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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.*)

TITLE 2. CREDIT SALES [1801 - 1812.35] (*Title 2 added by Stats. 1959, Ch. 201.*)

CHAPTER 1. Retail Installment Sales [1801 - 1812.20] (*Chapter 1 added by Stats. 1959, Ch. 201.*)

ARTICLE 1. General Provisions [1801 - 1801.7] (*Article 1 added by Stats. 1959, Ch. 201.*)

1801. This chapter may be cited as the "Unruh Act."

(*Added by Stats. 1959, Ch. 201.*)

1801.1. Any waiver by the buyer of the provisions of this chapter shall be deemed contrary to public policy and shall be unenforceable and void.

(*Amended by Stats. 1963, Ch. 1603.*)

1801.2. If any provisions of this chapter or the application thereof to any person or circumstances is held unconstitutional, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(*Added by Stats. 1959, Ch. 201.*)

1801.4. The provisions of this chapter shall not apply to any contract or series of contracts providing for: (a) the construction, sale, or construction and sale of an entire residence, including a mobilehome, or all or part of a structure designed for commercial or industrial occupancy, with or without a parcel of real property or an interest therein, (b) for the sale of a lot or parcel of real property, including any site preparation incidental to such sale, (c) the sale of any aircraft required to be registered under the Federal Aviation Act of 1958, or (d) the sale of any vessel as defined in subdivision (a) of Section 9840 of the Vehicle Code if the cash price of such vessel, including accessories and equipment sold in conjunction therewith, exceeds twenty-five thousand dollars (\$25,000).

(*Amended by Stats. 1980, Ch. 1149, Sec. 6.*)

1801.5. Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a retail installment contract or other document under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (b) of Section 1803.3 are satisfied. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract or other document of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(*Amended by Stats. 1981, Ch. 1075, Sec. 1. Operative October 1, 1982, or sooner, by Sec. 25 of Ch. 1075, as amended by Stats. 1982, Ch. 129, Sec. 12.*)

1801.6. (a) The Legislature finds that the decisional law of this state regarding the characterization of credit transactions as either loans or credit sales has been made unclear by the holding in *King v. Central Bank*, 18 Cal. 3d 840. It is the purpose of subdivision (b) to clarify such law by establishing standards for determining whether a transaction is subject to the Unruh Act. However, subdivision (b) is not intended to abrogate the judicial principle that the substance of a transaction rather than its form is determinative of its characterization as a loan or credit sale as exemplified by such decisions as *Verbeck v. Clymer*, 202 Cal. 557, *Milana v. Credit Discount Co.*, 27 Cal. 2d 335, and *Boerner v. Colwell Co.*, 21 Cal. 3d 37. Subdivision (b) also is not intended to abrogate the decision in *Morgan v. Reasor Corp.*, 69 Cal. 2d 881, to the extent such decision has not been modified by Chapter 554 of the Statutes of 1969 or other legislative amendments to the Unruh Act.

(b) The provisions of this chapter shall not apply to any transaction in the form of a loan made by a supervised financial organization to a buyer of goods or services where all or a portion of the loan proceeds are used to purchase such goods or services, whether or not the seller of such goods or services arranges the loan or participates in the preparation of the loan documents, unless the supervised financial organization and the seller:

- (1) Are related by common ownership and control and the relationship was a material factor in the loan transaction; or
- (2) Share in the profits and losses of either or both the sale and the loan.

(c) For purposes of this section:

(1) The term "supervised financial organization" means a person organized, chartered, or holding a license or authorization certificate to make loans pursuant to the laws of this state or the United States who is subject to supervision by an official or agency of this state or the United States.

(2) Receipt of a loan commission, brokerage or referral fee by a seller from a supervised financial organization shall not constitute a sharing of profits of the supervised financial organization, provided that such payment (i) is reasonable under the circumstances existing at the time the loan is consummated, and (ii) is not refundable or is wholly or partly refundable only if the loan is voluntarily paid in full prior to its scheduled maturity. For purposes of this paragraph, a loan commission, brokerage or referral fee not exceeding the greater of 1 percent of the amount financed (as that term is defined by Regulation Z with respect to loans), or twenty dollars (\$20), is reasonable under the circumstances existing at the time the loan is consummated.

(3) Payment of money by a seller to a supervised financial organization pursuant to an actual or alleged contractual or statutory obligation to indemnify a supervised financial organization for losses incurred as a result of the assertion by a buyer of claims or defenses with respect to goods or services purchased with loan proceeds shall not constitute participation in or sharing of loan losses by the seller.

(Amended by Stats. 1980, Ch. 438, Sec. 1.)

1801.7. The provisions of this chapter shall not apply to any premium finance agreement entered into by an industrial loan company pursuant to Chapter 8 (commencing with Section 18560) of Division 7 of the Financial Code.

(Added by Stats. 1979, Ch. 1151.)