

LEGISLATIVE BILL 980

Approved by the Governor March 15, 1994

Introduced by Landis, 46

AN ACT relating to documents; to amend sections 45-156 and 45-336, Reissue Revised Statutes of Nebraska, 1943, and section 25-12,112, Revised Statutes Supplement, 1992; to change a provision relating to preservation of records; to require the return and cancellation of copies of loan and installment sales documents; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 25-12,112, Revised Statutes Supplement, 1992, be amended to read as follows:

25-12,112. If any business, institution, member of a profession or calling, or department or agency of government in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation, or combination thereof of any act, transaction, occurrence, or event and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, optical imagery, microfilm, microcard, miniature photographic, optical disk, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law and, with respect to agencies or departments of government, if the State Records Administrator approves such destruction. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of the court. The introduction of a reproduced record, enlargement, or facsimile does not preclude admission of the original.

Sec. 2. That section 45-156, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-156. Upon repayment of the loan in full, the licensee shall mark plainly every obligation or copy thereof and security or copy thereof signed by any obligor with the word Paid or Canceled, and shall release any mortgage, restore any pledge, and cancel and return any note or copy thereof and any assignment or copy thereof given to the licensee.

Sec. 3. That section 45-336, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-336. (1) Each retail installment contract shall be in writing, shall be signed by both the buyer and the seller, and shall contain the following items and a copy thereof shall be delivered to the buyer at the time the instrument is signed, except for contracts made in conformance with section 45-340: (a) The cash sale price; (b) the amount of the buyer's downpayment, and whether made in money or goods, or partly in money and partly in goods, including a brief description of any goods traded in; (c) the difference between subdivisions (a) and (b) of this subsection; (d) the amount included for insurance if a separate charge is made therefor, specifying the types of coverages; (e) the basic time price, which is the sum of subdivisions (c) and (d) of this subsection; (f) the time-price differential; (g) the amount of the time-price balance, which is the sum of subdivisions (e) and (f) of this subsection, payable in installments by the buyer to the seller; (h) the number, amount, and due date or period of each installment; and (i) the time-sales price.

(2) The contract shall contain substantially the following notice: NOTICE TO THE BUYER. DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE CONTRACT YOU SIGN.

(3) The items listed in subsection (1) of this section need not be stated in the sequence or order set forth in such subsection. Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. No installment contract shall be signed by the buyer or proffered by seller when it contains blank spaces to be filled in after execution, except that if delivery of the goods or services is not made at the time of the execution of the contract, the identifying numbers or marks of the goods, or similar information, and the due date of the first installment may be inserted in the contract after its execution.

(4) Upon written request from the buyer, the holder of an installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A buyer shall be given a written receipt for any payment when made in cash.

(5) After payment of all sums for which the buyer is obligated under a contract, the holder shall deliver or mail to the buyer at his or her last-known address one or more good and sufficient instruments or copies thereof to acknowledge payment in full and shall release all security in the goods and mark canceled and return to the buyer the original agreement or copy thereof or instruments or copies thereof signed by ~~him~~ the buyer.

Sec. 4. That original sections 45-156 and 45-336, Reissue Revised Statutes of Nebraska, 1943, and section 25-12,112, Revised Statutes Supplement, 1992, are repealed.