

5093

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 10, 2009

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Introduced by M. of A. P. RIVERA, CYMBROWITZ, COLTON, ESPAILLAT, POWELL, GREENE, J. RIVERA, WEINSTEIN -- Multi-Sponsored by -- M. of A. ALFANO, ARROYO, BARRA, BENJAMIN, BOYLAND, CAHILL, CLARK, DIAZ, GOTTFRIED, HEASTIE, HIKIND, HOOPER, JACOBS, V. LOPEZ, MAYERSOHN, McDONOUGH, ORTIZ, PEOPLES, PERALTA, N. RIVERA, ROBINSON, WEISENBERG, WRIGHT -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the administrative code of the city of New York, in relation to requiring certain contracts to be written in the language in which such contracts were negotiated

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The administrative code of the city of New York is amended  
2     by adding a new section 20-700.1 to read as follows:  
3     S 20-700.1 CONTRACTS IN CERTAIN LANGUAGES FOR THE SALE OR LEASE OF NEW  
4     OR USED MOTOR VEHICLES. ANY RETAIL MOTOR VEHICLE DEALER WHO NEGOTIATES  
5     PRIMARILY IN A LANGUAGE OTHER THAN ENGLISH, ORALLY OR IN WRITING, IN THE  
6     COURSE OF ENTERING INTO A CONTRACT FOR THE SALE OR LEASE OF A NEW OR  
7     USED MOTOR VEHICLE, SHALL DELIVER TO THE CONSUMER WHO IS THE OTHER PARTY  
8     TO SUCH CONTRACT AND PRIOR TO THE EXECUTION OF SUCH CONTRACT, AN  
9     UNSIGNED TRANSLATION OF SUCH CONTRACT, IN THE LANGUAGE IN WHICH SUCH  
10    CONTRACT WAS NEGOTIATED.  
11    A. IN ADDITION TO THE PENALTIES IMPOSED UNDER THIS SUBCHAPTER, FAILURE  
12    TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL ENTITLE THE  
13    AGGRIEVED CONSUMER TO CANCEL SUCH CONTRACT. UPON A FAILURE TO COMPLY  
14    WITH THE PROVISIONS OF THIS SECTION, THE AGGRIEVED CONSUMER MAY CANCEL  
15    THE CONTRACT. FOR PURPOSES OF THIS SECTION, CANCELLATION SHALL BE DEEMED  
16    TO HAVE OCCURRED WHEN WRITTEN NOTICE OF CANCELLATION IS GIVEN TO THE  
17    RETAIL DEALER. NOTICE OF CANCELLATION, IF MAILED, SHALL BE DEEMED DELIV-  
18    ERED ON THE DATE OF THE POSTMARK. NOTICE OF CANCELLATION SHALL BE SUFFI-  
19    CIENT IF SUCH NOTICE INDICATES THE INTENTION OF THE CONSUMER NOT TO BE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 BOUND BY SUCH CONTRACT. IF A CONSUMER CANCELS A CONTRACT PURSUANT TO  
2 THIS SUBDIVISION, THE RETAIL DEALER SHALL NOT IMPOSE ANY PENALTY OR  
3 OBLIGATION UPON SUCH CONSUMER. WHEN A CONTRACT, WHICH HAS BEEN SOLD AND  
4 ASSIGNED TO A FINANCIAL INSTITUTION IS CANCELED PURSUANT TO THIS  
5 SECTION, SUCH CONSUMER SHALL MAKE RESTITUTION TO AND HAVE RESTITUTION  
6 MADE BY THE RETAIL DEALER WITH WHOM HE OR SHE MADE THE CONTRACT, AND  
7 SHALL GIVE NOTICE OF CANCELLATION TO THE ASSIGNEE. NOTWITHSTANDING THAT  
8 THE CONTRACT WAS ASSIGNED WITHOUT RECOURSE, THE ASSIGNMENT SHALL BE  
9 DEEMED CANCELED AND THE ASSIGNOR SHALL PROMPTLY REPURCHASE THE CONTRACT  
10 FROM THE ASSIGNEE.

11 B. THE TERMS OF THE CONTRACT WHICH IS EXECUTED IN THE ENGLISH LANGUAGE  
12 SHALL DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. HOWEVER, THE  
13 TRANSLATION OF THE CONTRACT IN ANY LANGUAGE OTHER THAN ENGLISH IN WHICH  
14 THE CONTRACT WAS NEGOTIATED SHALL BE ADMISSIBLE IN EVIDENCE ONLY TO SHOW  
15 THAT NO CONTRACT WAS ENTERED INTO BECAUSE OF A SUBSTANTIAL DIFFERENCE IN  
16 THE MATERIAL TERMS AND CONDITIONS OF THE CONTRACT AND THE TRANSLATION.

17 C. THE PROVISIONS OF THIS SECTION SHALL BE IN ADDITION TO ANY OTHER  
18 RIGHTS TO REVOKE AN OFFER.

19 S 2. This act shall take effect on the one hundred twentieth day after  
20 it shall have become a law and shall apply to contracts entered into on  
21 or after such date.