

HOUSE RESEARCH

Bill Summary

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Overview

This bill involves what are known in state law as "sales finance companies." They are companies that buy motor vehicle loans from dealers. The department of commerce regulates these companies and the loans they buy.

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- 1 Finance charges for motor vehicle retail sales.** Makes finance charge in bank-financed purchases the same as the finance charge in manufacturer financed purchases.
- 2 Cash sale price.** Increases the amount that may be included in the "cash sale price" for loan document preparation from \$25 to \$50. The effect is that this amount is considered part of the price of the vehicle and not part of the finance charge for purposes of the state laws that regulate these loans.
- 3 Contents.** Amends the list of items that must be specified in a motor vehicle installment sale contract by making several changes in clause (4), which is the clause that lists charges intended to be financed in addition to the cash price of the vehicle. (Those charges are required to be disclosed to the consumer.) The changes in lines 8 and 9 are technical improvements. The new language in lines 11 and 12 require including financing the cost of "discharging an interest" in an existing motor vehicle lease. Striking the language on lines 12 to 13 and 16 to 17 is related to the language added on line 9. The new language on lines 17 to 18 requires including any other costs that will be financed.
- 4 Vehicle sales finance company violations; remedies**

Subd. 1. Criminal violations. Strikes current language providing that, for intentional violations, buyers need not repay the loan (but may keep the vehicle) and may recover

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reasonable attorney fees. Strikes current language providing that, for non-intentional violations, buyers may recover damages equal to three times the amount of excess charges, or \$50, whichever is greater, plus reasonable attorney fees. These civil remedies are replaced by the new subdivisions that follow.

Subd. 2. Excess charges; retail buyer's remedies. Provides that a buyer need not pay, or may receive a refund of, charges to the extent that they violate the law. If a seller or assignee refuses to make the refund within 30 days, the buyer may obtain a penalty determined by a court of between \$100 and \$1,000, plus reasonable attorney fees as determined by a court.

Subd. 3. Disclosure violations: retail buyer's remedies. (a) Provides that, for violations that do not involve excess charges (disclosure violations), a buyer has a right to recover actual damages, plus a court-determined penalty between \$100 and \$1,000 and court-determined reasonable attorney fees. The penalty and attorney fees are not available in a class-action lawsuit.

(b) Provides that in a class action, buyers may recover actual damages, plus a total penalty determined by the court, which may not exceed the lesser of \$500,000 or 1 percent of the net worth of the offending company. Specifies the factors a court must consider in determining the total penalty.

Subd. 4. Compliance with federal law. Provides that a retail buyer has no claim under subdivision 3 (disclosure violations) if the lender complied with the federal truth-in-lending requirements, or if the lender did violate that federal act but the federal act does not provide for statutory damages for that violation.

Subd. 5. Correction of errors. Provides that a lender is not liable for a penalty under subdivision 2 (excess charges) if the lender corrects the error before the buyer sues or notifies the lender in writing.

Subd. 6. Unintentional violations; bona fide errors. Provides that a lender is not liable under this section if the lender proves that the violation was not intentional and resulted in spite of the lender's procedures designed to prevent such errors.

Subd. 7. Multiple obligors. If there is more than one borrower, there may be only one recovery of damages under this section.

Subd. 8. Liability of assignees. If a retail installment contract (loan) has been assigned (sold) to a sales finance company, the assignee is not liable for violations committed by the retail seller, unless the violations are apparent on the face of the document. This does not apply if the assignment was involuntary.

Subd. 9. Recovery for multiple violations. A seller may be assessed only one penalty in connection with one contract, regardless of the number of violations the seller committed in connection with that contract. A seller may not be assessed a penalty under this section if the seller has paid statutory damages under the federal act for the same violation.

Subd. 10. Offset from amount owed to creditor or assignee; rights of defaulting retail buyer. Provides that violations of the state laws governing these loans do not impair the debt. Buyers do not have the right to offset any liability under these laws from the debt, unless the amount of the liability has been determined by a final court

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judgment in a proceeding in which the creditor was a party.

Subd. 11. Limitation of action. Any claim under these sections must be brought within one year after the violation, but a buyer may assert the violation as a defense in a suit brought by the seller more than one year after the violation.

Subd. 12. Attorney fees; retail seller and assignee remedies. Permits a court to award attorney fees payable by the buyer to the seller if the buyer brings an action the buyer knows is groundless.

5 **Effective date.** Makes sections 2 and 3 effective immediately. Makes section 4 effective immediately and apply to all actions commenced on or after that date.