

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 4-90

"District of Columbia Automobile Financing and
Repossession Act of 1981".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 4-17 on first and second readings, December 8, 1981 and January 12, 1982, respectively. Following the signature of the Mayor on February 4, 1982, this legislation was assigned Act No. 4-148, published in the February 12, 1982 edition of the D.C. Register, (Vol. 29 page 666) and transmitted to Congress on February 9, 1982 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 4-90, effective March 31, 1982.


ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

February 9, 10, 11, 22, 23, 24, 25, 26

March 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25,
26, 29, 30

AN ACT
D.C. ACT 4-148

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEB 4 - 1982

To amend An Act to provide for the regulation of finance charges for retail installment sales of motor vehicles in the District of Columbia, and for other purposes; the Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia Department of Licenses and Inspections; and the Uniform Commercial Code.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Automobile Financing and Repossession Act of 1981".

Sec. 2. Findings and Purposes.

(a) Findings. The Council of the District of Columbia finds that:

(1) District of Columbia ("District") automobile purchasers are currently denied certain consumer protections clearly provided purchasers of other consumer goods in chapter 38 of title 28 of the District of Columbia Code.

(2) Studies conducted by law schools and District agencies indicate widespread abuse of existing regulations designed to protect equity accrued by District residents purchasing automobiles by retail

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installment contracts.

(3) The above-mentioned abuses, coupled with a lack of consumer protections, have subjected District purchasers of automobiles to property losses and other hardships over a number of years, as documented by investigations and testimony submitted to the District of Columbia City Council and the Council of the District of Columbia between 1972 and 1981.

(4) Such abuse, loss of property, and other hardship suffered by District automobile buyers have accelerated recently as demonstrated by increasing complaints reported by public and private consumer and legal aid agencies.

(b) Purposes.

The purposes of this act are:

(1) To assure that District automobile purchasers are afforded the same or greater protections provided purchasers of other consumer goods in chapter 38 of title 28 of the District of Columbia Code.

(2) To protect District automobile purchasers from unscrupulous automobile repossessioners and auto repossession practices.

(3) To provide District automobile buyers a reasonable opportunity to take necessary remedial or legal action where warranted in the event of delay in meeting payments due on an automobile retail installment contract.

(4) To protect the equity accrued by District automobile purchasers and the right of purchasers to redeem such equity in the event of default.

(5) To protect the just claims and defenses of District automobile buyers.

Sec. 3. Section 2(e)(1)(vi) of An Act To provide for the regulation of finance charges for retail installment sales of motor vehicles in the District of Columbia, and for other purposes, approved April 22, 1960 (74 Stat. 71; D.C. Code, sec. 40-1102(e)(1)(F)) is amended to read as follows:

"(F) respecting the manner and methods of notice of default given to a retail buyer before and after a seller's repossession of a motor vehicle, the methods and opportunity for cure and redemption, and the manner and method of sale or disposition of repossessed motor vehicles;"

Sec. 4. Licensing of Automobile Repossessors.

The Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia Department of Licenses and Inspections, issued October 20, 1960 (C.O. 60-2219; 5AA DCRR) are amended as follows:

(a) Section 101 is amended by adding a new subsection (v) to read as follows:

"(v) The words 'AUTOMOBILE REPOSSESSOR' mean

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any person, including a dealer, seller, sales finance company, or person acting under contract as or on behalf of a dealer, seller, sales finance company, or automobile repossession business, who takes possession of a motor vehicle pursuant to Part 5 of these regulations."

(b) Section 201 is amended as follows:

(1) the title is amended to read as follows:

"Sec. 201. Engaging in Business as Dealer, Salesman, Automobile Repossessor, or Sales Finance Company Without License, Prohibited."

(2) subsection (a) is amended to read as follows:

"(a) No person shall engage in business as a dealer, a salesman, an automobile reposessor, or a sales finance company, unless such person holds a proper license issued to him pursuant to Part 2 of these regulations. For a period no longer than one month after application for a license, an applicant for a salesman's or automobile reposessor's license may engage in the occupation for which a license is being sought: Provided, That such applicant--

"(1) has not heretofore held a license as a dealer, salesman, automobile reposessor, or sales finance company, which has been suspended or revoked;

"(2) has fully complied with all relevant filing requirements provided in section 202; and

"(3) if applying for a salesman's license, has filed a certification by the dealer by whom he is employed that the applicant meets all of the qualifications for a salesman required by Part 2 of these regulations.";

(3) subsection (b) is amended to read as follows:

"(b) No licensed dealer, salesman, automobile reposessor or sales finance company shall hold himself, herself, or itself out or engage in business as a licensed dealer, salesman, automobile reposessor, or sales finance company under any name other than the name appearing on his, her, or its license.".

(c) Section 202 is amended as follows:

(1) subsection (a) is amended by adding after the word "salesman," the phrase "as an automobile reposessor,";

(2) by adding after subsection (c) a new subsection (c-1) to read as follows:

"(c-1) To be qualified for a license as an automobile reposessor, an applicant must be found by the Deputy Administrator (1) to be trustworthy and (2) to have the intention to act as a bona fide automobile reposessor. Each application shall be accompanied by three like full-faced photographs of the applicant which are one and one-half inches in size and have been

taken no more than three months prior to the date of the filing of the application. In the event the license applied for is issued, one such photograph shall be attached to an identification card, which is to be issued to the automobile reposessor by the Deputy Administrator and carried by the automobile reposessor whenever the automobile reposessor is engaged in repossession activities."; and

(3) by adding after subsection (f) a new subsection (g) to read as follows:

"(g) If any employer, partner, or employee of an applicant for license as an automobile reposessor or any person exercising control, directly or indirectly, over such an applicant is himself deficient in the qualification of trustworthiness, so that he would not be entitled to a license hereunder if he applied for such license in his own name, such deficiency may be deemed the deficiency of the applicant."

(d) Section 203 is amended to read as follows:

"The fees for licenses shall be set by the Mayor."

(e) Section 204 is amended as follows:

(1) subsection (a) is amended by adding after the word "dealer" the phrase "or automobile reposessor"; and

(2) subsection (b)(1) is amended by adding

after the word "dealer" the phrase "as an automobile repossessor,".

(f) Section 207 is amended to read as follows:

"Sec. 207. Grounds for Denial, Suspension, or Revocation of Dealer, Salesman, Automobile Repossessor, or Sales Finance Company License.

"(a) The license of each dealer, salesman, automobile repossessor, and sales finance company shall be subject to denial, suspension, or revocation for any cause set forth in any other section of these regulations which is applicable to any such license or for any cause set forth in paragraph 46 of section 7 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, approved July 1, 1902 (32 Stat. 628; D.C. Code, sec. 47-2844) including without limitation, any of the following causes:

"(1) Material misstatement in application for license.

"(2) Willful failure or refusal to comply with any provision of statute or regulation relating to the sale, repossession, or financing of motor vehicles.

"(3) Defrauding any purchaser or prospective purchaser.

"(4) Willful misrepresentation or

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concealment through any subterfuge or device, of any matter, or the nature thereof, required by these regulations to be stated or furnished by the purchaser.

"(5) Willful employment of any fraudulent or misleading device, method or practice in connection with the sale, repossession, or the financing of the sale of a motor vehicle.

"(6) Willful use of advertising with regard to the sale, repossession, or financing of motor vehicles which is misleading or deceptive by reason of any false statement contained in such advertising, or which by reason of incompleteness, may be misleading or deceptive.

"(7) Willful or fraudulent circumvention of any provision of statute or regulation relating to the sale, repossession, or financing of motor vehicles.

"(b) In addition to the causes set forth in subsection (a) of this section, each dealer's license shall be subject to denial, suspension, or revocation for:

"(1) Employing, engaging, appointing, allowing, or permitting any person to act as a salesman or automobile reposessor for or on behalf of a dealer, with reasonable opportunity to know that such person is not duly licensed as a salesman or automobile reposessor for such dealer, or that the license of such person has been suspended or revoked.

"(2) Continuing a relationship in the business of selling motor vehicles with any person, with a reasonable opportunity to know that within the preceding three years, he or she has been finally determined to have committed any act or omitted any duty which is cause for denying such person a license as a dealer, or which is cause for suspending or revoking any dealer's license issued to such person in his or her own name.

"(c) In addition to the causes set forth in subsection (a) of this section, a salesman's or automobile reposessor's license shall be subject to denial, suspension, or revocation for acting as a salesman or automobile reposessor for or on behalf of any person with a reasonable opportunity to know that such person is not duly licensed as a dealer, or that his dealer's license is suspended or revoked."

(g) Section 208(a) is amended to read as follows:

"(a) Whenever the Deputy Administrator shall find that an applicant for a license hereunder is deficient in one or more of the qualifications for the license applied for, or whenever he has reasonable grounds to believe that there has been a violation of any statute or regulation applicable to the conduct of (1) a dealer, (2) a salesman, (3) an automobile reposessor, or (4) a sales finance company for which the license of such dealer, salesman, automobile

repossessor, or sales finance company is subject to suspension or revocation, he shall give notice to the applicant or to the licensee as the case may be."

(h) Section 402 is amended to read as follows:

"Sec. 402 Refund of Finance Charge on Prepayment.

"A buyer who prepays the balance due under an instrument of security or refinancing contract, as provided in section 401, shall be entitled to a refund of finance charges computed according to the actuarial method, as described by the Federal Truth-in-Lending Act, approved May 29, 1968 (82 Stat. 149; 15 U.S.C. sec. 1606(a)(1)(A)) and the regulations issued thereunder."

(i) Section 404 is amended to read as follows:

"Sec. 404 Refund of Charges for Credit Life Insurance.

"Whenever any charge is included in a retail installment contract for credit life insurance and such retail installment contract is prepaid in full prior to maturity, the holder shall, upon surrender of the policy or other evidence of insurance, or the furnishing of a lost-policy release, refund or cause to be refunded to the buyer a portion of any such charge which shall be not less than an amount computed under a formula commonly referred to as 'the actuarial rebate formula'. No refund shall be required in any case

which, when so computed, is less than \$1.00."

(j) Section 501 is amended by designating the current language as subsection "(a)", and adding a new subsection (b) to read as follows:

"(b) Within one hour after repossession of a motor vehicle, the individual who performed such repossession shall notify the Metropolitan Police Department of such repossession and shall provide the following data: (1) name and address of the registered owner; (2) name and address of the repossessor; (3) name and address of the holder; (4) tag number and description of the vehicle; (5) location from which repossessed; (6) where the vehicle is located; (7) date and time of repossession; and (8) other information required by the Metropolitan Police Department. In the absence of such notification by such individual, any corporation, partnership or other person employing such individual, and the holder, shall be responsible for such notification."

(k) Section 502 is amended as follows:

(1) subsection (a) is amended to read as follows:

"(a) At least 10 days before a vehicle is repossessed, the holder may deliver to the buyer personally, or send to the buyer's last known address by registered or certified mail, a written notice of the holder's intention to repossess the vehicle. The

notice shall explain (1) the default, (2) the actions necessary to cure, (3) any period at the end of which the vehicle will be repossessed, and (4) the rights of the buyer in case the vehicle is repossessed. If the default consists solely of the buyer's failure to make one or more installment payments due under the instrument of security, and the default is not more than 15 days past due, then the holder must deliver to the buyer the notice of intended repossession, as provided herein.";

(2) subsection (b) is amended to read as follows:

"(b) Within five days after a motor vehicle is repossessed, the holder shall deliver to the buyer personally, or send to the buyer at the buyer's last known address, by registered or certified mail, a written notice stating (1) the buyer's right to redeem and the amount due and payable, (2) the buyer's rights as to a resale, (3) the buyer's liability for a deficiency, (4) the exact address where the motor vehicle is stored, and (5) where any payment is to be made or notice delivered.";

(3) subsection (c) is amended to read as follows:

"(c) For 15 days after the notice provided for in subsection (b) has been delivered personally or mailed, the holder shall retain the repossessed motor

vehicle in the District or the state and county in which the consumer resides, or the state and county where it was located when repossessed, during which period the buyer may redeem the motor vehicle and become entitled to take possession thereof. Notwithstanding any other provision of these regulations, the redemption period provided for in this subsection may be waived by written agreement made and entered into by and between the buyer and the holder after the motor vehicle has been repossessed: Provided, That such agreement includes a provision releasing and discharging the buyer from any claim by the holder for deficiency and discharging the holder from any claim by the buyer for coverage.";

(4) by adding new subsections (d), (e), and (f) respectively to read as follows:

"(d) To redeem the vehicle, the buyer shall:

"(1) Tender the amount due under the agreement at the time of redemption, without giving effect to any contractual provision which allows acceleration of any installment otherwise payable after that time;

"(2) Tender performance of any other contractual obligation for the breach of which the goods were repossessed; and

"(3) If the notice provided for in subsection (a) was given, pay the actual and reasonable

expenses of retaking and storing the goods, provided such storage charges shall not exceed \$3.00 per day, and the total, ordinary expenses of retaking do not exceed \$100.

"(e) The provisions of this section shall apply to any motor vehicle that is the subject of pending legal process to obtain such possession, until the date of issuance of a court order granting the holder possession of the vehicle pursuant to title 16, chapter 37 of the District of Columbia Code.

"(f) Exception. - Subsections (a) and (d) do not apply if the buyer was guilty of fraudulent conduct, intentionally and wrongfully concealed, removed, damaged, or destroyed the goods, or attempted to do so, and the goods were repossessed because of that improper conduct by the buyer. The improper conduct alleged by the holder which serves as the basis for the applicability of this subsection must be specified in the written notice required in subsection (b)."

(1) Section 504 is amended to read as follows:

"Sec. 504. Application of Proceeds of Sale.

"The proceeds of any such sale shall be applied:

"(1) to the actual and reasonable cost of the sale;

"(2) to the actual and reasonable cost of retaking and charges for putting the motor vehicle in reasonable saleable condition, and for storage:

Provided, That storage charges shall not exceed \$3.00 per day and may begin no earlier than the day after any repossession;

"(3) to the unpaid balance owing under the contract at the time such motor vehicle was repossessed; and

"(4) any balance remaining shall be paid to the buyer and if a deficiency arises the buyer shall be liable for said deficiency if the contract provides for such deficiency. A written statement showing the disposition of such proceeds and any deposit made shall be furnished to the buyer by the holder."

(m) A new section 507 is added to read as follows:

"Sec. 507. Consumer Remedies.

"(a) A deficiency does not arise unless the holder has complied with all requirements of Part 5, including the mandatory and discretionary notice requirements set forth in section 502.

"(b) Any failure to abide by the requirements of Part 5 constitutes an unfair trade practice, the remedies for which include, but are not limited to those contained in chapter 39 of title 28 of the District of Columbia Code.

"(c) These remedies are in addition to any other remedy provided by the laws of the District of Columbia, including, but not limited to chapter 38 of

title 28 of the District of Columbia Code and the Uniform Commercial Code."

Sec. 5. D.C. Code, sec. 28:10-103 is amended by designating the existing paragraph as subsection "(a)" and by adding a new subsection (b) to read as follows:


D.C.Code,
sec. 28:10-
103

"(b) If any provision of this subtitle is inconsistent with the Commissioner's Order entitled the Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia Department of Licenses and Inspections, issued October 20, 1960 (C.O. 60-2219; 5AA DCRR), the Commissioner's Order shall govern, unless this subtitle or the inconsistent provision of the Commissioner's Order specifically provides otherwise."

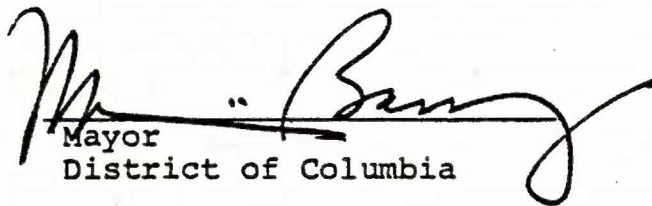
Sec. 6. Effective Date.

This act shall take effect after a thirty (30)-day period of Congressional review following approval by the Mayor (or in the event of a veto by the Mayor, action by the Council of the District of Columbia to override the veto), as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24,

1973 (87 Stat. 813; D.C. Code, sec. 1-233 (c)(1)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: February 4, 1982

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COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Four
First Session

DOCKET NO: B 4-17

- Item on Consent Calendar
ACTION: Adopted First Reading, 12-8-81
- VOICE VOTE: By Majority, Member Mason present
Absent: all present
- ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHM. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

William R. Cunningham
Secretary to the Council

Jan 27, 1982
Date

- Item on Consent Calendar
ACTION: Adopted Final Reading, 1-12-82
- VOICE VOTE: By Majority, Member Mason voted no
Absent: Wilson, Ray and Crawford
- ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHM. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

William R. Cunningham
Secretary to the Council

Jan 27, 1982
Date

- Item on Consent Calendar
ACTION: _____
- VOICE VOTE: _____
Absent: _____
- ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHM. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

Secretary to the Council

Date