

(g) The amount of the finance charge;

(h) The time balance, which is the sum of items (f) and (g), payable in installments by the buyer to the seller, the number of installments, the amount of each installment and the due date or period thereof.

The above items need not be stated in the sequence or order set forth. Additional items may be included to explain the calculations involved in determining the stated time balance to be paid by the buyer. Notwithstanding any provision of this chapter to the contrary, in any contract evidencing the sale of a commercial vehicle, the statement of the amount of the finance charge

(item (g) hereof) and the amount of each installment (item (h) hereof) may be calculated using the finance charge rate applicable to the transaction as of the date of execution of the contract, notwithstanding the fact that such finance charge rate may increase or decrease over the term of the contract according to any formula or index set forth in the contract; provided, however, that under no circumstances may the variable rate under such contract at any time exceed the finance charge limitations found in Section 63-19-43, of this chapter.

(3) No retail installment contract shall be signed by any party thereto when it contains blank spaces to be filled in after it has been signed except that, if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying numbers or marks of the motor vehicle or similar information and the due date of the first installment may be inserted in the contract after its execution. The buyer's written acknowledgment, conforming to the requirements of subdivision (c) of subsection (1) of this section, of delivery of a copy of a contract shall be conclusive proof of such delivery, that the contract when signed did not contain any blank spaces except as herein provided, and of compliance with Sections 63-19-31 to 63-19-41 in any action or proceeding by or against the holder of the contract.

SOURCES: Codes, 1942, Sec. 8075-13; Laws, 1958, ch. 495, Sec. 26; 1985, ch. 527, Sec. 1, eff from and after July 1, 1985.

Cross References-

Written statement furnished buyer concerning payments and amount due, see Sec. 63-19-39.

Finance charge limitations, see Sec. 63-19-43.

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-33. Purchase of insurance pursuant to retail installment contract.

(1) The amount, if any, included in a retail installment contract for insurance, which may be purchased by the holder of the retail installment contract, shall not exceed the applicable premiums chargeable in accordance with the rates filed with the state insurance commission. If dual interest insurance on the motor vehicle is purchased by the holder it shall, within thirty days after execution of the retail installment contract, send or cause to be sent to the buyer a policy or policies or certificates of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of insurance. The buyer shall have the privilege of purchasing such insurance from an agent or broker of his own selection; in such case, however, the inclusion of the insurance premium in the retail installment contract shall be optional with the seller.

No holder shall unreasonably or arbitrarily refuse to accept coverage by an insurance company tendered by the buyer.

(2) If any insurance is cancelled, or the premium adjusted, any refund of the insurance premium received by the holder shall be credited to the final maturing installments of the contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them.

SOURCES: Codes, 1942, Sec. 8075-13; Laws, 1958, ch. 495, Sec. 26, eff from and after 90 days after passage (approved April 22, 1958).

Cross References-

Buyer's signature constituting acknowledgement of delivery of contract and that contract did not contain blank spaces, see Sec. 63-19-31.

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-35. Delinquency and collection charges; court costs and attorneys' fees.

The holder may, if the contract or refinancing agreement so provides, collect a delinquency and collection charge on a contract evidencing the sale of a commercial vehicle in an amount not exceeding Five Dollars (\$5.00) or four percent (4%) of the amount of any delinquency in default for a period of not less than fifteen (15) days, whichever is greater, but in no event to exceed Fifty Dollars (\$50.00), and on all other retail installment contracts a delinquency and collection charge in an amount not in excess of five percent (5%) or Five Dollars (\$5.00), whichever is less, on each installment in default for a period of not less than ten (10) days. In addition to such delinquency and collection charge, the contract may provide for the payment of court costs and of attorneys' fee not exceeding fifteen per cent (15%) of the amount actually due and unpaid at the time the balance of the contract is accelerated and the entire amount thereof is declared to be due, if the same is referred to an attorney for collection. However, no such attorneys' fee may be charged or collected where the attorney to whom the contract was referred for collection is a salaried employee of the holder of the contract.

SOURCES: Codes, 1942, Sec. 8075-13; Laws, 1958, ch. 495, Sec. 26; 1985, ch. 368, eff from and after July 1, 1985.

Cross References-

Buyer's signature constituting acknowledgement of delivery of contract and that contract did not contain blank spaces, see Sec. 63-19-31.

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-37. Transfer of equity in motor vehicle; transfer fee.

The buyer may transfer his equity in the motor vehicle at any time to another person upon agreement by the holder, and, in such event, the holder of the contract shall be entitled to charge and collect a transfer of equity fee which shall not exceed fifteen dollars (\$15.00). No transfer of equity fee shall be charged or collected unless the holder of the contract shall, in writing, release the transferor from all further liability under such contract.

SOURCES: Codes, 1942, Sec. 8075-13; Laws, 1958, ch. 495, Sec. 26, eff from and after 90 days after passage (approved April 22, 1958).

Cross References-

Buyer's signature constituting acknowledgement of delivery of contract and that contract did not contain blank spaces, see Sec. 63-19-31.

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-39. Furnishing of buyer with statement of payments and unpaid balance and written receipt for cash payment.

Upon written request from the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement, in conformity with Section 63-19-31, of payments and the total amount unpaid under such contract. A buyer shall be given a written receipt for any payment when made in cash.

SOURCES: Codes, 1942, Sec. 8075-13; Laws, 1958, ch. 495, Sec. 26; 1985, ch. 527, Sec. 2, eff from and after July 1, 1985.

Cross References-

Buyer's signature constituting acknowledgement of delivery of contract and that contract did not contain blank spaces, see Sec. 63-19-31.

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-41. Restriction of remedies of buyer against holder.

No provision in a retail installment contract relieving the holder from liability for any legal remedies which the buyer may have against the seller under the contract, or any separate instrument executed in connection therewith, shall be enforceable.

SOURCES: Codes, 1942, Sec. 8075-13; Laws, 1958, ch. 495, Sec. 26, eff from and after 90 days after passage (approved April 22, 1958).

Cross References-

Buyer's signature constituting acknowledgement of delivery of contract and that contract did not contain blank spaces, see Sec. 63-19-31.

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-43. Maximum finance charge; security interests.

(1) The maximum finance charge which may be contracted for or received for any purchase money loan or purchase money extension of credit made by any lender or by any licensed retail seller, or by any other entity that is expressly exempt from licensing but expressly subject to compliance with this chapter under the provisions of Section 63-19-7, in connection with sales or financing of motor vehicles and commercial vehicles, as defined in Section 63-19-3(a) and 63-19-3(b), made under this chapter, may result in a yield not to exceed the following annual percentage rates calculated according to the actuarial method:

(a) Class 1. Any new motor vehicle manufactured in the same year or the year immediately prior to the year in which the sale is made - eighteen percent (18%) per annum on the unpaid balance.

(b) Class 2. Any new motor vehicle not in Class 1, any used motor vehicle manufactured not more than two (2) years prior to the year in which the sale is made, and any new commercial vehicle or used commercial vehicle manufactured not more than one (1) year prior to the year in which the sale is made - twenty-one percent (21%) per annum on the unpaid balance.

(c) Class 3. Any used motor vehicle not in Class 2 and manufactured not more than four (4) years prior to the year in which the sale is made and any used commercial vehicle not in Class 2 - twenty-six and seventy-five one-hundredths percent (26.75%) per annum on the unpaid balance.

(d) Class 4. Any used motor vehicle not in Class 2 or Class 3 and manufactured more than four (4) years prior to the year in which the sale is made - twenty-eight and seventy-five one-hundredths percent (28.75%) per annum on the unpaid balance.

(2) The discount rate referred to in subsection (1) of this section shall be determined, posted and accorded evidentiary weight as provided in Section 75-17-33.

(3) Any subsequent extension, renewal or refinancing of any purchase money loan or purchase money extension of credit under this chapter which is secured by a perfected security interest in a motor vehicle or commercial vehicle pursuant to Section 63-21-43 shall continue to be secured by such security interest without the necessity of reapplying for a certificate of title under that section.

SOURCES: Codes, 1942, Sec. 8075-14; Laws, 1958, ch. 495, Sec. 24; 1974, ch. 564, Sec. 2; 1975, ch. 316, Sec. 2; 1980, ch. 492, Sec. 2; 1982, ch. 468, Sec. 2; 1984, ch. 501, Sec. 2; 1986, ch. 510, Sec. 11; 1996, ch. 433, Sec. 1, eff from and after July 1, 1996

Editor's Note-

Laws, 1980, ch. 492, Sec. 7, provides as follows:

SECTION 6. The provisions of this act shall apply only to contracts, agreements, or evidences of indebtedness entered into on or after the effective date of this act, and shall not defeat, extinguish or render void any claim or defense existing with respect to contracts, agreements or evidences of indebtedness entered into prior to the effective date of this act.

SECTION 7. This act shall not be construed as stating explicitly and by its terms that the State of Mississippi does not want the provisions of sections 501(a)(1), 511 and 521 through 523 of the Depository Institutions Deregulation and Monetary Control Act of 1980 to apply with respect to loans, mortgages, credit sales, and advances made in this state, and the preemption of state law provided by such sections shall remain in full force and effect in the State of Mississippi.

Laws, 1982, ch. 468, Sec. 6, provides as follows:

"SECTION 6. This act shall not be construed as stating explicitly and by its terms that the State of Mississippi does not want the provisions of Sections 501(a)(1), 511 and 521 through 523 of the Depository Institutions Deregulation and Monetary Control Act of 1980 to apply with respect to loans, mortgages, credit sales, and advances made in this state, and the preemption of state law provided by such sections shall remain in full force and effect in the State of Mississippi."

Laws, 1984, ch. 501, Sec. 6, provides as follows:

"SECTION 6. This act shall not be construed as stating explicitly and by its terms that the State of Mississippi does not want the provisions of Sections 501(a)(1), 511, and 521 through 523 of the Depository Institutions Deregulation and Monetary Control Act of 1980, as amended, to apply with respect to loans, mortgages, credit sales, and advances made in this state, and the preemption of state law provided by such sections, as amended, shall remain in full force and effect in the State of Mississippi."

Laws, 1986, ch. 500, Sec. 17, effective July 1, 1986, provides as follows:

"SECTION 17. This act shall not be construed as stating explicitly and by its terms that the State of Mississippi does not want the provisions of Sections 501(a)(1), 511, and 521 through 523 of the Depository Institutions Deregulation and Monetary Control Act of 1980, as amended, to apply with respect to loans, mortgages, credit sales, and advances made in this state, and the preemption of state law provided by such sections, as amended, shall remain in full force and effect in the State of Mississippi."

Cross References-

Provisions of retail installment contract, see Sec. 63-19-31.

Legal rate of interest generally, see Sec. 75-17-1.

Definition of the term "finance charge" as used in this section, inter alia, see Sec. 75-17-25.

Federal Aspects-

Provisions of Sections 501(a)(1), 511, and 521 through 523 of the Depository Institutions Deregulation and Monetary Control Act of 1980, as amended, see 12 USCS Secs. 1735f-7 note, 86a, 1831d, 1730g, and 1785, respectively.

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-45. Assignment of retail installment contract.

Any sales finance company may purchase or acquire or agree to purchase or acquire from any seller any contract on such terms and conditions as may be agreed upon between them. Filing of the assignment, notice to the buyer of the assignment, and any requirement that the holder maintain dominion over the payments or the motor vehicle if repossessed shall not be necessary to the validity of a written assignment of a contract as against creditors, subsequent purchasers, pledgees, mortgagees and lien claimants of the seller. Unless the buyer has notice of the assignment of his contract, payment thereunder made by the buyer to the last known holder of such contract shall be binding upon all subsequent holders.

SOURCES: Codes, 1942, Sec. 8075-14; Laws, 1958, ch. 495, Sec. 24, eff from and after 90 days after passage (approved April 22, 1958).

ALR Annotations-

Regulation or licensing of business of selling motor vehicles. 57 ALR2d 1265.

SEC. 63-19-47. Payment of debt in full prior to maturity.

Notwithstanding the provisions of any retail installment contract to the contrary, any buyer may pay in full at any time before maturity the debt of any retail installment contract and in so paying such debt shall receive a refund credit thereon for such anticipation of payments provided such contract shall have a precomputed finance charge. The amount of such refund shall represent at least as great a proportion of the finance charge as the sum of the monthly time balances bears to the sum of all the monthly time balances under the schedule of payments in the contract after deducting from such refund an acquisition cost of Ten Dollars (\$10.00). Where the amount of credit is less than One Dollar (\$1.00), no refund need be made. In the event the finance charge on

a contract evidencing the sale of a commercial vehicle is not precomputed, any buyer may pay in full at any time before maturity the then remaining unpaid principal balance of the contract and shall pay a penalty for such prepayment as may have been agreed to by the buyer and the seller in the contract, not to exceed Fifty Dollars (\$50.00).

The provisions of this section shall apply in the event the vehicle is repossessed by the finance company or the dealer, and the dealer is required to pay the balance of indebtedness due the holder thereof.

SOURCES: Codes, 1942, Sec. 8075-15; Laws, 1958, ch. 495, Sec. 25; 1985, ch. 527, Sec. 3; brought forward, 1990, ch. 303, Sec. 4, eff from and after July 1, 1990.

SEC. 63-19-49. [Repealed.]

[Codes, 1942, Sec. 8075-16; Laws, 1958, ch. 495, Sec. 29] Repealed by Laws, 1974, ch. 564, Sec. 8, eff from and after July 1, 1974.

Editor's Note-

Former Sec. 63-19-49 governed the refinancing of retail installment contracts.

SEC. 63-19-51. Administration of chapter.

The commissioner is authorized to employ the necessary examiners and other personnel required to administer the provisions of this chapter and to fix their compensation commensurate with their duties. All salaries, travel and other expenses incident to the administration of this chapter shall be paid by the commissioner by warrants issued by the State Auditor. Said State Auditor shall issue his warrant upon requisition signed by the commissioner or his duly authorized agent. All salaries, travel and other expenses incident to the administration of this chapter shall be paid monthly. All travel, subsistence and other expenses shall be audited by the commissioner or his duly authorized agent. All warrants issued by the State Auditor pursuant to the provisions of this section shall be paid by the State Treasurer out of the "Consumer Finance Fund" created by Section 63-19-27.

SOURCES: Codes, 1942, Sec. 8075-18; Laws, 1958, ch. 495, Sec. 31; 1985, ch. 345, Sec. 3, eff from and after July 1, 1985.

Editor's Note-

Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 7-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

SEC. 63-19-52. Administration of chapter. Issuance of rules and regulations.

The commissioner shall have the power and authority to adopt, promulgate and issue such rules and regulations, not inconsistent with this article, or any other statute of the State of Mississippi, as he shall deem necessary for the purpose of the administration of this chapter. A copy of every rule and regulation promulgated by the commissioner shall be filed in accordance with the Administrative Procedures Law, Section 25-43-1 et seq.

Sources: Laws, 1997, ch. 332, § 8, eff from and after passage (approved March 17, 1997).

SEC. 63-19-53. Waiver of provisions of chapter.

Any waiver of the provisions of this chapter shall be unenforceable and void.

SOURCES: Codes, 1942, Sec. 8075-20; Laws, 1958, ch. 495, Sec. 33, eff from and after 90 days after passage (approved April 22, 1958).

SEC. 63-19-55. Penalties for violations of chapter.

(1) Any person who willfully and intentionally violates any provision of this chapter or engages in the business of a sales finance company in this state without a license therefor as provided in this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00). However, any licensee who is exempt from liability for an act or omission under Section 63-19-57 shall not be guilty of a misdemeanor under this section for the same act or omission.

(2) If any person engages in business as provided for in this chapter without paying the license fee provided for in this chapter before commencing business or before the expiration of the person's current license, as the case may be, then the person shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day that the person has engaged in the business without a license or after the expiration of a license.

(3) The commissioner may, after notice and hearing, impose a civil penalty against any licensee if the licensee or employee is adjudged by the commissioner to be in violation of the provisions of this chapter. The civil penalty shall not exceed Five Hundred Dollars (\$500.00) per violation and shall be deposited into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

(4) Any person willfully violating Sections 63-19-31 through 63-19-45, shall be barred from recovery of any finance charge, delinquency or collection charge on the contract.

(5) However, any such contract purchased in good faith for value by any bank, trust company, private bank, industrial bank or investment company authorized to do business in this state shall be held and construed to be valid and enforceable in the hands of the purchaser for value, except that such purchaser shall not be permitted to recover on such contract from the buyer anything in

excess of the principal balance due thereon, plus the amount of the finance and collection charges permitted under the terms and provisions of this chapter.

(6) When the commissioner has reasonable cause to believe that a person is violating any provision of this chapter, the commissioner, in addition to and without prejudice to the authority provided elsewhere in this chapter, may enter an order requiring the person to stop or to refrain from the violation. The commissioner may sue in any circuit court of the state having jurisdiction and venue to enjoin the person from engaging in or continuing the violation or from doing any act in furtherance of the violation. In such an action, the court may enter an order or judgment awarding a preliminary or permanent injunction.

Sources: Codes, 1942, § 8075-19; Laws, 1958, ch. 495, § 32; Laws, 1997, ch. 332, § 16; Laws, 2000, ch. 621, § 6; Laws, 2004, ch. 450, § 2, eff from and after passage (approved Apr. 28, 2004.)

SEC. 63-19-56. Commissioner authorized to examiner persons suspected of conducting business requiring a license

The commissioner, or his duly authorized representative, for the purpose of discovering violations of this chapter and for the purpose of determining whether persons are subject to the provisions of this chapter, may examine persons licensed under this chapter and persons reasonably suspected by the commissioner of conducting business that requires a license under this chapter, including all relevant books, records and papers employed by those persons in the transaction of their business, and may summon witnesses and examine them under oath concerning matters relating to the business of those persons, or such other matters as may be relevant to the discovery of violations of this chapter, including without limitation the conduct of business without a license as required by this chapter.

Sources: Laws, 2000, ch. 621, § 7; Laws, 2004, ch. 450, § 3, eff from and after passage (approved Apr. 28, 2004.)

Cross References-

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any violation of Title 63, see Sec. 99-19-73.

ALR Annotations-

Regulation or licensing of business selling motor vehicles. 57 ALR2d 1265.

§ 63-19-57. Liability of licensees.

(1) A licensee under this chapter shall have no liability for any act or practice done or omitted in conformity with (a) any rule or regulation of the commissioner, or (b) any rule, regulation, interpretation or approval of any other state or federal agency or any opinion of the Attorney General, notwithstanding that after such act or omission has occurred the rule, regulation, interpretation, approval or opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(2) A licensee under this chapter, acting in conformity with a written interpretation or approval by an official or employee of any state or federal agency or department, shall be presumed to have acted in accordance with applicable law, notwithstanding that after such act has occurred, the interpretation or approval is amended, rescinded, or determined by judicial or other authority to be incorrect or invalid for any reason.

Sources: Laws, 1997, ch. 332, § 11, eff from and after passage (approved March 17, 1997).