

filing in the office of the commissioner of commerce a certificate of the appointment and consent of the agent residing in Alaska, or a certificate of revocation of such appointment of the resident agent shall pay to the commissioner of commerce a fee of \$5.

(b) For filing a statement mentioned

in Sec. 12(c) and (d) of change of address of registered agent, the agent shall pay to the commissioner of commerce a fee of \$25.

Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 18, 1962

CHAPTER 141

AN ACT

Relating to and regulating retail installment sales of goods and services; to define terms used in this Act; to prescribe and regulate the form and content of contracts and agreements covering such retail installment sales; to require a partial refund of the service charge on prepayment of such contracts; to make violations of this Act unlawful and to prescribe penalties for such violations; and providing for an effective date.

(H.C.S.C.S.S.B. 233)

Be it enacted by the Legislature of the State of Alaska:

Section 1. In this Act, unless the context otherwise requires:

(1) "goods" means all chattels personal when purchased primarily for personal, family, or household use and not for commercial or business use, but not including money or, except as provided in the next sentence, chose in action. The term includes but is not limited to merchandise certificates or coupons issued by a retail seller to be used in their face amount in lieu of cash in exchange for goods or services sold by such a seller and goods 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;

(2) "services" means work, labor, or services of any kind when purchased primarily for personal, family, or household use and not for commercial or business use, 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, but does not include the services of professional persons licensed by the state, nor services for which the price charged is required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the

United States or any state or any department, division, agency, officer, or official of either as in the case of transportation services;

(3) "retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished from a retail seller;

(4) "retail seller" or "seller" means a person engaged in the business of selling goods or services to retail buyers;

(5) "retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract or a retail charge agreement, as defined in this section, which provides for a service charge, as defined in this section, and under which the buyer agrees to pay the unpaid balance in one or more installments;

(6) "retail installment contract" or "contract" means a contract, other than a retail charge agreement or an instrument reflecting a sale made pursuant thereto, entered into or performed in this state for a retail installment transaction. The term "retail installment contract" may include a chattel mortgage, a conditional sale contract, and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation

for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease;

(7) "retail charge agreement," "revolving charge agreement," or "charge agreement" means an instrument entered into or performed in this state prescribing the terms of retail installment transactions which may be made thereunder from time to time and under the terms of which a service charge, as defined in this section, is to be computed in relation to the buyer's unpaid balance from time to time;

(8) "service charge", however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorney fees, court costs, or official fees;

(9) "cash sale price" means the price for which the seller would have sold or furnished to the buyer and the buyer would have bought or obtained from the seller the goods or services which are the subject matter of a retail installment transaction if the sale had been a sale for cash. The cash sale price may include any taxes and charges for transferring vehicle titles, delivery, installation, servicing, repairs, alterations, or improvements;

(10) "official fees" means the amount of the fees prescribed by law for filing, recording, or otherwise perfecting and releasing or satisfying a retained title, lien, or other security interest created by a retail installment transaction;

(11) "time balance" means the principal balance plus the service charge;

(12) "principal balance" means the cash sale price of the goods or services which are the subject matter of a retail installment contract less the amount of the buyer's down payment in money or goods or both, plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance and official fees;

(13) "person" means an individual, partnership, joint venture, corporation, association, or any other group, however organized;

(14) "rate" means the percentage which, when multiplied times the outstanding balance for each month or other installment period, yields the amount of the service charge for such month or period.

Sec. 2. Every retail installment contract shall be contained in a single document which shall contain the entire agreement of the parties including any promissory notes or other evidences of indebtedness between the parties relating to the transaction, except as provided in Secs. 5, 6, and 11; provided that, where the buyer's obligation to pay the time balance is represented by a promissory note secured by a chattel mortgage, any provisions of said mortgage by which the buyer undertakes to do something besides the payment of a sum certain in money shall be construed as if contained in a separate document for the purposes of determining the negotiability of said note unless such provisions are expressly incorporated in said note by reference thereto. The contract shall be dated, signed by the retail buyer, and completed as to all essential provisions, except as otherwise provided in Secs. 6 and 7 hereof.

Sec. 3. The retail seller shall deliver to the retail buyer or mail to him at his address shown on the retail installment contract a copy of the contract as accepted by the seller. Until the seller does so, the buyer shall be obligated to pay only the cash sale price. Any acknowledgment by the buyer of delivery of a copy of the contract shall appear directly above the buyer's signature.

Sec. 4. (a) The retail installment contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence or other address of the buyer as specified by the buyer, and a description or identification of the goods sold or to be sold or services furnished or rendered or to be furnished or rendered. The contract shall also contain the following items:

(1) the cash sale price of each item of goods or services;

(2) the amount of the buyer's down payment, identifying the amounts paid in money and allowed for goods traded in;

(3) the difference between items (1) and (2);

(4) the aggregate amount, if any, included for insurance if a separate identified charge is made therefor specifying the type or types of insurance and the terms of coverage;

(5) the aggregate amount of official fees;

(6) the principal balance, which is the sum of items (3), (4), and (5);

(7) the amount or rate of the service charge;

(8) any other charges;

(9) the amount of the time balance owed by the buyer to the seller, which is the sum of items (6), (7), if (7) is stated in a dollar amount, and (8);

(10) except as otherwise provided in the next two instances, the maximum number of installment payments required and the amount of each installment and the due date of each payment necessary to pay such balance. If the installment payments other than the final payment are stated as a series of equal scheduled amounts and if the amount of the final installment payment does not substantially exceed the scheduled amount of each preceding installment payment, the maximum number of payments and the amount and due date of each payment need not be separately stated, and the amount of the scheduled final installment payment may be stated as the remaining unpaid balance. The due date of the first installment payment may be fixed by a day or date or may be fixed by reference to the date of the contract or to the time of delivery or installation.

(b) Additional items may be included to explain the calculations involved in determining the balance to be paid by the buyer.

Sec. 5. A retail installment contract may be contained in more than one document; provided that one such document shall be an original document signed by the retail buyer, stated to be applicable to purchases of goods or services to be made by the retail buyer from time to time. In such case such document, together with the sales slip, account book, or other written statement relating to each purchase, shall set forth all of the information re-

quired by Sec. 4 and shall constitute the retail installment contract for each purchase. On each succeeding purchase pursuant to such original document, the sales slip, account book, or other written statement may at the option of the seller constitute the memorandum required by Sec. 11.

Sec. 6. (a) Retail installment contracts negotiated and entered into by mail or telephone without personal solicitation by salesmen or other representatives of the seller and based upon a catalog of the seller or other printed solicitation of business, if such catalog or other printed solicitation clearly sets forth the cash sale prices and other terms of sales to be made through such medium, may be made as provided in this section. The provisions of this Act with respect to retail installment contracts shall be applicable to such sales, except that the retail installment contract when completed by the buyer need not contain the items required by Sec. 4.

(b) When the contract is received from the retail buyer, the seller shall prepare a written memorandum containing all of the information required by Sec. 4 to be included in a retail installment contract. In lieu of delivering a copy of the contract to the retail buyer as provided in Sec. 3, the seller shall deliver to the buyer a copy of such memorandum prior to the due date of the first installment payable under the contract; provided that, if the catalog or other printed solicitation does not set forth all of the other terms of sales in addition to the cash sales prices, such memorandum shall be delivered to the buyer prior to or at the time of delivery of the goods or services.

Sec. 7. The seller shall not obtain the signature of the buyer to any contract when it contains blank spaces of items which are essential provisions of the transaction except as provided in Sec. 6; provided, however, if delivery of the goods is not made at the time of the execution of the contract, the identifying numbers or marks of the goods or similar information and the due date of the first installment may be inserted by the seller in the seller's counterpart of the contract after it has been signed by the buyer.

Sec. 8. A retail installment contract shall contain a statement that the buyer may at any time pay the total unpaid

balance on the contract. A buyer who pre-pays in full the unpaid balance thereof at any time before its final due date shall, if the contract is not in default more than two months, receive a refund credit of the unearned portion of the service charge for such prepayment. The amount of such refund credit shall be computed according to the "rule of 78ths"; that is, it shall represent at least as great a proportion of the original service charge over \$25 in case of a retail installment sale of a motor vehicle, or \$10 in case of a retail installment sale of goods other than a motor vehicle, as (1) the sum of the monthly or other periodic unpaid balances under the schedule of payments in the contract beginning as of the date after such prepayment which is the next succeeding monthly or other period anniversary date of the due date of the first installment under the contract, or, if the prepayment is prior to the due date of the first installment under the contract, then as of the date after such prepayment which is the next succeeding monthly or other periodic anniversary date of the date of the contract bears to (2) the sum of all the monthly or other periodic unpaid balances under the schedule of installment payments in the contract. Where the amount of refund credit is less than \$1, no refund credit need be made.

Sec. 9. (a) The holder of any retail installment contract may not collect any delinquency or collection charges other than attorney fees, court costs, and disbursements unless the contract so provides. In such cases, the charges shall be reasonable, and no attorney fee may be recovered unless the contract is referred for collection to any attorney not a salaried employee of the holder.

(b) The contract may contain other provisions not inconsistent with the purposes of this Act.

Sec. 10. A buyer shall be given a written receipt for any payment when made in cash. Upon written request of the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under the contract. Such a statement shall be given the buyer once without charge; if any additional statement is requested by the buyer, it shall be supplied by the

holder at a charge not in excess of \$1 for each additional statement so supplied.

Sec. 11. (a) If, in a retail installment transaction, a retail buyer makes any subsequent purchases of goods or services from a retail seller from whom he has previously purchased goods or services under one or more retail installment contracts, and the amounts under such previous contract or contracts have not been fully paid, the subsequent purchases may, at the seller's option, be included in and consolidated with one or more of the previous contracts. All the provisions of this Act with respect to retail installment contracts shall be applicable to such subsequent purchases. In the event of consolidation, the seller shall furnish to the buyer, prior to the due date of the first installment of the consolidated contract, the items of information under Sec. 4 or Sec. 6 and a memorandum setting forth

(1) the outstanding balance of the previous contract or contracts;

(2) the amount of the time balance owed by the buyer to the seller for the subsequent purchase;

(3) the consolidated time balance; and

(4) the revised installments applicable to the consolidated time balance.

(b) The seller shall deliver to the buyer a copy of such memorandum prior to the due date of the first installment of such consolidated contract.

(c) When such subsequent purchases are made, if the seller has retained title or taken a lien or other security interest in any of the goods purchased under any one of the contracts included in the consolidation,

(1) the entire amount of all payments made prior to such subsequent purchases shall be deemed to have been applied on the previous purchases;

(2) where the amount of each installment payment is not increased in connection with such subsequent purchase, the subsequent payments shall be deemed to be allocated first to the previous purchases;

(3) where the amount of each installment payment is increased in connection with such subsequent purchase, an amount

equal to the original periodic payment shall be allocated first to the previous purchase, and the amount of such increase may, at the seller's option, be deemed to be allocated to the subsequent purchases;

(4) the amount of any down payment on the subsequent purchase shall be allocated in its entirety to such subsequent purchase.

(d) The provisions of (c) of this section shall not apply to cases where such previous and subsequent purchases involve equipment, parts, or other goods attached or affixed to goods previously purchased and not fully paid, or to services in connection therewith rendered by the seller at the buyer's request.

Sec. 12. (a) At or prior to the time a retail charge agreement is made, the seller shall advise the buyer in writing on the application form or otherwise, or orally that a service charge will be computed on the outstanding balance for each month (which need not be a calendar month) or other regular period agreed upon, the schedule or rate by which the service charge will be computed, and that the buyer may at any time pay his total unpaid balance; provided that, if this information is given orally, the seller shall, upon approval of the buyer's credit, deliver to the buyer or mail to him at his address a memorandum setting forth this information.

(b) The seller or holder of a retail charge agreement shall promptly supply the buyer with a statement as of the end of each monthly period (which need not be a calendar month) or other regular period agreed upon in which there is any unpaid balance thereunder, which statement shall include the unpaid balance under the retail charge agreement and the amount, if any, of any service charge for such period.

Sec. 13. The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder, and no other fee, expense, or charge whatsoever shall be taken, received, reserved, or contracted therefor.

Sec. 14. If the cost of any insurance is included in the retail installment contract or retail charge agreement and a separate

charge is made to the buyer for such insurance,

(1) the contract or agreement shall state the nature, purpose, and amount of such insurance, and in connection with the sale of a motor vehicle, the contract shall state that the insurance coverage ordered under the terms of this contract does or does not include "bodily injury liability," "public liability," and "property damage liability" coverage, as applicable;

(2) the contract or agreement shall state whether the insurance is to be procured by the buyer or the seller;

(3) the amount included for such insurance shall not exceed the premiums chargeable in accordance with the rate fixed for such insurance by the insurer except where the amount is less than \$1; and if the insurance is cancelled or terminated for any reason, the refund for unearned insurance premiums received by the seller or his assignee, together with the unearned portion of the service charge applicable thereto, shall be credited to the final maturing installments of the retail installment contract or retail charge agreement, and any balance of the unearned insurance premiums remaining thereafter shall be refunded to the buyer; provided, that no cash refund is required where the amount is less than \$1;

(4) if the insurance is to be procured by the seller or holder, he shall, within 45 days after delivery of the goods or furnishing of the services under the contract, deliver, mail, or cause to be mailed to the buyer at his address as specified in the contract a notice thereof or a copy of the policy or policies of insurance or a certificate or certificates of the insurance so procured.

Sec. 15. No provision of a retail installment contract or retail charge agreement shall be valid by which the buyer agrees not to assert against the seller or against an assignee a claim or defense arising out of the sale.

Sec. 16. No act or agreement of the retail buyer before or at the time of the making of a retail installment contract, retail charge agreement, or purchases thereunder shall constitute a valid waiver of any of the provisions of this Act or of any remedies granted to the buyer by law.

Sec. 17. Any person who shall wilfully

and intentionally violate any provision of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both.

Sec. 18. Any seller who enters into any contract or agreement which does not comply with the provisions of this Act or who violates any provision of this Act except as a result of an accidental or bona fide error shall be barred from the recovery of any service charge, official fees, or any delinquency or collection charge under or in connection with the related retail installment contract or purchases under a retail charge agreement; but the seller or holder may nevertheless recover from the buyer an amount equal to the cash price of the goods or services and the cost to the seller or holder of any insurance included in the transaction.

Sec. 19. The attorney general may bring an action in the name of the state against any person to restrain and prevent any violation of this Act.

Sec. 20. In the enforcement of this Act, the attorney general may accept an assurance of discontinuance of any act or prac-

tice deemed in violation of this Act from any person engaging in or who has engaged in such act or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the superior court of the district in which the alleged violator resides or has his principal place of business. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this Act for the purpose of securing any injunction as provided in Sec. 19, and for the purpose of Sec. 18 hereof.

Sec. 21. Any person who violates any order or injunction issued pursuant to this Act shall be subject to a fine of not more than \$1,000, or imprisonment for not more than six months, or both.

Sec. 22. The provisions of this Act shall not invalidate or make unlawful retail installment contracts or retail charge agreements executed prior to the effective date of this Act.

Sec. 23. This Act may be cited as the "Alaska Retail Installment Sales Act."

Sec. 24. This Act takes effect January 1, 1963.

Approved April 18, 1962

CHAPTER 142

AN ACT

Relating to the par value of stock of domestic insurance companies.

(S.B. 239)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Sec. 42-1-17, ACLA 1949, as repealed and re-enacted by Sec. 6, Ch. 173, SLA 1957, is amended to read:

Sec. 42-4-17. **Par Value of Stock.** No domestic insurance company shall transact any class of insurance in Alaska unless

all of its shares of stock have a specified par value which shall not be less than \$1. Any downward reclassification of par value shall be accomplished in the form of a stock split wherein the total par value of new shares authorized, issued, and outstanding shall equal that of the total par value of shares authorized, issued, and outstanding before the split.

Approved April 18, 1962

CHAPTER 143

AN ACT

Relating to service of process on nonresidents in tax collection actions; amending Sec.