

# MAINE STATE LEGISLATURE

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## N I N E T Y - S E V E N T H   L E G I S L A T U R E

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### Legislative Document

No. 1378

S. P. 493

In Senate, March 23, 1955

Referred to the Committee on Business Legislation, sent down for concurrence and 750 copies ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Albee of Cumberland.

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### STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-FIVE

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#### AN ACT Regulating Automobile Finance Business.

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Be it enacted by the People of the State of Maine, as follows:

**Sec.1. R. S., c. 59, §§ 246 - 271, additional.** Chapter 59 of the revised statutes is hereby amended by adding thereto 26 new sections to be numbered 246 to 271, inclusive, to read as follows:

#### **‘Retail Installment Sales.**

**Sec. 246. Definitions.** In sections 246 to 270, inclusive, unless the context otherwise requires, the following words and terms shall have the following meanings:

“Banking institution” means any bank or national banking association authorized to do business in this State.

“Cash price” means the total amount in dollars at which the retail seller and retail buyer agree the retail seller would transfer unqualified title to the goods, if the transaction were a cash sale instead of a sale under a retail installment contract.

“Collateral security” means any security other than a security interest in the goods, which are the subject of a retail installment contract, which is given to secure performance by the retail buyer or any surety or guarantor for him under a retail installment contract.

“Commissioner” means the Bank Commissioner of Maine and includes his deputies or any salaried employee of the Department of Banking named or appointed by the said Commissioner to perform any function in the administration or enforcement of the provisions of sections 246 to 270, inclusive.

"Down payment" means all payments made in cash or in goods or partly in cash and partly in goods, received by the retail seller prior to or substantially contemporaneous with either the execution of the retail installment contract or the delivery of the goods, whichever occurs later.

"Goods" means all chattels personal having a cash value of \$5,000 or less, and shall include motor vehicles, parts and services rendered in the repair of motor vehicles, material used and services rendered in the modernization, rehabilitation, repair and improvement of real property, but not including money or choses in action.

"Holder" means any person, including a retail seller, who is currently entitled to the rights of a retail seller under a retail installment contract.

"Motor vehicle installment seller" means a person who sells one or more motor vehicles under a retail installment contract to a retail buyer.

"Person" means an individual, partnership, firm, corporation, banking institution, association or any other group of individuals however organized.

"Principal balance" means the unpaid cash price balance after deducting the down payment and adding the cost of any insurance premiums on the goods or life or accident health insurance required or obtained as security for the sale of goods under a retail installment contract.

"Retail buyer" means a person who buys or agrees to buy one or more articles of goods from a retail seller not for the purpose of resale, and who executes a retail installment contract in connection therewith.

"Retail installment contract" means any contract entered into or negotiated in this State evidencing an agreement to pay the retail purchase price of goods, or any part thereof, in 2 or more installments over a period of time, whether secured by a security interest or not. This term includes a promissory note, chattel mortgage, conditional sales contract, or other similar instruments and any retail contract for the bailment or leasing of goods by which the bailee or lessee agrees to pay as compensation a sum substantially equivalent to or in excess of the value of the goods, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of such goods upon full compliance with the terms of such retail installment contract.

"Retail seller" means a person who sells or agrees to sell one or more articles of goods under a retail installment contract to a retail buyer, and shall include a motor vehicle installment seller.

"Sales Finance company" means and includes any person engaging in this State in the business of negotiating for or acquiring retail installment contracts by purchase, discount, pledge or otherwise, and any person engaging, directly or indirectly, in the business of soliciting the purchase of retail installment contracts, or in the business of aiding the retail seller in negotiating or arranging for the sale of retail installment contracts.

"Security interest" means any property right in the goods which are the subject of a retail installment contract, whenever such right is retained to secure performance of the retail buyer under such contract.

"Time balance" means the sum of the principal balance and the time price differential.

"Time price differential" means the amount charged in accordance with the provisions of sections 246 to 270, inclusive, for the credit extended by the retail seller to the retail buyer in conjunction with the sale of goods under a retail installment contract.

Sec. 247. Director. For the enforcement of the provisions of sections 246 to 270, inclusive, the Bank Commissioner is authorized to appoint, subject to the provisions of the personnel law, a director who shall also receive in addition to his salary his necessary traveling expenses. The salary, traveling expenses, and all expenses of administration and enforcement of the provisions of said sections shall be paid out of such amounts as the Legislature may appropriate. Fees received from licenses issued under the provisions of said sections shall be paid to the Treasurer of State for deposit in the general fund.

Sec. 248. License. No person shall hereafter engage in or continue to engage in the business of a sales finance company or in the business of a motor vehicle installment seller in this State without first obtaining a license from the Commissioner as provided for in sections 246 to 270, inclusive; provided, however, that no sales finance company shall be required to obtain a license to engage in the business of a motor vehicle installment seller for the purpose of disposing of any goods to which title has been obtained as a result of legal or contract right under any retail installment contract.

Sec. 249. Application for license. Application for a license under the provisions of sections 246 to 270, inclusive, shall be in writing, under oath, and shall be in the form prescribed by the Commissioner.

The application shall state the name and address both of the residence and place of business of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof. It shall also state the county and municipality with street and number, if any, where the business is to be conducted and any other information the Commissioner may require.

Upon the filing of the application and the payment of the said fees, the Commissioner may issue a license to the applicant to engage in the business of a sales finance company or a motor vehicle installment seller in accordance with the provisions of sections 246 to 270, inclusive.

Each license shall specify the location of the office or branch and must be conspicuously displayed therein. In case such location be changed, the Commissioner shall endorse the change of location on the license without charge.

Such license shall not be transferable or assignable.

No licensee shall transact any business provided for by the provisions of sections 246 to 270, inclusive, under any other name or at any other place of business than that mentioned in the license.

Sec. 250. Fees. Every sales finance company shall pay to the Commissioner at the time of making the application an annual license fee of \$100 for its prin-

principal place of business and an annual license fee of \$25 for each additional place of business conducted in this State.

Every motor vehicle installment seller shall pay to the Commissioner at the time of making the application an annual license fee of \$10 for its principal office and an annual fee of \$10 for each additional place of business conducted in this State.

No abatement in the amount of the said license fee shall be made if the license is issued for less than one year, nor if the license is surrendered, canceled or revoked prior to the expiration of the period for which such license was issued. Every licensee shall, on or before December 20 of each year, pay to the Commissioner the annual license fee for the next succeeding calendar year.

All fees collected shall be paid over to the Treasurer of State.

Sec. 251. Suspension and revocation. The Commissioner may suspend or revoke any license issued hereunder, upon 10 days' notice in writing, forwarded by registered mail to the place of business of such licensee, stating the contemplated action and in general the grounds therefor, and after reasonable opportunity to be heard, if he shall find that:

I. The licensee has failed to pay the annual license fee;

II. The licensee has made any material misstatement in the application;

III. The licensee has failed to comply with or violated any provisions of sections 246 to 270, inclusive, or any other law relating to retail installment contracts;

IV. The licensee has defrauded any retail buyer to the buyer's damage or willfully failed to perform any written agreement with any retail buyer;

V. The licensee has fraudulently misrepresented, circumvented or concealed through whatever subterfuge or device any of the material particulars or the nature thereof required to be stated or furnished to the retail buyer under the provisions of sections 246 to 270, inclusive, or any other law relating to retail installment contracts;

VI. The licensee has knowingly taken any instrument evidencing a retail installment contract which was signed in blank.

VII. The Commissioner may suspend or revoke only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if he finds that such grounds for suspension or revocation are of general application to all offices, or more than one office, operated by the licensee, he may revoke or suspend all of the licenses issued to the licensee or such number of licenses as such grounds apply to, as the case may be;

VIII. Any licensee may surrender its license by delivering the license to the Commissioner with written notice that he thereby surrenders the license, but such surrender shall not affect the licensee's civil or criminal liability for acts committed prior to the surrender;

IX. No suspension, revocation or surrender of any license shall impair or affect the obligation of any lawful retail installment contract acquired previously thereto by the licensee;

X. Every license issued shall remain in force and effect until the same shall have been surrendered, revoked or suspended in accordance with the provisions of sections 246 to 270, inclusive, but the Commissioner may, on his own motion, reinstate suspended licenses or issue new licenses to a licensee, whose license or licenses have been revoked, if the conditions under which such licenses have been revoked have been corrected.

Sec. 252. Investigation of business; subpoena. The Commissioner is empowered to investigate the business of any licensee and of any person who shall engage in the business contemplated by the provisions of sections 246 to 270, inclusive, whether such person shall act, or claim to act, as principal, agent, broker or under or without the authority of the provisions of sections 246 to 270, inclusive.

The Commissioner 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 the provisions of sections 246 to 270, inclusive. The Commissioner 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 Justice of the Superior Court may, upon application and proof of such refusal, make an order awarding process of subpoena, or subpoena duces tecum, out of the Superior Court, for the witness to appear before the Commissioner and to give testimony, and to produce evidence as required thereby. Upon filing such order in the office of the clerk of the Superior 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 Commissioner may apply to any Justice of the Superior Court for an attachment against such person, as for a contempt. The Justice, 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 Justice, proceed to a hearing of the case. The Justice 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 a fine of not more than \$100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment, and to compel such witness to pay the costs of such proceeding to be taxed.

Sec. 253. Accounts and records. Every licensee shall maintain, at the place of business designated in the license certificate, such books, accounts and records of the business as will enable the Commissioner to enforce full compliance with the provisions of sections 246 to 270, inclusive.

A licensee, operating 2 or more places of business, may maintain such records of all such offices at any one of such offices, or at any other office maintained by the licensee in this State, upon the filing of a written notice with the Commissioner designating the office at which such records will be maintained.

All books, accounts and records of the licensee shall be maintained in the English language.

All books, accounts and records of the licensee, including any cards used in a card system, shall be preserved and kept available as provided herein for at least 2 years after making the final entry therein.

The Commissioner is authorized to prescribe the minimum information to be shown in such books, accounts and records of the licensee so that such records will enable the Commissioner to determine compliance with the provisions of sections 246 to 270, inclusive.

**Sec. 254. Contracts.** Every retail installment contract shall be in writing and shall contain all of the agreements between the retail buyer and retail seller relating to the installment sale of the goods purchased and shall be signed both by the retail buyer and the retail seller.

Every retail installment contract shall be completed as to all essential provisions prior to the signing of the contract by the retail buyer.

An exact copy of the retail installment contract shall be furnished by the retail seller to the retail buyer at the time the retail buyer signs the contract. Such retail buyer's copy of the contract shall contain the signature of the retail seller, identical with such signature on the original contract. Such copy shall be furnished the retail buyer without charge.

Every retail installment contract shall contain the following notice, printed prominently in the form herein indicated in 12 point type, or larger, directly above the space provided in the contract form for the signature of the retail buyer.

**“Notice to Retail Buyer”**

Do not sign this contract in blank.

You are entitled to an exact copy of the contract at the time you sign.

Keep it to protect your legal rights.’

The retail seller shall obtain from the retail buyer a written acknowledgment of the delivery of the copy of the contract. Such acknowledgment shall be in 12 point type, or larger, and if made a part of the contract it shall be printed immediately below the retail buyer's signature and shall be independently signed.

Every retail installment contract shall provide for the payment of the time balance in substantially equal periods of time and in substantially equal amounts; provided that the seller may defer the initial installment for a period of 45 days, and provided, further, that when appropriate for the purpose of facilitating payment, in accordance with a buyer's intermittent income, a contract may provide for payment on a schedule which reduces or omits payments over a period or

periods in which the buyer's income is reduced or suspended. An installment sale of a motor vehicle to a bona fide motor vehicle salesman or of a motor vehicle to be used by him principally as a demonstrator shall be exempt from the equal payment schedule requirement of this section.

Sec. 255. Separate items of contract. Every retail installment contract shall state the full names and addresses of all parties thereto, the date when signed by the retail buyer, and shall contain a description of the goods sold which shall be sufficient for accurate identification.

Every retail installment contract shall set forth the following separate items as such and in the following manner:

- I. The cash price of the goods which are the subject matter of the retail installment contract;
- II. The down payment made by the retail buyer at the time of or prior to the execution of the contract, indicating whether made in cash or in goods or partly in cash and partly in goods. The amount of the payment in cash and in goods shall be shown separately. A description of the goods, if any, sufficient for identification, shall be shown;
- III. Unpaid cash balance which shall be the difference between the cash price and the down payment;
- IV. The cost to the retail buyer of any insurance to be procured on the goods or life insurance or health and accident insurance to be procured on the buyer for the protection of the retail buyer and the retail seller or holder.
- V. The time price differential, as defined in the provisions of sections 246 to 270, inclusive, and showing the rate of interest charged per annum and the total amount in dollars of such charge.
- VI. Other costs necessary or incidental to the sale, other than the time price differential, life insurance or health and accident insurance on the buyer, which the retail seller pays on behalf of the retail buyer. Such other costs shall include recording fees, title search fees, and all other fees of whatever nature paid by the seller on behalf of the buyer and these costs may be collected when the installment sales contract is executed or at any time thereafter. All costs under this subsection shall be itemized as to nature and amount and shall in no instance constitute a part of the principal balance of time balance.

Sec. 256. Additional purchases and continuing agreement. Whenever a retail installment contract by its terms permits the inclusion of additional goods purchased after the original agreement, and such goods are so purchased and the amount due on the new purchase is combined with an unpaid balance on any prior purchase so as to permit the retail seller to retain title to all goods under the combined agreement, the retail seller shall, at the time of the additional purchase, deliver to the retail buyer and attach to the original agreement:

- I. A statement containing all the information with respect to the additional purchase to be included in a retail installment contract; and
- II. A statement showing the amount due on the agreement immediately previous to the new purchase, the amount due after the new purchase, the pay-



ments agreed to be made thereafter, and the number of additional months required to complete the payments.

Whenever a payment is made on such a continuing agreement after additional purchases have been added, the payment shall be considered as allocated among each of the separate purchases included, in the same proportions which the original cash price of each bears to the total cash price of all goods to which the retail seller has retained title, but the retail seller before repossessing or attempting to repossess any goods under any such agreement shall actually allocate in such manner all such payments made to him by the retail buyer. When the amount owing on any separate purchase has been fully paid, the goods so paid for shall become the absolute property of the retail buyer and shall not be subject to repossession for any subsequent default on the agreement. The retail buyer under any such agreement may at any time prepay the amount due on any of the separate purchases pursuant to section 261 and in case of repossession may redeem any of such separate purchases by payment of the amount due on such purchase alone.

Sec. 257. Insurance. The retail buyer may be required to provide insurance on the goods at the retail buyer's expense for the protection of the retail seller or subsequent holder. Such insurance shall be limited to insurance against substantial risk of damage, destruction or theft of such goods. Such insurance shall be written for the dual protection of the retail buyer and of the retail seller or subsequent holder to the extent of his interest in the goods. Such insurance shall be written for the term of the contract and shall be for an amount, and upon terms and conditions, which are reasonable and appropriate, considering the type and condition of the goods. The retail buyer shall not be required to provide life or health and accident insurance at the retail buyer's expense for the protection of the retail seller or the subsequent holder as a condition of, or as a prerequisite to, the granting of an installment sales agreement and shall be limited to the retail seller's or subsequent holder's interest.

The retail buyer under a retail installment contract shall have the privilege of supplying such insurance through an agent or broker of his own selection and selecting an insurance company of comparable rating acceptable to the retail seller; provided, however, the inclusion of the amount of the insurance premium in the retail installment contract, when the retail buyer selects the company, agent or broker, shall be optional with the retail seller.

Whenever the retail seller contracts to furnish insurance at the retail buyer's expense, such insurance shall be written by a company authorized to do business in this State. The retail seller, or subsequent holder, shall within 25 days mail or cause to be mailed to the retail buyer at the address shown in the contract a policy or policies or certificate of insurance. The insurance policy or certificate shall set forth complete information as to the effective dates and amounts of premiums and coverage, and shall contain all the terms of the insurance contract. The status of the retail buyer and retail seller, or subsequent holder, as set forth in such insurance contract, shall conform to the status of those parties in the retail installment contract. The amount of the premium on such insurance, furnished at the expense of the retail buyer, shall not be in excess of the amount of the premium which others are required to pay to such insurance company for similar

coverage, and in no event in excess of rates established in the then current published manual of a recognized standard insurance rating bureau, or the rates fixed by authority of the State of Maine.

When the retail seller, or subsequent holder, contracts to furnish insurance on the goods at the retail buyer's expense under any retail installment contract, and the retail buyer prepays the time balance under the contract prior to the expiration date of the insurance, such insurance shall remain in force unless request is made in writing by the retail buyer that such insurance be canceled or that such insurance is canceled by the insurance company.

The retail seller or holder shall not arrange for or order the cancellation of the insurance under such circumstances without first obtaining the consent of the retail buyer in writing, nor shall the retail seller or holder coerce or induce the retail buyer to cancel the insurance. Any unexpired insurance premiums received by the retail seller or holder, resulting from the cancellation of insurance which was originally placed at the retail buyer's expense, shall be credited immediately together with the unearned portion of the time price differential to any unpaid installments in the retail installment contract, and the amount of the remaining installments shall be reduced pro rata by the amount of such credit.

When the retail seller contracts in any retail installment contract to purchase insurance at the retail buyer's expense and such insurance is canceled by the insurance company prior to the expiration of the policy, the retail seller, or subsequent holder, after notice by the retail buyer to the holder of such cancellation shall endeavor to place comparable insurance with another insurance company and furnish the retail buyer with a copy of the insurance policy, subject to the same requirements of sections 246 to 270, inclusive, applicable to the original policy. In the event the holder is unable to obtain such insurance in another insurance company, he shall immediately notify the retail buyer by registered mail to the last known address of the retail buyer, who shall then obtain such insurance from an insurance company agent or broker of his own selection.

Sec. 258. Prohibited provisions of retail installment contracts. No retail installment contract shall be signed by any party thereto when such contract contains blank spaces to be filled in after such contract has been signed. This provision shall not apply to serial numbers or other identifying marks which are not available for the description of the goods at the time of execution of the contract.

No retail installment contract shall contain any acceleration clause under which any part or all of the time balance, not yet matured, may be declared immediately due and payable because the retail seller or holder deems himself to be insecure. This provision shall not affect an acceleration clause authorizing the retail seller or holder to declare the entire time balance due and payable in case of default in the payment of one or more of the installment payments or the use of the goods for illegal purposes.

No retail installment contract shall contain any provisions whereby the retail buyer waives any right of action against the retail seller, holder or other person acting on their behalf for any illegal act committed in the collection of the pay-

ments under the contract or in the repossession of the goods, the subject of the retail installment contract.

No retail installment contract shall contain any confession of judgment or any power of attorney.

No retail installment contract shall contain any provision relieving the holder or other assignee from liability for any legal remedies which the retail buyer may have had against the retail seller under the contract.

No retail seller shall take either in a retail installment contract or in a separate instrument, any assignment of or order for the payment of any salary, wages, commissions or other compensation for services, or any part thereof, earned or to be earned.

No retail installment contract which is taken from a retail buyer as evidence of the modernization, rehabilitation, repair or improvement of real property shall contain any statement therein that the undertaking of the retail seller has been completed, nor shall any retail seller take in a separate instrument any such writing or completion certificates signed in blank or executed prior to the completion of any undertaking which is the subject of a retail installment contract.

No retail seller or sales finance company shall make any loan of money or advance of credit to a retail buyer to be repaid by the retail installment buyer except in accordance with the provisions of section 262.

Sec. 259. Rates for classifications. A retail seller and a motor vehicle installment seller shall have authority to charge, contract for, receive or collect a time price differential on any retail installment contract evidencing the sale of goods which shall not exceed the rates for the respective classifications as follows:

Class I. New motor vehicles, a charge not to exceed 6% per annum, computed on the amount of the principal balance.

Class II. Used motor vehicles of a model designated by the manufacturer by a year not more than 2 years to the year in which the sale is made, a charge not to exceed 9% per annum, computed on the amount of the principal balance.

Class III. Older used motor vehicles of a model designated by the manufacturer by a year more than 2 years prior to the year in which the sale is made, a charge not to exceed 12% per annum, computed on the amount of the principal balance.

Class IV. On all contracts for the modernization, rehabilitation, repair or improvement of real property, a charge not to exceed 6% per annum, computed on the amount of the principal balance.

Class V. On all other goods, a charge not to exceed 10% per annum, computed on the amount of the principal balance.

Sec. 260. Collection charges; attorney's fees. The holder of any retail installment contract may collect a delinquency or collection charge for default in the payment of any such contract or any installment thereof, where such default

shall have continued for a period of 10 days, such charge not to exceed 5% of the installment in default or the sum of \$5, whichever is the lesser; and provided, that not more than 4 default charges may be levied in any one 12-month period.

In addition to such delinquency and collection charge, the retail installment contract may provide for the payment of attorney's fees not exceeding 15% of the amount due and payable under such contract, where such contract is referred to an attorney not a salaried employee of the holder of the contract for collection plus court costs.

Sec. 261. Refund credit. Any retail buyer may satisfy in full at any time before maturity the amount of any balance to become due on any retail installment contract, and in so satisfying any such debt shall receive a refund credit thereon for such anticipation of payments. The amount of such refund shall represent at least as great a proportion of the time price differential, less an acquisition cost of \$10, as the sum of the periodical time balances, after the date of prepayment, bears to the sum of all the periodical time balances under the schedule of payments in the original contract. Where the amount of the credit for anticipation of payments is less than \$1, no rebate need be made.

Sec. 262. Changes in contract. Every retail seller may extend the scheduled due date of any retail installment contract, or defer the scheduled payment of all or part of any unpaid installment payments, or reduce the amount of any unpaid installment or installments and may, as consideration therefore, make an additional charge not to exceed  $\frac{1}{2}\%$  per month on the amount of the balances extended, deferred or reduced for the period or periods for which they may be extended, deferred or reduced.

A sales finance company licensed under the provisions of sections 246 to 270, inclusive, may revise the terms of the original retail installment contract, renew the unpaid balance due thereon or make a refund of part or all of the installments previously paid. Every such revision, renewal or refund shall be in writing and shall refer to the original retail installment contract. It shall contain a description of the goods, the subject of the original retail installment contract, the names and addresses of the parties thereto, the date, amount of the unpaid balance, the number of installments required to liquidate the balance, the due date and the amount of each installment.

In computing the unpaid balance at the time of any revision, renewal or refund, the sales finance company shall make a rebate of the unearned time price differential on the original contract, and may add thereto any uncollected default charges levied under section 260, the cost of any premiums paid for extending any insurance on the goods for the term of the revised, renewed or refunded contract and the amount of any installments refunded.

In consideration of the revision, renewal or refund of any installments previously paid, a sales finance company may charge a rate not to exceed a charge of 9% per annum, computed on the amount of the revised, renewed or refunded unpaid balance.

Sec. 263. Contracts sold, transferred or assigned. No retail seller under a retail installment contract, executed in the State of Maine, shall sell, transfer or

assign the obligation represented by such contract to any person in Maine, or elsewhere, who is not licensed as a sales finance company pursuant to the provisions of sections 246 to 270, inclusive.

No sales finance company, licensed pursuant to the provisions of sections 246 to 270, inclusive, shall sell, transfer or assign the obligation represented by a retail installment contract, executed in the State of Maine, which it has lawfully acquired, to any other person in Maine, or elsewhere, who is not licensed as a sales finance company pursuant to the provisions of sections 246 to 270, inclusive.

Whenever a retail installment contract is lawfully sold, transferred or assigned to a person who is licensed as a sales finance company, pursuant to the provisions of sections 246 to 270, inclusive, such new holder shall furnish to the retail buyer in such contract a written notice of such sale, transfer or assignment, excepting when assignment is made only to secure a bona fide commercial loan. Such notice shall set forth the name and address of the new holder and shall notify the retail buyer of the name and address of the person authorized to receive future payments on such contract. If such notice has not been given, any payment or tender of payment made to and any service of notice on the last known holder by the retail buyer shall be binding upon any subsequent holder.

The provisions of this section shall not apply to an assignment of an aggregation of retail installment contracts, which is executed by a retail seller or sales finance company only as collateral security for a bona fide commercial loan, obtained at lawful rates of interest from a person regularly engaged in the business of lending money on the security of such assigned collateral, and under which in the absence of default or other bona fide breach of the loan contract, ownership of the assigned contracts remains vested in the retail seller or holder, and collection of payments on such assigned contracts is made by the retail seller or holder; and provided, such assignment of loan contracts is not for the purpose of evading or circumventing the provisions of sections 246 to 270, inclusive.

Sec. 264. Buyer's account. Upon written request from the retail buyer, the retail seller or holder of the retail installment contract shall give or forward to the retail buyer within 5 days a written statement of the retail buyer's account, showing the dates and amounts of all payments made or credited to the account and the total amount, if any, unpaid under such contract.

Sec. 265. Written receipts. Whenever payment is made on account of any retail installment contract in cash, the person receiving such payment shall, at the time of receiving such payment, furnish to the retail buyer, or the person making such payment on behalf of the retail buyer, a complete written receipt therefor, showing the date, identification of the account, amount paid and the present unpaid balance.

If such payment includes default charges authorized by sections 246 to 270, inclusive, the amount of such default charges shall be set forth on the receipt separately from the payment applied to the reduction of the time balance.

Sec. 266. Prohibitions. No retail seller, and no sales finance company, shall charge, contract for, collect or receive from any retail buyer, directly or indi-

rectly, any further or other amount for costs, charges, insurance premiums, examination, appraisal service, brokerage, commission, expense, interest, discount, fees, fines, penalties or other things of value in connection with retail installment contracts other than the charges permitted by the provisions of sections 246 to 270, inclusive, except court costs, attorney fees and the expenses of re-taking and storing repossessed goods which are authorized by law.

No retail seller shall collect or retain any amount whatsoever in connection with the contemplated sale of goods under a retail installment sales contract, if such contract is not consummated; provided, however, that nothing contained herein shall affect the legal status of a deposit paid by a prospective retail buyer to a retail seller as a binder on the contemplated purchase of goods.

No sales finance company shall pay or cause to be paid, directly or indirectly, to any retail seller, nor shall any retail seller receive from any sales finance company or any other person, any sum of money or other consideration for any purpose in connection with the sale of goods under a retail installment contract other than the amounts provided herein. If the retail seller prepares the credit information, contract, note, mortgage and application for title and assigns the contract with recourse or subject to a repurchase agreement, the sales finance company to whom such assignment is made may pay such retail seller the amount of the unpaid cash balance plus a service fee or reserve of not more than 2% of the amount of the unpaid cash balance on all contracts, other than those covering used motor vehicles. Where the contract is secured by an interest in a used motor vehicle, the sales finance company may pay such retail seller the amount of the unpaid cash balance plus a service fee or reserve of not more than 3% of the amount of the unpaid cash balance. No service fee or reserve shall be paid to any retail seller where such assignment is made without recourse or is not subject to a repurchase agreement. Such service fee or reserve shall be paid out of the time price differential authorized by the provisions of sections 246 to 270, inclusive, and shall not be charged to the buyer in addition thereto.

No insurance company, agent or broker shall pay or cause to be paid, directly or indirectly, to any retail seller or sales finance company, nor shall any retail seller or sales finance company receive from any such insurance company, agent or broker any portion of any insurance premium involved in a retail installment contract other than for the benefit of the retail buyer and all such payments shall be held by the retail seller or sales finance company in trust for the benefit of the buyer and shall be paid to such retail buyer within 30 days, unless used in procuring comparable insurance or credited to the unpaid installment or installments under the contract.

Sec. 267. Duties of holder of contract. Upon payment in full of the time balance and other amounts lawfully due under a retail installment contract, the holder shall:

I. Return to the retail buyer all instruments evidencing indebtedness or constituting security under a retail installment contract, which were signed by the retail buyer or his sureties or guarantors in conjunction with such contract, excepting such instruments as are filed or recorded with a public official and retained in the files of such official;

II. Release all security interest in the goods or in any collateral security to the obligation of the retail buyer under such contract;

III. Deliver to the retail buyer such good and sufficient assignments and documents of title as may be necessary to vest the retail buyer with complete evidence of title.

When the final payment on a retail installment contract is made in cash, money order or equivalent tender by the retail buyer, or his authorized representative, at the designated licensed office of the holder, the certificate of title, showing satisfaction of this encumbrance, shall be delivered at the time of such tender of payment, if demanded by the retail buyer, otherwise delivery may be made at a later date in person or by mail as may be arranged between retail buyer and holder, all other instruments shall be delivered or mailed to the retail buyer within 15 days of the date of final payments.

Sec. 268. Advertising. No retail seller, and no sales finance company, shall in any advertisement, publication, display, broadcast, solicitation or representation, make any false, misleading, or deceptive statement concerning any finance, delinquency or extension charge, or rate, or the security interest, collateral, terms or conditions upon which it will make any installment agreement or finance the same.

Sec. 269. Penalties. Whenever, in any retail installment contract under the provisions of sections 246 to 270, inclusive, the retail seller or any subsequent holder has charged, contracted for or received from the retail buyer any costs or charges prohibited by the provisions of sections 246 to 270, inclusive, all costs and charges in connection with such contract, other than for insurance on the goods, shall be void and unenforceable, and any such cost or charges other than for insurance on the goods shall be applied to the unpaid balance or, if the account has been fully paid, remitted to the retail buyer, and the retail buyer shall be entitled to recover all such costs or charges.

Any person, and any director, officer, employee, agent or representative thereof, who or which shall engage in this State in the business of a sales finance company or motor vehicle installment seller as defined in the provisions of sections 246 to 270, inclusive, without having first obtained a license, as required by the provisions of sections 246 to 270, inclusive, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$500.

Any person conducting business under the provisions of sections 246 to 270, inclusive, and any director, officer, partner, member, employee, agent or representative thereof who shall knowingly violate any provision of sections 246 to 270, inclusive, or shall direct or consent to such violation shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$500.

Sec. 270. Application. The provisions of sections 246 to 270, inclusive, shall not affect or impair any business conducted lawfully under the provisions of sections 210 to 227, inclusive, of chapter 59 and they shall not apply to installment agreements made prior to the effective date of this act.

**Sec. 271. Title.** The provisions of sections 264 to 270, inclusive, shall be known and may be cited as the "Retail Installment Sales Act."

**Sec. 2. R. S., c. 60, §§ 305-306, repealed.** Sections 305 and 306 of chapter 60 of the revised statutes, relating to automobile finance business, are hereby repealed.