



**House  
Legislative  
Analysis  
Section**

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**DELETE LICENSING PROVISIONS IN  
MOT. VEHICLE SALES FINANCE ACT**

**House Bill 5659**

**Sponsor: Rep. Gary L. Randall**

**Committee: Commerce**

**Complete to 3-15-96**

**A SUMMARY OF HOUSE BILL 5659 AS INTRODUCED 3-7-96**

The Motor Vehicle Sales Finance Act currently regulates installment sales of motor vehicles, provides for the regulation and licensing of persons engaged in the business of making and financing such sales, and requires business records of these persons to be regularly investigated and examined by the banking commissioner. The bill would eliminate and repeal provisions that specifically pertain to the licensing and regulation of such persons, including various fees they must pay and bonding requirements they must meet to be licensed, but would retain language regulating motor vehicle installment sales contracts and make other changes affecting persons who deal in them.

Sale of insurance. At present, insurance companies, agents, or brokers cannot pay or cause to be paid, either directly or indirectly, to anyone who sells vehicles under installment sale contracts any portion of insurance premiums involved in the retail installment sale of a vehicle other than for the buyer's benefit, and installment sellers may not receive any such payments. The bill would delete provisions prohibiting insurance companies, agents, or brokers from paying or causing to be paid to anyone who sells vehicles under installment sale contracts any portion of insurance premiums involved in the retail installment sale of a vehicle other than for the buyer's benefit. (Essentially, this change would permit motor vehicle dealers or their agents to have an ownership interest in insurance agencies offering various forms of insurance to those who purchase vehicles under an installment sales contract.)

Provisions governing contract. The act currently specifies various criteria that an installment sales contract must meet. The bill would retain most of these provisions, but would delete language that requires such contracts to provide for weekly, semi-monthly, or monthly payments of the time balance in substantially equal periods and amounts. The bill would delete language that prohibits such contracts to be sold to persons doing business in the state who were not licensed under the act.

Financing unpaid balances. The act permits someone who sells a motor vehicle via an installment sales contract to require a buyer of the vehicle to pay, in addition to the new vehicle's purchase price, insurance premiums and certain travel emergency benefits, various costs incurred in the vehicle's sale, including title and licensing fees and certain other fees. The bill also would permit the seller to contract with the buyer to pay the amount of the unpaid balance of any loan secured by a motor vehicle being used as a trade-in by the buyer.

House Bill 5659 (3-15-96)

Refinancing provisions. The act prohibits the holder of an installment sales contract from including in a contract to refinance the (original) contract any cash loan to the buyer, nor may any credit extended to the buyer that was incidental to the purchase of goods and services be included in it. This language and related provisions would be deleted from the act.

Bringing of action. The act establishes certain fines and penalties that apply to persons who willfully or intentionally deal in motor vehicle installment sales in the state without first obtaining licensure under the act. The bill would delete these provisions and, instead, specifies that the attorney general, a county prosecuting attorney, or someone injured by a violation of the act could bring a cause of action to do any of the following:

- \* Obtain a declaratory judgment that a method, act, or practice violated the act;
- \* Obtain an injunction to enjoin a person from engaging in a method, act, or practice that violated or would violate the act; or
- \* Recover actual damages caused by a violation of the act, or \$250, whichever was greater.

These provisions, however, would not limit or prohibit any other legal remedy that the attorney general, a county prosecutor, or a person could seek for actions that violated the act.

Repeal, definitions. The bill would repeal several sections of the act pertaining to licensure of persons who deal in motor vehicle installment sale contracts, application for licensure, bonding requirements for licensees, license fees, certificate of license requirements, reasons a license may be denied, revoked, or suspended, required examinations and investigations by the banking commissioner, record-keeping requirements, and provisions governing expired, surrendered, or revoked licenses.

In addition, the bill would repeal Public Act 305 of 1939, which defines various terms applicable to retail installment sales contracts covering motor vehicles, and would make numerous technical changes to the definitions of terms contained in the Motor Vehicle Sales Finance Act to reflect the changes proposed in the bill regarding licensure.

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