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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 3. Provisions of Retail Installment Contracts [1803.1 - 1803.11] (*Article 3 added by Stats. 1959, Ch. 201.*)

1803.1. A retail installment contract shall be dated and in writing; the printed portion thereof shall be in at least eight-point type.

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

1803.2. Except as provided in Section 1808.3, every retail installment contract shall be contained in a single document that shall contain:

(a) The entire agreement of the parties with respect to the cost and terms of payment for the goods and services, including any promissory notes or any other evidences of indebtedness between the parties relating to the transaction.

(b) (1) At the top of the contract the words "Security Agreement" shall appear in at least 12-point bold type where a security interest in the goods is retained or a security interest on other goods or realty is obtained by the seller as security for the goods or services purchased.

(2) At the top of the contract the words "Retail Installment Contract" shall appear in at least 12-point bold type where a security interest is not retained or obtained by the seller as security for the goods or services purchased.

(3) Any contract for goods or services that provides for a security interest in real property shall also provide the following notice, written in the same language, e.g., Spanish, as used in the contract: "WARNING TO BUYER: IF YOU SIGN THIS CONTRACT, YOU WILL BE PUTTING UP YOUR HOME AS SECURITY. THIS MEANS THAT YOUR HOME COULD BE SOLD WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF YOU MISS ANY PAYMENT AS REQUIRED BY THIS CONTRACT." This notice shall be printed in at least 14-point boldface type, shall be set apart from the rest of the contract by a border, and shall appear directly above the space reserved for the signature of the buyer. A security interest created in any contract described in this paragraph that does not provide the notice as required by this paragraph shall be void and unenforceable.

As used in this subdivision, the term "security interest" refers to a contractual interest in property and not to a mechanic's lien or other interest in property arising by operation of law.

(c) Where the contract includes a finance charge that is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(d) Where the contract includes a finance charge that is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(e) Where the contract includes a finance charge that is determined on the simple-interest basis, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you desire to pay off in advance the full amount due, the amount which is outstanding will be furnished upon request."

(f) This section shall become operative on October 1, 1995.

(g) The form specified in this section may be used before October 1, 1995, to comply with the provisions of this section as amended and repealed by Section 2 of Chapter 888 of the Statutes of 1994.

(Amended (as added by Stats. 1994, Ch. 888, Sec. 3) by Stats. 1995, Ch. 153, Sec. 1. Effective July 24, 1995. Section operative October 1, 1995, by its own provisions.)

1803.3. Except as provided in Article 8 (commencing with Section 1808.1) of this chapter, a contract shall contain the following:

(a) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods or services sufficient to identify them. Services or multiple items of goods may be described in general terms and may be described in detail sufficient to identify them in a separate writing.

(b) Every contract subject to this chapter shall contain the disclosures required by Regulation Z whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (c) may be itemized or subtitled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. No particular terminology is required to disclose the items set forth in subdivision (c) except as therein expressly provided. Except as otherwise provided by this subdivision (b), these disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(c) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of taxes imposed on the sale.

(B) Taxes imposed on the sale.

(C) The total of the above.

(2) An itemization of the amount to be paid to any public officer for official fees.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) A subtotal representing the sum of the foregoing items.

(5) The amount of the buyer's downpayment, which downpayment shall not include any administrative finance charge charged, received, or collected by the seller pursuant to subdivision (c) of Section 1805.1 and as shown as item (6), itemized to show the following:

(A) The net agreed value of the property being traded in.

(B) The amount of any portion of downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(C) The amount of any manufacturer's rebate applied or to be applied to the downpayment.

(D) The remaining amount paid or to be paid by the buyer as a downpayment.

(6) The amount of any administrative finance charge, labeled "prepaid finance charge."

(7) The difference between item (4) and the sum of items (5) and (6), labeled "amount financed."

(d) If the payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(e) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(f) (1) Where the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (c) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

(Amended by Stats. 1981, Ch. 1075, Sec. 6. Operative October 1, 1982, or sooner, by Sec. 25 of Ch. 1075, as amended by Stats. 1982, Ch. 129, Sec. 12.)

1803.4. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed.

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

1803.5. If the cost of any insurance is included in the contract and a separate charge is made to the buyer for such insurance:

(a) The contract shall state whether the insurance is to be procured by the buyer or the seller.

(b) The amount, included for such insurance, shall not exceed the premiums chargeable in accordance with rate fixed for such insurance by the insurer.

(c) If the insurance is to be procured by the seller or holder, he shall, within 45 days after delivery of the goods or furnishing of the services under the contract, deliver, mail or cause to be mailed to the buyer, at his address as specified in the contract, a notice thereof or a copy of the policy or policies of insurance or a certificate or certificates of the insurance so procured.

(d) The provisions of Insurance Code Section 1668 shall apply to any violation of this section.

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

1803.6. (a) A contract may provide that for each installment in default the buyer shall pay a delinquency charge not in excess of one of the following amounts:

(1) For a period in default of not less than 10 days, an amount not in excess of ten dollars (\$10).

(2) For a period in default of not less than 15 days, an amount not in excess of fifteen dollars (\$15).

(b) Only one delinquency charge may be collected on any installment regardless of the period during which it remains in default. Payments timely received by the seller under a written extension or deferral agreement shall not be subject to any delinquency charge. The contract may also provide for payment of any actual and reasonable costs of collection occasioned by removal of the goods from the state without written permission of the holder, or by the failure of the buyer to notify the holder of any change of residence, or by the failure of the buyer to communicate with the holder for a period of 45 days after any default in making payments due under the contract.

(Amended by Stats. 1996, Ch. 301, Sec. 1. Effective January 1, 1997.)

1803.7. The seller shall deliver to the buyer at the time of the buyer's signature a legible copy of the contract or of any other document which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiation. In addition to the penalties provided under Article 12.2 (commencing with Section 1812.6) of this chapter, until the seller delivers such documents, the buyer shall be obligated to pay only the cash price. Any acknowledgment by the buyer of delivery of a copy of such documents shall be printed or written in a size equal to a least 10-point bold type and, if contained in the contract shall also appear directly above the space reserved for the buyer's signature. The buyer's written acknowledgment, conforming to the requirements of this section of delivery of a copy of such documents shall be a rebuttable presumption of such delivery and of compliance with this section and Section 1803.4, in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when he purchases the contract.

If the holder furnishes the buyer a copy of such documents, or a notice containing the items required by Section 1803.3 and stating that the buyer should notify the holder in writing within 30 days if he was not furnished a copy of the contract or of any other

document which the seller had required or requested the buyer to sign, and which he did sign, during the contract negotiation, and no such notification is given, it shall be conclusively presumed in favor of the third party that copies of such documents were furnished as required by Sections 1803. 4 and 1803.7.

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

1803.8. Retail installment sales negotiated and entered into by mail or telephone without personal solicitation by a salesman or other representative of the seller, where the seller's cash and deferred payment prices and other terms are clearly set forth in a catalog or other printed solicitation of business which is generally available to the public, may be made as hereinafter provided. All of the provisions of this chapter shall apply to such sales except that the seller shall not be required to deliver a copy of the contract to the buyer as provided in Section 1803.7, and if, when the proposed retail installment sale contract is received by the seller from the buyer, there are blank spaces to be filled in, the seller may insert in the appropriate blank spaces the amounts of money and other terms which are set forth in the seller's catalog which is then in effect. In lieu of the copy of the contract provided for in Section 1803.7 the seller shall, within 15 days from the date of shipment of goods, furnish to the buyer a written statement of the items inserted in such blank spaces.

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

1803.9. If it is explicitly understood between the seller and the buyer that all or any part of the cash price will be paid from the proceeds of a loan to be obtained by the buyer from a third party, the contract of sale or purchase order may be rescinded at the election of the buyer, and all considerations thereupon shall be returned by the respective parties without further demand, if the buyer is unable to obtain such third-party financing upon reasonable terms after having made a reasonable effort to obtain it, and buyer notifies the seller of the rescission within three business days.

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

1803.10. It shall be unlawful for any seller to induce or attempt to induce any person to enter into a contract subject to this act by offering a rebate, discount, commission, or other consideration, contingent upon the happening of a future event, on the condition that the buyer either sells, or gives information or assistance for the purpose of leading to a sale by the seller of, the same or related goods.

(Added by Stats. 1968, Ch. 452.)

1803.11. It shall be unlawful for any seller to solicit buyers, in any advertisement, to enter into a retail installment contract with it if the seller does not intend to sell that retail installment contract to a financing agency or other assignee, unless the advertisement clearly states the periodic rate or range of periodic rates, expressed as an annual percentage rate or a range of annual percentage rates that will be used to determine the finance charge imposed on the retail installment contract.

(Added by Stats. 1991, Ch. 819, Sec. 1.)