

§ 25A-2. "Consumer credit sale" defined.

(a) Except as provided in subsection (c) of this section, a "consumer credit sale" is a sale of goods or services in which

- (1) The seller is one who in the ordinary course of business regularly extends or arranges for the extension of consumer credit, or offers to extend or arrange for the extension of such credit,
- (2) The buyer is a natural person,
- (3) The goods or services are purchased primarily for a personal, family, household or agricultural purpose,
- (4) Either the debt representing the price of the goods or services is payable in installments or a finance charge is imposed, and
- (5) The amount financed does not exceed seventy-five thousand dollars (\$75,000) or, in the case of a debt secured by real property or a manufactured home as defined in G.S. 143-145(7), regardless of the amount financed.

(b) "Sale" includes but is not limited to any contract in the form of a bailment or lease if the bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the goods and services involved, and it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration, has the option to become, the owner of the goods and services upon full compliance with his obligations under such contract.

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.

(c) A sale in which the seller allows the buyer to purchase goods or services pursuant to a credit card issued by someone other than a seller that is engaged in part or entirely in the business of selling goods or services or similar arrangement is not a consumer credit sale. A sale in which the seller allows the buyer to purchase goods or services pursuant to a credit card issued by the seller, a subsidiary or a parent corporation of the seller, a principal supplier of the seller or any corporation having shareholders in common with the seller holding over twenty-five percent (25%) of the voting stock in each corporation is a consumer credit sale within the terms of this Chapter.

(d) For the purposes of this Chapter, a consumer credit sale shall be deemed to have been made in this State, and therefore subject to the provisions of this Chapter, if the seller offers or agrees in this State to sell to a buyer who is a resident of this State, or if such buyer

accepts or makes the offer in this State to buy, regardless of the situs of the contract as specified therein.

Any solicitation or communication to sell, oral or written, originating outside of this State, but forwarded to and received in this State by a buyer who is a resident of this State, shall be deemed to be an offer or agreement to sell in this State.

Any solicitation or communication to buy, oral or written, originating within this State, from a buyer who is a resident of this State, but forwarded to and received by a retail seller outside of this State, shall be deemed to be an acceptance or offer to buy in this State.

(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. (1971, c. 796, s. 1; 1979, c. 706, s. 1; 1981, c. 970, s. 2; 1983, c. 686, ss. 2, 3; 1987, c. 282, s. 5; 1991, c. 602, s. 1; 2005-338, s. 2.)