

HOME IMPROVEMENT FINANCE ACT (EXCERPT)
Act 332 of 1965

PART 2

445.1201 Home improvement installment contract; date, form.

Sec. 201. A home improvement installment contract shall be dated and in writing and the printed portion thereof shall be in at least 8-point type.

History: 1965, Act 332, Eff. Jan. 1, 1966.

445.1202 Home improvement installment contract; contents required.

Sec. 202. A home improvement installment contract shall contain:

- (a) The entire agreement of the parties with respect to the goods and services.
- (b) Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "home improvement installment contract" and shall appear in at least 10-point bold type.
- (c) A notice in at least 8-point bold type reading as follows: "Notice to buyer: (1) Do not sign this contract before you read it. (2) You are entitled to a completely filled-in copy of this contract. (3) Under the law, you have the right to pay off in advance the full amount due and, under certain conditions, to obtain a partial refund of the finance charge. (4) You may rescind or cancel this contract, not later than 5 p.m. on the business day following the date thereof by giving written notice of rescission to the contractor or his agent at his place of business given in the contract or by mailing the notice or cancellation to the contractor to his place of business given in the contract by depositing a properly addressed certified letter in a United States post office or mail box, but if you rescind after 5 p.m. on the business day following, you are still entitled to offer defenses in mitigation of damages and to pursue any rights of action or defenses that arise out of the transaction".

History: 1965, Act 332, Eff. Jan. 1, 1966.

445.1203 Home improvement installment contract; additional required contents.

Sec. 203. Except as provided in sections 306, 307 and 308, a home improvement installment contract shall contain the following:

- (a) The name and place of business of the contractor, the name and address of the buyer as specified by the buyer, the location of the premises to be improved, and a description of the goods and services sufficient to identify them.
- (b) The cash price of the goods and services which are the subject matter of the sale.
- (c) The amount of the buyer's down payment, itemizing any allowance given by the contractor, amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.
- (d) The unpaid cash balance which is the difference between item (b) and item (c).
- (e) The premium paid for each type of insurance included in the contract for which a separate charge is made, a statement as to whether the insurance is to be procured by the contractor or buyer, and a brief description of each type of coverage and the term thereof.
- (f) The amount of official fees, if any.
- (g) The principal amount financed, which is the sum of items (d), (e) and (f).
- (h) The amount of the finance charge expressed in dollars.
- (i) The time balance, which is the sum of items (g) and (h), payable by the buyer to the contractor, the number of installments required, the amount of each installment expressed in dollars and the due date or period thereof.
- (j) The time sale price.
- (k) If any installment substantially exceeds in amount any prior installment other than the down payment, the following legend printed in 10-point bold type or typewritten and underlined: This contract is not payable in installments of equal amounts. Followed, if there be but 1 larger installment, by: An installment of \$..... will be due on, or if there be more than 1 larger installment, by: Larger installments will be due as follows: (Insert the amount or amounts of every larger installment and its due date).
- (l) This contract may be rescinded or cancelled by the buyer not later than 5 p.m. on the business day following the date thereof by giving written notice of rescission to the contractor or his agent at his place of business given in this contract or by mailing the notice of cancellation to the contractor to his place of business given in the contract by depositing a properly addressed certified letter in a United States post office or mail box, but if he rescinds after 5 p.m. on the business day following, he is still entitled to offer defenses in mitigation of damages and to pursue any rights of action or defenses that arise out of the transaction.

The items need not be stated in the sequence or order set forth above. Additional items may be included to

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explain the computation made in determining the amount to be paid by the buyer. The contract need not make any reference to item (e) or item (f) if a charge for the item is not included in the contract.

History: 1965, Act 332, Eff. Jan. 1, 1966.

445.1204 Home improvement installment contract; delivery of copy to buyer; acknowledgment, form.

Sec. 204. The contractor shall deliver to the buyer at the time the contract is executed a copy thereof completed in accordance with the provisions of this act. Until the contractor does so, the buyer shall not be obligated to pay. Any acknowledgment by the buyer of the delivery of a copy of the contract shall be printed or written in a size equal to at 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 a contract, shall be evidence of such delivery and of compliance with this section in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when he purchases the contract.

History: 1965, Act 332, Eff. Jan. 1, 1966.

445.1204a Home improvement charge agreement generally.

Sec. 204a. (1) On or after the effective date of this section, a contractor may enter into a home improvement charge agreement with a retail buyer. A home improvement charge agreement shall be in writing and dated, and shall be signed by the buyer or the authorized representative of the buyer. A copy of a home improvement charge agreement shall be delivered or mailed to the buyer before the date on which the first payment is due under the agreement. An acknowledgment by the buyer of delivery of a copy of the agreement contained in the body of the agreement shall be in a size equal to at least 10-point bold type and shall appear directly above the buyer's signature or the signature of the authorized representative of the buyer. A home improvement charge agreement shall not be signed by the buyer when it contains blank spaces of items which are essential provisions of the transaction to be filled in after it has been signed. The buyer's acknowledgment, conforming to the requirements of this section, of delivery of a copy of an agreement, shall be presumptive proof, in any action or proceeding, of the delivery and that the agreement, when signed, did not contain a blank space as provided in this subsection. A home improvement charge agreement shall state the maximum amount and rate of the time price differential to be charged and paid pursuant to the agreement. A home improvement charge agreement shall contain substantially the following notice printed or typed in a size equal to at least 10-point bold type: "Notice to the buyer—Do not sign this agreement before you read it or if it contains blank spaces. You are entitled to a copy of the agreement you sign."

(2) A home improvement charge agreement shall contain substantially the following notice:

"A home improvement charge sale made pursuant to this agreement may be rescinded or canceled by the buyer not later than 5 p.m. on the business day following the date of the sale by giving written notice of rescission to the contractor or an agent of the contractor at his or her place of business given in this agreement or by mailing the notice of cancellation to the contractor to his or her place of business given in the agreement by depositing a properly addressed certified letter in a United States post office or mailbox; but if the buyer rescinds after 5 p.m. on the following business day, the buyer is still entitled to offer defenses in mitigation of damages and to pursue any rights of action or defenses that arise out of the transaction." The notice required by this subsection shall also be given to the buyer at the time of each purchase under the home improvement charge agreement.

(3) The buyer under a home improvement charge agreement shall promptly be supplied with a statement as of the end of each monthly period, which need not be a calendar month, or other regular period agreed upon in writing, at the end of which there is an unpaid balance greater than \$1.00 under the agreement, which statement shall recite the following:

(a) The unpaid balance under the home improvement charge agreement at the beginning and at the end of the period.

(b) The cash price of each purchase under the home improvement charge agreement by the buyer during the period and, unless a sales slip or a memorandum of each purchase is attached to the statement, the purchase or posting date, a brief description, or identification of each such purchase.

(c) The payments made by the buyer and any other credits to the buyer during the period.

(d) The amount, if any, of any time price differential for that period.

(e) A statement to the effect that the buyer at any time may pay the total unpaid balance or any part of that balance.

History: Add. 1985, Act 202, Imd. Eff. Dec. 27, 1985.

445.1204b Home improvement charge agreement; time price differential; lien on buyer's principal residence prohibited; attorney's fee.

Sec. 204b. (1) A home improvement charge agreement may provide for, and the contractor or holder may then charge, collect, and receive, a time price differential for the privilege of paying in installments under the agreement, in an amount not to exceed 1.2% of the unpaid balance per month. An agreement may further provide that if the interest rate paid at 2 successive auctions of 26-week United States treasury bills is 8% or more, then on a home improvement charge sale made after that date the time price differential shall not exceed 1.375% of the unpaid balance per month, but if the interest rate paid at 2 successive auctions of 26-week United States treasury bills falls below 8%, then the time price differential on a home improvement charge sale made after that date shall not exceed 1.2% of the unpaid balance per month, unless the interest rate paid at 2 successive auctions of 26-week United States treasury bills again is 8% or more, in which case the time price differential on a home improvement charge sale made after that date shall not exceed 1.375% of the unpaid balance per month. The time price differential under this subsection shall be computed on all amounts unpaid under the agreement from month to month, which need not be calendar months, or other regular periods. A minimum time price differential not in excess of 70 cents per month may be charged, collected, and received.

(2) The time price differential for purchases made under a home improvement charge agreement shall not be computed or imposed on an amount charged for the sale of goods or services until those goods or services have been delivered to the purchaser of the goods or services. If the time price differential is charged before delivery of the goods or services, the charges applied before the delivery date shall be adjusted upon the request of the purchaser in accordance with part D of title I of the federal consumer credit protection act, 15 U.S.C. 1666 to 1666j.

(3) A change in the rate of the time price differential charged pursuant to a home improvement charge agreement shall not apply to a balance incurred prior to the effective date of the change.

(4) An extension of credit under a home improvement charge agreement shall not be secured by a lien on the buyer's principal residence.

(5) A home improvement charge agreement may also provide for the payment of an attorney's reasonable fee where it is referred for collection to an attorney who is not a salaried employee of the holder of the home improvement charge agreement or an unpaid balance under the agreement, and for court costs.

History: Add. 1985, Act 202, Imd. Eff. Dec. 27, 1985.

445.1205 Home improvement installment contract; statement as to insurance.

Sec. 205. If the premium paid for group credit life or other insurance is included in the home improvement installment contract and a separate charge is made to the buyer for such insurance, the contract shall state whether the insurance is to be procured by the buyer or the contractor.

History: 1965, Act 332, Eff. Jan. 1, 1966.

445.1206 Home improvement installment contract and home improvement charge agreement; prohibited provisions.

Sec. 206. (1) A home improvement installment contract or home improvement charge agreement shall not contain any provision by which:

(a) The buyer agrees not to assert against a contractor a claim or defense arising out of the home improvement installment sale or a home improvement charge sale or agrees not to assert against an assignee such a claim or defense.

(b) In the absence of the buyer's default in the performance of any of the buyer's obligations, the holder may, arbitrarily and without reasonable cause, accelerate the maturity of any or all of the amount owing thereunder.

(c) The buyer waives any right of action against the contractor or holder, or a person acting on his or her behalf, for any illegal act committed in the collection of payments under the contract or agreement.

(d) The buyer relieves the contractor from liability for any legal remedies which the buyer may have against the contractor under the contract or agreement or any separate instrument executed in connection with the contract or agreement.

(e) The contractor, or holder, or a person acting on his or her behalf, is authorized to enter upon the premises of the buyer unlawfully, or is authorized to commit any breach of the peace in connection with any repossession or other entry upon the premises of the buyer.

(f) The contractor is entitled to liquidated damages for any cancellation, rescission, or failure or refusal to accept delivery of the goods or performance of the services covered in the contract or provided pursuant to the agreement.

(2) Any provision prohibited under subsection (1) is void but shall not otherwise affect the validity of the contract or agreement.

History: 1965, Act 332, Eff. Jan. 1, 1966;—Am. 1985, Act 202, Imd. Eff. Dec. 27, 1985.

445.1207 Evidence of obligation; holder subject to claims and defenses of buyer; limitation on buyer's recovery.

Sec. 207. Notwithstanding the provisions of any other law and notwithstanding any agreement to the contrary:

(a) A person shall not take a negotiable instrument, other than a currently dated check or draft, as evidence of the obligation of the buyer in a home improvement installment sale or home improvement charge sale.

(b) A holder of a home improvement contract, home improvement charge agreement, or other evidence of indebtedness of the buyer is subject to all the claims and defenses of the buyer arising out of the home improvement installment sale or a home improvement charge sale, but the buyer's recovery shall not exceed the amount paid to the holder thereunder.

History: 1965, Act 332, Eff. Jan. 1, 1966;—Am. 1972, Act 193, Eff. Jan. 1, 1973;—Am. 1980, Act 78, Imd. Eff. Apr. 3, 1980;—Am. 1985, Act 202, Imd. Eff. Dec. 27, 1985.

445.1208 Repealed. 1972, Act 193, Eff. Jan. 1, 1973.

Compiler's note: The repealed section pertained to assignments of home improvement installment contracts.

445.1209 Home improvement installment contract; provisions as to delinquency and collection charges, court costs and attorney fees.

Sec. 209. A home improvement installment contract may provide for the payment by the buyer of a delinquency and collection charge on each installment in default for a period of not less than 10 days in an amount not in excess of 5% of such installment or \$5.00, whichever is less. Only 1 such delinquency and collection charge may be collected on any such installment regardless of the period during which it remains in default. A contract may also provide for the payment of court costs actually incurred and of attorney's fees not exceeding 20% of the amount due and payable under such contract if the attorney is not a salaried employee of the contractor or holder for collection.

History: 1965, Act 332, Eff. Jan. 1, 1966.