

ASSEMBLY BILL

No. 2116

Introduced by Assembly Member Portantino

February 20, 2008

An act to amend Section 2981 of the Civil Code, relating to sales contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2116, as introduced, Portantino. Automobile sales contracts.

Existing law governs motor vehicle conditional sale contracts, as defined. Existing law requires sellers of motor vehicles to make certain disclosures to buyers and to disclose certain information under the label "itemization of the amount financed." A violation of these provisions is a misdemeanor. Existing law defines downpayment for these purposes.

This bill would make nonsubstantive changes to the definition of downpayment, as described above.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2981 of the Civil Code is amended to
- 2 read:
- 3 2981. As used in this chapter, unless the context otherwise
- 4 requires:
- 5 (a) "Conditional sale contract" means:
- 6 (1) A contract for the sale of a motor vehicle between a buyer
- 7 and a seller, with or without accessories, under which possession
- 8 is delivered to the buyer and either of the following:

1 (A) The title vests in the buyer thereafter only upon the payment
2 of all or a part of the price, or the performance of any other
3 condition.

4 (B) A lien on the property is to vest in the seller as security for
5 the payment of part or all of the price, or for the performance of
6 any other condition.

7 (2) A contract for the bailment of a motor vehicle between a
8 buyer and a seller, with or without accessories, by which the bailee
9 or lessee agrees to pay as compensation for use a sum substantially
10 equivalent to or in excess of the aggregate value of the vehicle and
11 its accessories, if any, at the time the contract is executed, and by
12 which it is agreed that the bailee or lessee will become, or for no
13 other or for a nominal consideration has the option of becoming,
14 the owner of the vehicle upon full compliance with the terms of
15 the contract.

16 (b) "Seller" means a person engaged in the business of selling
17 or leasing motor vehicles under conditional sale contracts.

18 (c) "Buyer" means the person who buys or hires a motor vehicle
19 under a conditional sale contract.

20 (d) "Person" includes an individual, company, firm, association,
21 partnership, trust, corporation, limited liability company, or other
22 legal entity.

23 (e) "Cash price" means the amount for which the seller would
24 sell and transfer to the buyer unqualified title to the motor vehicle
25 described in the conditional sale contract, if the property were sold
26 for cash at the seller's place of business on the date the contract
27 is executed, and shall include taxes to the extent imposed on the
28 cash sale and the cash price of accessories or services related to
29 the sale, including, but not limited to, delivery, installation,
30 alterations, modifications, improvements, document preparation
31 fees, a service contract, a vehicle contract cancellation option
32 agreement, and payment of a prior credit or lease balance remaining
33 on property being traded in.

34 (f) "Downpayment" means a payment that the buyer pays or
35 agrees to pay to the seller in cash or property value or money's
36 worth at, or prior to, delivery by the seller to the buyer of the motor
37 vehicle described in the conditional sale contract. The term shall
38 also include the amount of any portion of the downpayment the
39 payment of which is deferred until not later than the due date of
40 the second otherwise scheduled payment, if the amount of the

1 deferred downpayment is not subject to a finance charge. The term
2 does not include any administrative finance charge charged,
3 received or collected by the seller as provided in this chapter.

4 (g) “Amount financed” means the amount required to be
5 disclosed pursuant to paragraph (8) of subdivision (a) of Section
6 2982.

7 (h) “Unpaid balance” means the difference between subdivision
8 (e) and subdivision (f), plus all insurance premiums (except for
9 credit life or disability insurance when the amount thereof is
10 included in the finance charge), which are included in the contract
11 balance, and the total amount paid or to be paid as follows:

- 12 (1) To a public officer in connection with the transaction.
13 (2) For license, certificate of title, and registration fees imposed
14 by law, and the amount of the state fee for issuance of a certificate
15 of compliance or certificate of waiver pursuant to Section 9889.56
16 of the Business and Professions Code.

17 (i) “Finance charge” has the meaning set forth for that term in
18 Section 226.4 of Regulation Z. The term shall not include
19 delinquency charges or collection costs and fees as provided by
20 subdivision (k) of Section 2982, extension or deferral agreement
21 charges as provided by Section 2982.3, or amounts for insurance,
22 repairs to or preservation of the motor vehicle, or preservation of
23 the security interest therein advanced by the holder under the terms
24 of the contract.

25 (j) “Total of payments” means the amount required to be
26 disclosed pursuant to subdivision (h) of Section 226.18 of
27 Regulation Z. The term includes any portion of the downpayment
28 that is deferred until not later than the second otherwise scheduled
29 payment and that is not subject to a finance charge. The term shall
30 not include amounts for which the buyer may later become
31 obligated under the terms of the contract in connection with
32 insurance, repairs to or preservation of the motor vehicle,
33 preservation of the security interest therein, or otherwise.

34 (k) “Motor vehicle” means a vehicle required to be registered
35 under the Vehicle Code that is bought for use primarily for personal
36 or family purposes, and does not mean any vehicle that is bought
37 for use primarily for business or commercial purposes or a
38 mobilehome, as defined in Section 18008 of the Health and Safety
39 Code that is sold on or after July 1, 1981. “Motor vehicle” does

1 not include any trailer that is sold in conjunction with a vessel and
2 that comes within the definition of “goods” under Section 1802.1.

3 (l) “Purchase order” means a sales order, car reservation,
4 statement of transaction or any other such instrument used in the
5 conditional sale of a motor vehicle pending execution of a
6 conditional sale contract. The purchase order shall conform to the
7 disclosure requirements of subdivision (a) of Section 2982 and
8 Section 2984.1, and subdivision (m) of Section 2982 shall apply.

9 (m) “Regulation Z” means a rule, regulation or interpretation
10 promulgated by the Board of Governors of the Federal Reserve
11 System (“Board”) under the federal Truth in Lending Act, as
12 amended (15 U.S.C. 1601, et seq.), and an interpretation or
13 approval issued by an official or employee of the Federal Reserve
14 System duly authorized by the board under the Truth in Lending
15 Act, as amended, to issue the interpretations or approvals.

16 (n) “Simple-interest basis” means the determination of a finance
17 charge, other than an administrative finance charge, by applying
18 a constant rate to the unpaid balance as it changes from time to
19 time either:

20 (1) Calculated on the basis of a 365-day year and actual days
21 elapsed (although the seller may, but need not, adjust its
22 calculations to account for leap years); reference in this chapter to
23 the “365-day basis” shall mean this method of determining the
24 finance charge, or

25 (2) For contracts entered into prior to January 1, 1988, calculated
26 on the basis of a 360-day year consisting of 12 months of 30 days
27 each and on the assumption that all payments will be received by
28 the seller on their respective due dates; reference in this chapter
29 to the “360-day basis” shall mean this method of determining the
30 finance charge.

31 (o) “Precomputed basis” means the determination of a finance
32 charge by multiplying the original unpaid balance of the contract
33 by a rate and multiplying that product by the number of payment
34 periods elapsing between the date of the contract and the date of
35 the last scheduled payment.

36 (p) “Service contract” means “vehicle service contract” as
37 defined in subdivision (c) of Section 12800 of the Insurance Code.

38 (q) “Surface protection product” means the following products
39 installed by the seller after the motor vehicle is sold:

40 (1) Undercoating.

- 1 (2) Rustproofing.
- 2 (3) Chemical or film paint sealant or protectant.
- 3 (4) Chemical sealant or stain inhibitor for carpet and fabric.
- 4 (r) "Theft deterrent device" means the following devices
- 5 installed by the seller after the motor vehicle is sold:
- 6 (1) A vehicle alarm system.
- 7 (2) A window etch product.
- 8 (3) A body part marking product.
- 9 (4) A steering lock.
- 10 (5) A pedal or ignition lock.
- 11 (6) A fuel or ignition kill switch.

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