

HOUSE No. 4290

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 18, 1968.

The committee on Banks and Banking, to whom was referred the petition (accompanied by bill, House, No. 1966) of Dean C. Cushing for legislation clarifying changes in the law relating to retail installment sales and services, report the accompanying bill (House, No. 4290).

For the committee,

PAUL C. MENTON.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Eight.

AN ACT MAKING CERTAIN CLARIFYING CHANGES IN THE LAW RELATING TO RETAIL INSTALLMENT SALES AND SERVICES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection C of section 9 of chapter 255D, as
2 appearing in section 1 of chapter 284 of the acts of 1966, is
3 hereby amended by inserting at the end thereof the following
4 new paragraph:—

5 An installment which is not greater than twice the average
6 of all other installments (excluding the down-payment) shall
7 be deemed to be substantially equal to all other installments.

1 SECTION 2. Section 10 of chapter 255D, as so appearing, is
2 hereby amended by striking out, in lines 39, 40 and 41, the
3 words "(9) Any provision limiting, excluding, modifying or
4 in any manner altering the terms of warranties made in con-
5 nection with the original sale" and inserting in place thereof
6 the following new clause:—

7 (9) Any provision limiting, excluding, modifying or in any
8 manner altering the term of any express warranty made a part
9 of the basis of the bargain between the parties.

1 SECTION 3. Subsection C of section 11 of chapter 255D, as
2 so appearing, is hereby amended by inserting at the beginning
3 of said subsection the following two paragraphs:—

4 On agreements payable in successive periodic installments
5 substantially equal in amount, the maximum permissible
6 finance charge shall be computed on the original principal
7 balance. On agreements providing for installments extending
8 for a period less than or greater than one year, the finance
9 charge shall be computed proportionately.

10 The finance charge may be computed on the basis of a full
11 month for any fractional month period in excess of fifteen
12 days.

1 SECTION 4. The first paragraph of section 15 of chapter
2 255D, as so appearing, is hereby amended by inserting after
3 the words "goods sold", in line 3, the words:—or worked on,
4 —and by inserting after the words "goods sold", in line 6,
5 the words:—or worked on; or,—so that paragraph will read
6 as follows:—No retail installment sale agreement shall pro-
7 vide for or create a security interest in (a) Personal property
8 other than the goods sold or worked on under a retail install-
9 ment sale agreement unless such goods become affixed to such
10 personal property; (b) After-acquired collateral other than
11 accessions to the goods sold or worked on; or (c) Goods sub-
12 ject to a prior retail installment sale agreement or agreements
13 unless two or more such agreements are consolidated under a
14 single agreement pursuant to section eighteen.

1 SECTION 5. Section 31 of chapter 255D of the General Laws,
2 as appearing in section 1 of chapter 284 of the acts of 1966,
3 is hereby amended by adding an additional paragraph to read
4 as follows:—Any formula approved by the commissioner
5 under section nine (C) or section (27E) upon application of
6 seller or holder may be used in similar circumstances by other
7 sellers and holders. Records of all approvals by the commis-
8 sioner shall be in writing, filed as a public record in his office
9 and open to public inspection.

1 SECTION 6. Subsection C of section 21 of chapter 255D of
2 the General Laws as most recently amended by section 8 of
3 chapter 775 of the acts of 1967 is hereby further amended
4 by striking the second sentence and inserting in place thereof
5 the following new sentence:—Not less than five days before
6 such sale or disposition, the secured party shall give written
7 notice of the time and place of any public sale or of the
8 time after which any private sale or other intended disposi-
9 tion is to be made.

1 SECTION 7. Section 21 of chapter 255D of the General Laws
2 as so appearing is hereby amended by adding the following
3 subsection:—

4 F. Any notice required to be given under this chapter shall
5 be deemed delivered when it is mailed by certified mail to
6 the buyer.

