



OFFICE OF CONSUMER CREDIT COMMISSIONER

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AL ENDSLEY, Commissioner

Writer's Direct Number

Interpretation No. 94-4
August 4, 1994

Knute L. Dietze
P.O. Box 2176
Victoria, Texas 77902

Dear Mr. Dietze:

You have requested an interpretation, approved by the Finance Commission, as to whether or not a retail installment sale of a motor vehicle which purports to contain no finance charge, interest, or time price differential, comes under the purview of Article 5069-Chapter 7, Vernon's Texas Civil Statutes.

A retail installment contract is defined in Article 5069-7.01(d), V.T.C.S. as a contract in which "... a retail buyer acquires a motor vehicle under a retail installment contract for a sum consisting of the cash sale price and other charges as limited by this Chapter and agrees with a retail seller to pay part or all of such sum in one or more deferred installments." Neither this definition nor any other provision of Chapter 7 requires a seller to charge a finance charge in order to be subject to Chapter 7.

Unlike Chapter 7, Article 5069-Chapter 6, V.T.C.S. specifically requires the charging of a time price differential. Article 5069-6.01(f), V.T.C.S. provides that a retail installment contract is a contract evidencing a retail installment transaction. Article 5069-6.01(e), V.T.C.S., in turn, defines a retail installment transaction as "any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract or retail charge agreement, as defined in this Article, which provides for a time price differential ... and under which the buyer agrees to pay the unpaid balance in one or more installments, together with a time price differential."

It is clear that the Legislature intended for all installment sales of a motor vehicle by a retail seller to a retail buyer to be governed by the provisions of Chapter 7 without regard to the charging or the failure to charge a finance charge in the form of a time price differential or interest. Since Article 5069-7.11, V.T.C.S. requires a holder or seller governed by Chapter 7 to register, registration would be required without regard to charging of a finance charge.

In summary, if an agreement involving a retail buyer and a retail seller under the provisions of Chapter 7 provides the buyer may pay in one or more deferred installments in a transaction that otherwise meets the definition of a "retail installment transaction" under Article 7.01(d) the contract is subject to the provisions of Chapter 7 and the seller and holder must register.

Sincerely,

Al Endsley

Approved by the Finance Commission of Texas August 19, 1994