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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 2. Definitions [1802 - 1802.21] (*Article 2 added by Stats. 1959, Ch. 201.)*

1802. Unless the context or subject matter otherwise requires, the definitions given in this article govern the construction of this chapter.

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

1802.1. "Goods" means tangible chattels bought for use primarily for personal, family or household purposes, including certificates or coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently are to be so affixed to real property as to become a part of such real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold or leased with such a vehicle if sold under a contract governed by Section 2982 or leased under a contract governed by Section 2985.7. "Goods" also includes a trailer which is sold in conjunction with a vessel, as defined in subdivision (a) of Section 9840 of the Vehicle Code, unless the sales transaction is exempted under Section 1801.4. As used in this section, "trailer" means a vehicle designed solely for carrying vessels.

(*Amended by Stats. 1985, Ch. 1186, Sec. 1.*)

1802.2. "Services" means work, labor and services, for other than a commercial or business use, including services furnished in connection with the sale or repair of goods as defined in Section 1802.1 or furnished in connection with the repair of motor vehicles (except for service contracts as defined by subdivision (p) of Section 2981 which are sold in conjunction with the sale or lease of a vehicle required to be registered under the Vehicle Code) or in connection with the improvement of real property or the providing of insurance, but does not include the services of physicians or dentists, nor services for which the tariffs, rates, charges, costs or expenses, including in each instance the deferred payment price, are required by law to be filed with and approved by the federal government or any official, department, division, commission or agency of the United States.

(*Amended by Stats. 1984, Ch. 1114, Sec. 2.*)

1802.3. "Retail seller" or "seller" means a person engaged in the business of selling goods or furnishing services to retail buyers.

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

1802.4. "Retail buyer" or "buyer" means a person who buys goods or obtains services from a retail seller in a retail installment sale and not principally for the purpose of resale.

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

1802.5. "Retail installment sale" or "sale" means the sale of goods or the furnishing of services by a retail seller to a retail buyer for a deferred payment price payable in installments.

(*Amended by Stats. 1970, Ch. 546.*)

1802.6. "Retail installment contract" or "contract" means any contract for a retail installment sale between a buyer and seller, entered into or performed in this state, which provides for (a) repayment in installments, whether or not such contract contains a title retention provision, and in which the buyer agrees to pay a finance charge, or in which the buyer does not agree to pay a finance charge but the goods or services are available at a lesser price if paid for by either cash or credit card, or in which the buyer would

have received any additional goods or services or any higher quality goods or services at no added cost over the total amount payable in installments if the sale had been for cash, or (b) which provides for payment in more than four installments. When taken or given in connection with a retail installment sale, the term includes but is not limited to a security agreement and a contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of their value and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the goods upon full compliance with the terms of the contract.

(Amended by Stats. 1979, Ch. 805.)

1802.7. "Retail installment account" or "installment account" or "revolving account" means an account established by an agreement entered into in this state, pursuant to which the buyer promises to pay, in installments, to a retail seller, his outstanding balance incurred in retail installment sales, whether or not a security interest in the goods sold is retained by the seller, and which provides for a finance charge which is expressed as a percent of the periodic balances to accrue thereafter providing such charge is not capitalized or stated as a dollar amount in such agreement.

(Amended by Stats. 1970, Ch. 546.)

1802.8. "Cash price" means the cash price stated in a retail installment contract for which the seller would sell or furnish to the buyer and the buyer would buy or obtain from the seller the goods or services which are the subject matter of a retail installment contract if the sale were a sale for cash instead of a retail installment sale. The cash price shall include any taxes and cash prices for accessories and services, if any, included in a retail installment sale.

(Amended by Stats. 1981, Ch. 1075, Sec. 2. Operative October 1, 1982, or sooner, by Sec. 25 of Ch. 1075, as amended by Stats. 1982, Ch. 129, Sec. 12.)

1802.9. "Total sale price" means the total of the cash price of the goods or services, the amounts, if any, included for insurance, official fees, and the finance charge.

(Amended by Stats. 1981, Ch. 1075, Sec. 3. Operative October 1, 1982, or sooner, by Sec. 25 of Ch. 1075, as amended by Stats. 1982, Ch. 129, Sec. 12.)

1802.10. "Finance charge" means the amount however denominated or expressed which the retail buyer contracts to pay or pays for the privilege of purchasing goods or services to be paid for by the buyer in installments. "Finance charge" does not include the amounts, if any, charged for insurance premiums, including premiums of the kind and to the extent described in paragraph (2) of subsection (e) of Section 226.4 of Regulation Z, delinquency charges, attorney's fees, court costs, collection expenses, official fees, extension or deferral agreement charges as provided by Section 1807.1, or amounts for insurance, repairs to or preservation of the goods, or preservation of the holder's security interest therein advanced by the holder subsequent to the execution of a contract.

(Amended by Stats. 1984, Ch. 199, Sec. 1.)

1802.11. (a) "Amount financed" means the amount required to be disclosed pursuant to paragraph (7) of subdivision (c) of Section 1803.3.

(b) "Unpaid balance" means the cash price of the goods or services which are the subject matter of the retail installment sale, plus the amounts, if any, included in a retail installment sale for insurance and official fees, minus the amount of the buyer's downpayment in money or goods.

(Amended by Stats. 1981, Ch. 1075, Sec. 4. Operative October 1, 1982, or sooner, by Sec. 25 of Ch. 1075, as amended by Stats. 1982, Ch. 129, Sec. 12.)

1802.12. "Total of payments" means the amount required to be disclosed pursuant to subdivision (h) of Section 226.18 of Regulation Z. The term includes any portion of the downpayment deferred until not later than the second otherwise scheduled payment and which is not subject to a finance charge.

(Amended by Stats. 1981, Ch. 1075, Sec. 5. Operative October 1, 1982, or sooner, by Sec. 25 of Ch. 1075, as amended by Stats. 1982, Ch. 129, Sec. 12.)

1802.13. "Holder" means the retail seller who acquires a retail installment contract or installment account executed, incurred or entered into by a retail buyer, or if the contract or installment account is purchased by a financing agency or other assignee, the financing agency or other assignee. The term does not include the pledgee or of the holder of a security interest in an aggregate number of such contracts or installment accounts to secure a bona fide loan thereon.

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

1802.14. "Official fees" means the fees required by law and actually to be paid to the appropriate public officer to perfect a lien or other security interest, on or in goods, retained or taken by a seller under a retail installment contract or installment account, and license, certificate of title, and registration fees imposed by law.

(Amended by Stats. 1970, Ch. 546.)

1802.15. "Person" means an individual, partnership, corporation, limited liability company, association or other group, however organized.

(Amended by Stats. 1994, Ch. 1010, Sec. 43. Effective January 1, 1995.)

1802.16. "Financing agency" means a person engaged in this State in whole or in part in the business of purchasing retail installment contracts, or installment accounts from one or more retail sellers. The term includes but is not limited to a bank, trust company, private banker, or investment company, if so engaged.

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

1802.17. "Billing cycle" means the time interval between regular monthly billing statement dates.

(Repealed and added by Stats. 1970, Ch. 546.)

1802.18. "Regulation Z" means any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the Federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

(Amended by Stats. 1979, Ch. 805.)

1802.19. (a) For the purposes of this chapter, a retail installment contract, contract, retail installment account, installment account, or revolving account shall be deemed to have been made in this state and, therefore, subject to the provisions of this chapter, if either the seller offers or agrees in this state to sell to a buyer who is a resident of this state or if such buyer accepts or makes the offer in this state to buy, regardless of the situs of the contract as specified therein.

(b) Any solicitation or communication to sell, oral or written, originating outside of this state, but forwarded to, and received in this state by, a buyer who is a resident of this state, shall be deemed to be an offer or agreement to sell in this state.

(c) Any solicitation or communication to buy, oral or written, originating within this state, from a buyer who is a resident of this state, but forwarded to, and received by, a retail seller outside of this state, shall be deemed to be an acceptance or offer to buy in this state.

(Added by Stats. 1976, Ch. 508.)

1802.20. "Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time, either:

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

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

(Added by Stats. 1979, Ch. 805.)

1802.21. "Precomputed basis" means the determination of a finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date on which the finance charge begins to be assessed and the date of the last scheduled payment.

(Added by Stats. 1979, Ch. 805.)