

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SENATE BILL 1354

AN ACT

AMENDING SECTION 44-291, ARIZONA REVISED STATUTES; RELATING TO THE MOTOR
VEHICLE TIME SALES DISCLOSURE ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-291, Arizona Revised Statutes, is amended to
3 read:

4 44-291. Computation of interest; prepayment rebate; additional
5 charges; secondary motor vehicle finance transaction;
6 military members; definitions

7 A. Except as provided in subsections G and H of this section, under a
8 retail installment contract it is lawful to charge and receive interest not
9 to exceed the maximum rate set by contract.

10 B. The finance charge may be computed either at a single annual
11 percentage rate using the actuarial method or it may be precomputed on the
12 assumption that all payments will be made in the amount and on the dates
13 scheduled. If the finance charge is precomputed, the fact that payments are
14 made either before or after the date due does not affect the amount of
15 finance charge ~~which~~ THAT the seller or holder may charge or receive. If the
16 precomputed contract balance is prepaid in full by cash, a new loan,
17 refinancing or otherwise, the seller or holder shall charge only for the
18 finance charge ~~which~~ THAT has been earned and unpaid late payment or
19 delinquency charges as of the date of prepayment, and the buyer shall receive
20 a rebate of that portion of the precomputed finance charge ~~which~~ THAT is the
21 difference between the total precomputed finance charges and the charges at
22 the contract finance charge computed on the unpaid principal balance based on
23 the number of days or months to maturity based on either a thirty day
24 month - three hundred sixty day year or daily three hundred sixty-five or
25 three hundred sixty-six day year on the number of days remaining to final
26 maturity, except that the number of days shall be the same as that used in
27 calculating the finance charge as prescribed in subsection C of this section.
28 The amount of such rebate shall not be computed pursuant to the method
29 commonly known as the "rule of 78's". To simplify the calculation of earned
30 finance charge, it is permissible to assume that all payments were made as
31 originally scheduled or as otherwise mutually agreed.

32 C. It is permissible to calculate a finance charge on an annual basis
33 of twelve months of thirty days each, or on a daily basis if a day is counted
34 as 1/360th, 1/365th, or 1/366th of a year, as the buyer and seller or holder
35 may agree by writing. The seller or holder may also charge a late payment or
36 delinquency charge, in addition to all finance charges permitted, on each
37 installment not paid in full ~~upon~~ ON the tenth day after its due date in an
38 amount not to exceed five per cent of the unpaid balance of the installment
39 or ten dollars, whichever is less.

40 D. In addition to the cash sale price of the vehicle, the seller may
41 charge for any insurance premiums incurred in connection with the retail
42 installment transaction.

43 E. Notwithstanding the late payment or delinquency charge provided in
44 subsection C of this section, in a commercial transaction, the seller or
45 holder may charge a late payment or delinquency charge, in addition to all

1 finance charges permitted, on each installment not paid in full ~~upon~~ ON the
2 tenth day after its due date in an amount of not more than five per cent of
3 the unpaid balance of the installment.

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

14 G. If the retail installment contract is a secondary motor vehicle
15 finance transaction, the seller, bailor, lender or lessor shall determine the
16 annual secondary motor vehicle finance rate and all charges relating to the
17 sale, conditional sale, bailment or lease and repurchase of the vehicle. The
18 seller, bailor, lender or lessor shall calculate the annual secondary motor
19 vehicle finance rate by multiplying the monthly secondary motor vehicle
20 finance rate by twelve. A retail installment contract that is a secondary
21 motor vehicle finance transaction is subject to the following maximum finance
22 rates on a secondary motor vehicle finance contract in the original principal
23 amount of:

24 1. Five hundred dollars or less, a monthly finance rate of seventeen
25 per cent.

26 2. More than five hundred dollars but not more than two thousand five
27 hundred dollars, a monthly finance rate of fifteen per cent.

28 3. More than two thousand five hundred dollars but not more than five
29 thousand dollars, a monthly finance rate of thirteen per cent.

30 4. More than five thousand dollars, a monthly finance rate of ten per
31 cent.

32 H. Except as the result of an accidental or bona fide error, if the
33 licensee charges, contracts for or receives any amount in excess of the
34 finance charges and other fees expressly permitted by this chapter, the
35 secondary motor vehicle transaction is voidable and the licensee has no right
36 to collect or receive any principal, finance charges or other fees in
37 connection with that secondary motor vehicle finance transaction. Any
38 secondary motor vehicle finance transaction that is made by a person who is
39 required to be licensed pursuant to this chapter but who is not licensed is
40 void, and the person has no right to collect, receive or retain any
41 principal, finance charges or other fees in connection with that secondary
42 motor vehicle finance transaction.

1 I. Section 44-287, subsection B does not apply to a secondary motor
2 vehicle finance transaction if the contract complies with the disclosure
3 requirements prescribed in federal law. The seller shall conspicuously
4 disclose in the contract the annual secondary motor vehicle finance rate.

5 J. FOR SECONDARY MOTOR VEHICLE FINANCE TRANSACTIONS, A VIOLATION OF
6 SECTION 670 OF THE JOHN WARNER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL
7 YEAR 2007 (P.L. 109-364; 120 STAT. 2083) OR ANY REGULATION ADOPTED PURSUANT
8 TO THAT ACT IS A VIOLATION OF THIS SECTION.

9 K. FOR SECONDARY MOTOR VEHICLE FINANCE TRANSACTIONS WITH AN ACTIVE
10 DUTY MEMBER OF THE MILITARY SERVICE OF THE UNITED STATES OR A DEPENDENT OF AN
11 ACTIVE DUTY MEMBER OF THE MILITARY SERVICE OF THE UNITED STATES, A SELLER MAY
12 NOT IMPOSE AN ANNUAL PERCENTAGE RATE OF INTEREST THAT IS GREATER THAN
13 THIRTY-SIX PER CENT.

14 ~~J.~~ L. For the purposes of this section:

15 1. "Actuarial method" means the method of allocating payments made on
16 a debt between the unpaid principal balance and the finance charge pursuant
17 to which a payment is applied first to the finance charge due and any
18 remainder is subtracted from the unpaid principal balance.

19 2. "Commercial transaction" means a transaction in which the motor
20 vehicle is intended by the borrower for use primarily for other than
21 personal, family or household purposes.