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**ENGROSSED SUBSTITUTE HOUSE BILL 1458**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky, Mielke, Dorn, R. Johnson and Fuhrman)

Read first time 02/24/93.

1       AN ACT Relating to regulating the assignment of retail charge  
2 agreements; amending RCW 63.14.010; adding new sections to chapter  
3 63.14 RCW; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 63.14.010 and 1992 c 134 s 16 are each amended to read  
6 as follows:

7       In this chapter, unless the context otherwise requires:

8       (1) "Goods" means all chattels personal when purchased primarily  
9 for personal, family, or household use and not for commercial or  
10 business use, but not including money or, except as provided in the  
11 next sentence, things in action. The term includes but is not limited  
12 to merchandise certificates or coupons, issued by a retail seller, to  
13 be used in their face amount in lieu of cash in exchange for goods or  
14 services sold by such a seller and goods which, at the time of sale or  
15 subsequently, are to be so affixed to real property as to become a part  
16 thereof, whether or not severable therefrom;

17       (2) "Lender credit card" means a card or device under a lender  
18 credit card agreement pursuant to which the issuer gives to a  
19 cardholder residing in this state the privilege of obtaining credit

1 from the issuer or other persons in purchasing or leasing property or  
2 services, obtaining loans, or otherwise, and the issuer of which is  
3 not: (a) Principally engaged in the business of selling goods; or (b)  
4 a financial institution;

5 (3) "Lender credit card agreement" means an agreement entered into  
6 or performed in this state prescribing the terms of retail installment  
7 transactions pursuant to which the issuer may, with the buyer's  
8 consent, purchase or acquire one or more retail sellers' indebtedness  
9 of the buyer under a sales slip or memorandum evidencing the purchase,  
10 lease, loan, or otherwise to be paid in accordance with the agreement.  
11 The issuer of a lender credit card agreement shall not be principally  
12 engaged in the business of selling goods or be a financial institution;

13 (4) "Financial institution" means any bank or trust company, mutual  
14 savings bank, credit union, or savings and loan association organized  
15 pursuant to the laws of any one of the United States of America or the  
16 United States of America, or the laws of a foreign country if also  
17 qualified to conduct business in any one of the United States of  
18 America or pursuant to the laws of the United States of America;

19 (5) "Services" means work, labor, or services of any kind when  
20 purchased primarily for personal, family, or household use and not for  
21 commercial or business use whether or not furnished in connection with  
22 the delivery, installation, servicing, repair, or improvement of goods  
23 and includes repairs, alterations, or improvements upon or in  
24 connection with real property, but does not include services for which  
25 the price charged is required by law to be determined or approved by or  
26 to be filed, subject to approval or disapproval, with the United States  
27 or any state, or any department, division, agency, officer, or official  
28 of either as in the case of transportation services;

29 (6) "Retail buyer" or "buyer" means a person who buys or agrees to  
30 buy goods or obtain services or agrees to have services rendered or  
31 furnished, from a retail seller;

32 (7) "Retail seller" or "seller" means a person engaged in the  
33 business of selling goods or services to retail buyers;

34 (8) "Retail installment transaction" means any transaction in which  
35 a retail buyer purchases goods or services from a retail seller  
36 pursuant to a retail installment contract, a retail charge agreement,  
37 or a lender credit card agreement, as defined in this section, which  
38 provides for a service charge, as defined in this section, and under  
39 which the buyer agrees to pay the unpaid balance in one or more

1 installments or which provides for no service charge and under which  
2 the buyer agrees to pay the unpaid balance in more than four  
3 installments;

4 (9) "Retail installment contract" or "contract" means a contract,  
5 other than a retail charge agreement, a lender credit card agreement,  
6 or an instrument reflecting a sale made pursuant thereto, entered into  
7 or performed in this state for a retail installment transaction. The  
8 term "retail installment contract" may include a chattel mortgage, a  
9 conditional sale contract, and a contract in the form of a bailment or  
10 a lease if the bailee or lessee contracts to pay as compensation for  
11 their use a sum substantially equivalent to or in excess of the value  
12 of the goods sold and if it is agreed that the bailee or lessee is  
13 bound to become, or for no other or a merely nominal consideration, has  
14 the option of becoming the owner of the goods upon full compliance with  
15 the provisions of the bailment or lease. The term "retail installment  
16 contract" does not include: (a) A "consumer lease," heretofore or  
17 hereafter entered into, as defined in RCW 63.10.020; (b) a lease which  
18 would constitute such "consumer lease" but for the fact that: (i) It  
19 was entered into before April 29, 1983; (ii) the lessee was not a  
20 natural person; (iii) the lease was not primarily for personal, family,  
21 or household purposes; or (iv) the total contractual obligations  
22 exceeded twenty-five thousand dollars; or (c) a lease-purchase  
23 agreement under chapter 63.19 RCW;

24 (10) "Retail charge agreement," "revolving charge agreement," or  
25 "charge agreement" means an agreement between a retail buyer and a  
26 retail seller that is entered into or performed in this state  
27 (~~prescribing~~) and that prescribes the terms of retail installment  
28 transactions with one or more sellers which may be made thereunder from  
29 time to time and under the terms of which a service charge, as defined  
30 in this section, is to be computed in relation to the buyer's unpaid  
31 balance from time to time;

32 (11) "Service charge" however denominated or expressed, means the  
33 amount which is paid or payable for the privilege of purchasing goods  
34 or services to be paid for by the buyer in installments over a period  
35 of time. It does not include the amount, if any, charged for insurance  
36 premiums, delinquency charges, attorneys' fees, court costs, or  
37 official fees;

38 (12) "Sale price" means the price for which the seller would have  
39 sold or furnished to the buyer, and the buyer would have bought or

1 obtained from the seller, the goods or services which are the subject  
2 matter of a retail installment transaction. The sale price may include  
3 any taxes, registration and license fees, and charges for transferring  
4 vehicle titles, delivery, installation, servicing, repairs,  
5 alterations, or improvements;

6 (13) "Official fees" means the amount of the fees prescribed by law  
7 for filing, recording, or otherwise perfecting, and releasing or  
8 satisfying, a retained title, lien, or other security interest created  
9 by a retail installment transaction;

10 (14) "Time balance" means the principal balance plus the service  
11 charge;

12 (15) "Principal balance" means the sale price of the goods or  
13 services which are the subject matter of a retail installment contract  
14 less the amount of the buyer's down payment in money or goods or both,  
15 plus the amounts, if any, included therein, if a separate identified  
16 charge is made therefor and stated in the contract, for insurance and  
17 official fees;

18 (16) "Person" means an individual, partnership, joint venture,  
19 corporation, association, or any other group, however organized;

20 (17) "Rate" means the percentage which, when multiplied times the  
21 outstanding balance for each month or other installment period, yields  
22 the amount of the service charge for such month or period.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 63.14 RCW  
24 to read as follows:

25 (1) A retail seller may sell, transfer, or assign a retail  
26 installment contract or charge agreement. After such sale, transfer,  
27 or assignment, the retail installment contract or charge agreement  
28 remains a retail installment contract or charge agreement.

29 (2) Nothing contained in this chapter shall be deemed to limit any  
30 charge made by an assignee of a retail installment contract or charge  
31 agreement to the seller-assignor upon the sale, transfer, assignment,  
32 or discount of the contract or agreement, notwithstanding retention by  
33 the assignee of recourse rights against the seller-assignor and  
34 notwithstanding duties retained by the seller-assignor to service  
35 delinquencies, perform service or warranty agreements regarding the  
36 property which is the subject matter of the assigned or discounted  
37 contracts or charge agreements, or to do or perform any other duty with

1 respect to the contract or agreement assigned or the subject matter of  
2 such contract or agreement.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 63.14 RCW  
4 to read as follows:

5 No person may pursue any remedy alleging a violation of this  
6 chapter on the basis of any act or omission that does not constitute a  
7 violation of this chapter as amended by this act. For purposes of this  
8 section, the phrase "pursue any remedy" includes pleading a defense,  
9 asserting a counterclaim or right of offset or recoupment, commencing,  
10 maintaining, or continuing any legal action, or pursuing or defending  
11 any appeal.

12 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and shall take  
15 effect immediately.

16 NEW SECTION. **Sec. 5.** If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected.

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