

LEGISLATIVE BILL 478

Approved by the Governor April 17, 1979

Introduced by Murphy, 17

AN ACT to amend sections 45-341 and 45-342, Reissue Revised Statutes of Nebraska, 1943, and section 45-338, Revised Statutes Supplement, 1978, relating to interest; to allow computation of a time price differential as prescribed; to change provisions relating to a delinquency charge and prepayment; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 45-338, Revised Statutes Supplement, 1978, be amended to read as follows:

45-338. (1) Notwithstanding the provisions of any other law, the time price differential for any goods or services sold under an installment contract shall not exceed eighteen per cent per annum on that part of the unpaid principal balance not in excess of one thousand dollars, and not exceeding twelve per cent per annum on that part of the unpaid principal balance in excess of one thousand dollars; Provided, a minimum time price differential of ten dollars may be charged on any installment contract. Nothing in sections 45-334 to 45-353, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, shall prohibit a seller or holder of an installment contract from contracting for, computing, and charging a time price differential based upon the application of the rate charged to the unpaid principal balance for the number of days actually elapsed, and the charges so computed shall be used for the purpose of calculating the time price differential, the time price balance, the amount of each installment, and the time sale price. When the installment contract is payable in substantially equal and consecutive monthly installments, the time price differential shall be computed on the basic time price of each contract, as determined under the provisions of section 45-336, from the date of the contract until the due date of the final installment, notwithstanding that the time price balance is required to be paid in installments.

(2) When an installment contract provides for payment other than in substantially equal and consecutive monthly installments, the time price differential may be at a rate which will provide the same return as is permitted on substantially equal monthly payment contracts under subsection (1) of this section, having

due regard for the schedule of payments.

(3) Every contract payable in two or more installments shall provide for payment of such installments at approximately equal periodic intervals of time and be so arranged that no installment is substantially greater in amount than any preceding installment; Provided, that in order to facilitate payment in accordance with the buyer's seasonal or intermittent income a contract may reduce or omit payments over any period or periods in which the buyer's income is reduced or suspended.

Sec. 2. That section 45-341, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-341. An installment contract may provide and the holder thereof may collect, in addition to any time price differential, a delinquency charge on each installment in default for a period not less than ten days, if provided for in the contract, not in excess of five per cent of each installment or five dollars, whichever is less, or in lieu thereof interest after maturity on each such installment not exceeding the highest permissible contract rate. If the time price differential is computed by application of the rate charged to the unpaid principal balance for the number of days actually elapsed, such delinquency charge may not exceed five per cent of each installment or five dollars, whichever is less.

Sec. 3. That section 45-342, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-342. Notwithstanding the provisions of any contract to the contrary, any buyer may prepay in full at any time before maturity the obligation of any contract and in-so-paying-such-obligation-shall-receive-a-refund credit thereon for such anticipation of payments if such obligation is so prepaid, any unearned charges shall be refunded. The amount of such refund shall represent at least as great a proportion of the time price differential as the sum of the monthly time balances after the month prepayment is made bears to the sum of all the monthly time balances under the schedule of payments in the contract. Where the amount of credit is less than one dollar no refund need be made.

Sec. 4. That original sections 45-341 and 45-342, Reissue Revised Statutes of Nebraska, 1943, and section 45-338, Revised Statutes Supplement, 1978, are

repealed.