

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 686
HOUSE BILL 545

AN ACT TO AMEND CHAPTER 25A OF THE GENERAL STATUTES TO CLARIFY CERTAIN TYPES OF "SALE" IN THE RETAIL INSTALLMENT SALES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25A-1 is amended by adding the words "and those sales defined in G.S. 25A-2(b)," after the words "referral sales," in the first line of paragraph two.

Sec. 2. G.S. 25A-2(b) is amended by adding a new paragraph to read:

"The term also includes a contract in the form of a terminable bailment or lease of goods or services in which the bailee or lessee can renew the bailment or lease contract periodically by making the payment or payments specified in the contract if:

- (1) the contract obligates the bailor or lessor to transfer ownership of the property to the bailee or lessee for no other or a nominal consideration (no more than ten percent (10%) of the cash price of the property at the time the bailor or lessor initially enters into the contract with the bailee or lessee) upon the making of a specified number of payments by the bailee or lessee; and
- (2) the dollar total of the specified number of payments necessary to exercise the purchase option is more than ten percent (10%) in excess of the aggregate value of the property and services involved. For the purposes of this subsection, the value of goods shall be the average cash retail value of the goods. The value of services shall be the average retail value, if any, of such services, as determined by substantial cash sales of such services. If a contract is found to be a sale under this subsection, these values shall be used to determine the amount financed for purposes of G.S. 25A-15."

Sec. 3. G.S. 25A-2 is amended by adding a new subsection, immediately after subsection (d), to read:

"(e) If an advertisement for a terminable bailment or lease defined as a sale in subsection (b) above states the amount of any payment, the advertisement must also clearly and conspicuously state the following items, as applicable:

- (1) a statement that the transaction advertised is a lease;
- (2) the total amount of periodic payments necessary to acquire ownership or a statement that the consumer has the option to purchase the property and at what time;

(3) that the consumer acquires no ownership rights if either the property is not leased for the term required for ownership to transfer or the terms of purchase are not otherwise satisfied.

If an advertisement for a terminable bailment or lease defined as a sale in subsection (b) above refers to the right to acquire ownership, the advertisement must clearly and conspicuously state whether or not the consumer may terminate the lease at any time without penalty and that the consumer acquires no ownership rights if either the property is not leased for the term required for ownership to transfer or the terms of purchase are not otherwise satisfied.

No one shall advertise in connection with any terminable bailment or lease defined as a sale in subsection (b) above the ownership option as a means of deceiving any lessee into believing that he is purchasing the item of personal property."

Sec. 4. G.S. 25A-44 is amended by adding a new subdivision, immediately after subdivision (4), to read:

"(5) Any buyer injured by any violation of G.S. 25A-2(e) may bring an action for recovery of damages, including reasonable attorney's fees."

Sec. 5. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.