(124th General Assembly)
(House Bill Number 229)

AN ACT

To amend section 1317.08 of the Revised Code to eliminate, in the purchase, assignment, or transfer of a retail installment contract the prohibition against a retail seller, receiving in excess of 2% of the principal balance on that contract, and to eliminate related provisions.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 1317.08 of the Revised Code be amended to read as follows:

Sec. 1317.08. (A)(1) No retail installment contract that evidences an indebtedness greater than that allowed under sections 1317.06, 1317.061, 1317.062, and 1317.07 of the Revised Code, and no retail installment contract in connection with which any charge prohibited by sections 1317.01 to 1317.11 of the Revised Code has been contracted for or received, shall be enforceable with respect to that excess indebtedness or charge against any retail buyer or any other person who as surety, indorser, guarantor, or otherwise is liable on the obligation created by any retail buyer on any retail installment contract~~, and no~~.

(2) No security interest created by any ~~such~~ retail installment contract described in division (A)(1) of this section that is greater than that allowed under sections 1317.06, 1317.07, and 1317.071 of the Revised Code shall be enforceable with respect to that excess security interest against any retail buyer or any of the ~~aforementioned~~ persons described in division (A)(1) of this section, in default under the terms of the retail installment contract. ~~In~~

(B) In order for a retail buyer, or any of the ~~aforementioned~~ persons described in division (A)(1) of this section that is liable on the retail buyer's obligation, to avail the retail buyer or other person of this section, the retail buyer or other person must prove that the retail seller or the holder of the retail installment contract has been notified in writing of the overcharge and has failed within ten days of such notification to advise the retail buyer of a full credit, or the retail buyer or other person must prove that the overcharge has been willful. A correction of any overcharge within sixty days of the date of making of the retail installment contract is conclusive proof of lack

of willfulness. ~~This~~

(C) This section applies to cases in which recovery is sought from the retail seller or holder of the retail installment contract.

(D) If charges greater in amount than those provided for in sections 1317.01 to 1317.11 of the Revised Code are contracted for or received by the retail seller or the retail seller's agent, assignee, or successor in interest, the retail buyer or the retail buyer's assignee or successor in interest may recover the total amount of finance charges paid to the retail seller or the retail seller's agent, assignee, or successor in interest, in excess of the interest rate that otherwise would apply under section 1343.01 of the Revised Code.

~~No person shall enter into any agreement with any retail seller regarding the purchase, assignment, or transfer of any retail installment contract whereby the retail seller shall receive or retain, directly or indirectly, any benefit from or part of any amount collected or received, or to be collected or received, from any retail buyer as a finance charge or as the cost of insurance or other benefits to the retail buyer, in excess of two per cent of the principal balance of the retail installment contract. No person shall, directly or indirectly, pay to the retail seller, and no retail seller shall, directly or indirectly, receive or retain any part of the amount collected, or to be collected, as a finance charge or retail buyer's cost of insurance or other benefits on any retail installment contract purchased, assigned, or transferred from the retail seller, in excess of two per cent of the principal balance of the retail installment contract, provided this paragraph does not apply in case of a bona fide sale of a retail installment contract, if, as part of the consideration for such sale and purchase, the retail seller agrees to act, and does act, as agent for the purchaser in making collection of all amounts due on and otherwise completely servicing the retail installment contract, including billing, posting, and maintaining complete records applicable thereto.~~

~~Compensation received by the retail seller as commission received by the retail seller from an insurance company as its licensed agent, is not a benefit received by the retail seller out of the insurance charge to the retail buyer under the installment contract. Any sale, assignment, or transfer of a retail installment contract in violation of this section is void. Except as specifically limited by this paragraph all instruments that are a part of a retail installment contract are freely assignable and transferable.~~

SECTION 2. That existing section 1317.08 of the Revised Code is hereby repealed.

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Speaker _____ of the House of Representatives.

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President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____