

Amendment No. 596

Senate Amendment to Assembly Bill No. 274

(BDR 8-819)

Proposed by: Senator Amodei**Amendment Box:** Replaces Amendment No. 582.**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

BAW



Date: 5/1/2009

A.B. No. 274—Makes various changes regarding retail installment sales.

(BDR 8-819)



ASSEMBLY BILL NO. 274—ASSEMBLYMEN AIZLEY, CONKLIN, OHRENSCHALL,
KOIVISTO; ATKINSON, BOBZIEN, GOICOECHEA, KIRKPATRICK, MANENDO,
MASTROLUCA AND SEGERBLOM

MARCH 10, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes regarding retail installment sales.
(BDR 8-819)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to retail installment sales; defining certain terms and revising certain definitions relating to retail installment sales; requiring that certain disclosures be made to a retail buyer; requiring that certain provisions relating to default be included in credit applications or contracts for the sale of vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law contains various provisions governing retail installment sales, including sales of motor vehicles. (Chapter 97 of NRS) This bill incorporates into Nevada law certain provisions of the federal Truth in Lending Act of 1968. (15 U.S.C. §§1601, et seq.)

Sections 1, 3 and 4 of this bill: (1) add a new definition of the term “credit”; (2) revise the existing definition of the term “retail installment transaction” to include an installment sale which does not provide for a finance charge; and (3) revise the definition of the terms “retail seller” or “seller” to include a person ~~other than a financial institution~~, who engages in a transaction which may be payable in more than four installments. (NRS 97.115, 97.125)

Existing law requires a retail installment contract to be delivered or mailed to the buyer before the date of the first installment. (NRS 97.175) **Section 5** of this bill requires the seller to make certain disclosures in accordance with the federal Act before any credit is extended. **Section 6** of this bill requires forms for the application of credit and contracts to be used in the sale of vehicles to contain a provision, patterned after §5.109 of the Uniform Consumer Credit Code, relating to default on the part of the buyer. (NRS 97.299)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 97 of NRS is hereby amended by adding thereto a new section to read as follows:

“Credit” means the right granted by a seller to a buyer to defer payment of debt or to incur debt and defer its payment.

1 **Sec. 2.** NRS 97.015 is hereby amended to read as follows:
2 97.015 As used in this chapter, unless the context otherwise requires, the
3 words and terms defined in NRS 97.017 to 97.145, inclusive, **and section 1 of this**
4 **act** have the meanings ascribed to them in those sections.

5 **Sec. 3.** NRS 97.115 is hereby amended to read as follows:
6 97.115 “Retail installment transaction” means a transaction in which a retail
7 buyer purchases goods or services from a retail seller pursuant to a retail
8 installment contract or a retail charge agreement which ~~provides~~ **may provide** for
9 a finance charge and under which the buyer agrees to pay the total of payments in
10 one or more installments.

11 **Sec. 4.** NRS 97.125 is hereby amended to read as follows:
12 97.125 **1.** “Retail seller” or “seller” means:
13 ~~1. (a)~~ **(a)** A person engaged in the business of selling or leasing goods or
14 services to retail buyers or a licensee, franchisee, assignee or corporate affiliate or
15 subsidiary of such a person; ~~or~~
16 ~~2. (b)~~ **(b)** A person, other than a financial institution, who enters into agreements
17 prescribing the terms for the extension of credit pursuant to which the person may,
18 with the buyer’s consent, purchase or acquire one or more obligations of the buyer
19 to a retail seller if the purchase, lease, loan or other obligation to be paid in
20 accordance with the agreement is evidenced by a sales slip or memorandum ~~or~~ **;** ~~or~~
21 ~~3. (c)~~ **(c)** A person, other than a financial institution, who regularly extends,
22 whether in connection with sales or leases of goods or services, credit which is
23 payable by agreement in more than four installments or for which the payment of
24 a finance charge may be required.

25 **2.** As used in this section, “financial institution” means:
26 (a) A bank, credit union, savings institution or trust company organized
27 under, or supervised pursuant to, the laws of the United States or of any state, or
28 any affiliate or subsidiary thereof; or
29 (b) A person licensed pursuant to chapter 675 of NRS.

30 **Sec. 5.** NRS 97.175 is hereby amended to read as follows:
31 97.175 ~~[The retail seller shall deliver to the retail buyer, or mail to him at his~~
32 ~~address shown on the retail installment contract, a copy of the contract as accepted~~
33 ~~by the seller, prior to the due date of the first installment.]~~

34 **1.** **Before any credit is extended, the retail seller shall provide to the retail**
35 **buyer any disclosures required to be made by a creditor pursuant to 15 U.S.C. §**
36 **1638.**

37 **2.** Until the seller ~~does so~~ **provides the required disclosures pursuant to**
38 **subsection 1,** the buyer ~~shall be~~ **is** obligated to pay only the cash sales price.

39 **3.** Any acknowledgment by the buyer of delivery of a copy of the contract
40 ~~shall~~ **must** be in a size equal to at least 10-point bold type and, if contained in the
41 contract, ~~shall~~ **must** appear directly above the buyer’s signature.

42 **Sec. 6.** NRS 97.299 is hereby amended to read as follows:
43 97.299 1. The Commissioner of Financial Institutions shall prescribe, by
44 regulation, forms for the application for credit and contracts to be used in the sale of
45 vehicles if:

46 (a) The sale involves the taking of a security interest to secure all or a part of
47 the purchase price of the vehicle;

48 (b) The application for credit is made to or through the seller of the vehicle;

49 (c) The seller is a dealer; and

50 (d) The sale is not a commercial transaction.

51 **2.** The forms prescribed pursuant to subsection 1 must meet the requirements
52 of NRS 97.165, must be accepted and acted upon by any lender to whom the

1 application for credit is made and, in addition to the information required in NRS
2 97.185 and required to be disclosed in such a transaction by federal law, must:

3 (a) Identify and itemize the items embodied in the cash sale price, including the
4 amount charged for a contract to service the vehicle after it is purchased.

5 (b) In specifying the amount of the buyer's down payment, identify the
6 amounts paid in money and allowed for property given in trade and the amount of
7 any manufacturer's rebate applied to the down payment.

8 (c) Contain a description of any property given in trade as part of the down
9 payment.

10 (d) Contain a description of the method for calculating the unearned portion of
11 the finance charge upon prepayment in full of the unpaid total of payments as
12 prescribed in NRS 97.225.

13 (e) *Contain a provision that default on the part of the buyer is only*
14 *enforceable to the extent that:*

15 *(1) The buyer fails to make a payment as required by the agreement; or*

16 *(2) The prospect of payment, performance or realization of collateral is*
17 *significantly impaired. The burden of establishing the prospect of significant*
18 *impairment is on the seller.*

19 (f) Include the following notice in at least 10-point bold type:

20
21 NOTICE TO BUYER

22
23 Do not sign this agreement before you read it or if it contains any blank
24 spaces. You are entitled to a completed copy of this agreement. If you pay
25 the amount due before the scheduled date of maturity of the indebtedness
26 and you are not in default in the terms of the contract for more than 2
27 months, you are entitled to a refund of the unearned portion of the finance
28 charge. If you fail to perform your obligations under this agreement, the
29 vehicle may be repossessed and you may be liable for the unpaid
30 indebtedness evidenced by this agreement.

31
32 3. The Commissioner shall arrange for or otherwise cause the translation into
33 Spanish of the forms prescribed pursuant to subsection 1.

34 4. If a change in state or federal law requires the Commissioner to amend the
35 forms prescribed pursuant to subsection 1, the Commissioner need not comply with
36 the provisions of chapter 233B of NRS when making those amendments.

37 5. As used in this section:

38 (a) "Commercial transaction" means any sale of a vehicle to a buyer who
39 purchases the vehicle solely or primarily for commercial use or resale.

40 (b) "Dealer" has the meaning ascribed to it in NRS 482.020.

41 **Sec. 7.** 1. This section and sections 1 to 5, inclusive, of this act become
42 effective upon passage and approval.

43 2. Section 6 of this act becomes effective on October 1, 2009.