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REFERENCE TITLE: auto title loans; interest rate

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1005

Introduced by
Senator Farnsworth D

AN ACT

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

(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;
5 additional charges; secondary motor vehicle finance
6 transaction; definitions

7 A. Except as provided in subsections G and H of this section, under
8 a retail installment contract it is lawful to charge and receive interest
9 not 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
14 are made either before or after the date due does not affect the amount of
15 finance charge which 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 has been earned and unpaid late payment or
19 delinquency charges as of the date of prepayment, and the buyer shall
20 receive a rebate of that portion of the precomputed finance charge which
21 is the difference between the total precomputed finance charges and the
22 charges at the contract finance charge computed on the unpaid principal
23 balance based on the number of days or months to maturity based on either
24 a thirty day month - three hundred sixty day year or daily three hundred
25 sixty-five or three hundred sixty-six day year on the number of days
26 remaining to final maturity, except that the number of days shall be the
27 same as that used in calculating the finance charge as prescribed in
28 subsection C of this section. The amount of ~~such~~ THE rebate shall not be
29 computed pursuant to the method commonly known as the "rule of 78's". To
30 simplify the calculation of earned finance charge, it is permissible to
31 assume that all payments were made as originally scheduled or as otherwise
32 mutually agreed.

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

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

44 E. Notwithstanding the late payment or delinquency charge provided
45 in subsection C of this section, in a commercial transaction, the seller

1 or holder may charge a late payment or delinquency charge, in addition to
2 all finance charges ~~permitted~~ ALLOWED, on each installment not paid in
3 full on the tenth day after its due date in an amount of not more than
4 five ~~per cent~~ PERCENT of the unpaid balance of the installment.

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

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

26 1. ~~Five hundred dollars or less, a monthly finance rate of~~
27 ~~seventeen per cent.~~

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

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

32 4. ~~More than five thousand dollars, a monthly finance rate of ten~~
33 ~~per cent OF THIRTY-SIX PERCENT.~~

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

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

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