

**ACT 56**

**H. B. NO. 1332-70**

**A Bill for an Act Relating to the Retail Installment Sales Act and Cancellation of Certain Contracts.**

***Be It Enacted by the Legislature of the State of Hawaii:***

**SECTION 1.** Section 476-1, Hawaii Revised Statutes, is amended by amending the first sentence of the definition of “House-to-house sale” to read as follows:

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**“Sec. 476-1 Definitions.** In this chapter, unless the context or subject matter otherwise requires:

“Goods” means all chattels personal other than money and things in action, except as herein provided, and includes emblements, growing crops, and things which attach to or form a part of land which are agreed to be severed before sale under the retail installment contract and things which at the time of sale or subsequently are to be so affixed to real property as to become a part thereof, whether or not severable therefrom. The term includes merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods sold by such a seller. The term also includes services as herein defined.

“Services” means work, labor, or services of any kind whether purchased primarily for personal, family, household, commercial, or business use, and whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods, and includes repairs, alterations, or improvements upon or in connection with real property.

“Retail buyer” or “buyer” means any person who buys goods from a retail seller in a retail installment sale and who executes a retail installment contract in connection therewith.

“Retail seller” or “seller” means a person engaged in the business of selling goods to retail buyers.

“Retail installment sale” or “sale” means and includes any sale, other than for the purpose of resale, of goods to a retail buyer pursuant to a retail installment contract providing for payment of a time sale price. The cash sale price of the goods and the amount, if any, included for insurance and other benefits, official fees, and finance charge shall together constitute the time sale price.

“Retail installment contract” or “contract” means and includes any agreement, including a conditional sale contract or any other form of instrument, evidencing an obligation to pay the purchase price, or moneys advanced in payment of the purchase price, of goods, by payment thereof in two or more installments over a period of time, whether or not the contract contains a title retention provision. This term includes any contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the goods upon full compliance with the terms of the contract.

“Cash sale price” means the cash sale price stated in a retail installment contract for which the seller would sell to the buyer, and the buyer would buy from the seller, the goods which are the subject matter of the retail installment contract if the sale were a sale for cash instead of a retail installment sale. The cash sale price may include any taxes, registration, license, and other fees and charges for accessories and their installation and for delivering, servicing, repairing, or improving the goods.

“Official fees” means the filing or other fees required by law to any governmental agency for the recording, registering, or filing of any documents necessary in connection with the transaction; provided, that nothing herein

shall be deemed to require the recording, registering, or filing of any document, except as provided by law.

“Finance charge” means the amount, however denominated or expressed, which the retail buyer contracts to pay or pays for the privilege of purchasing goods to be paid for in installments under the terms of the retail installment contract; it does not include the amounts, if any, charged for insurance or other benefits, delinquency charges, attorneys’ fees, court costs, or collection fees and expenses.

“Person” means an individual, partnership, corporation, association, or other group however organized.

“Referral sale” means a sale of goods, subject to this chapter, in which part of the inducement offered by the seller is a rebate, discount, commission, or other consideration to be given the buyer when the latter either sells or gives information leading to a sale, by the seller, of the same or related goods.

“Total sale price” means the sum of the cash sale price, official fees, finance charge, the amounts charged for insurance and other benefits, if any, and all other fees and charges related to the sale.

“House-to-house sale” means (1) a sale of goods or services solicited in person and signed by the buyer at a place other than the seller’s business address shown on the contract; or (2) a sale of goods or services solicited in person or by mail, telephone, or public or private notice or advertisement if the solicitation includes an offer of a gift, prize, premiums, stamps, coupons, tickets or other redeemable devices as an inducement for the person solicited or a member of his immediate family to go to the seller’s place of business, whether the buyer signs at the seller’s place of business or elsewhere. It does not include a sale of goods or services incidental to the performance of an existing contract provided the cash sale price of such goods or services does not exceed the cash sale price of the existing contract and the existing contract was not solicited in person and signed by the buyer at a place other than the seller’s place of business.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1970.)

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\* Edited accordingly