

8438

2011-2012 Regular Sessions

I N   A S S E M B L Y

June 15, 2011

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Introduced by M. of A. DINOWITZ -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, FARRELL, GLICK, GOTTFRIED, HOOPER, JACOBS, MAGEE, MILLMAN, ORTIZ, WEINSTEIN -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the personal property law and the general business law, in relation to enhancing consumer protection in motor vehicle retail leasing, conforming to federal requirements, and providing for a cooling off period for leasing and purchasing and to repeal subdivision 7 of section 331 of the personal property law relating to "initial early termination charge"

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

1     Section 1. Subdivision 7 of section 331 of the personal property law,  
2     as amended by chapter 111 of the laws of 1995, is REPEALED.  
3     S 2. Section 331 of the personal property law, as added by chapter 1  
4     of the laws of 1994, subdivisions 6, 7, 9, 11, 12 and 19 as amended and  
5     subdivision 24 as renumbered by chapter 140 of the laws of 1995, subdivisions 14 and 18 as amended by chapter 111 of the laws of 1995, and  
6     subdivision 13 as separately amended by chapters 111 and 140 of the laws  
7     of 1995, is amended to read as follows:  
8     S 331. Definitions. In this article, unless the context or subject  
9     matter otherwise requires:  
10    1. "Motor vehicle" or "vehicle" means any device propelled or drawn by  
11    any power other than muscular power, upon or by which any person or  
12    property is or may be transported or drawn upon a public highway, road  
13    or street. The term does not include a "snowmobile" as defined in subdivision three of section 21.05 of the parks, recreation and historic  
14    preservation law or other vehicles not designed primarily for highway  
15    transportation, but which may incidentally transport persons or property  
16    on a public highway.

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

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1     2. "Retail lessee" or "lessee" means a natural person who leases a  
2 motor vehicle from a retail lessor primarily for personal, family or  
3 household use and who executes a retail lease agreement in connection  
4 therewith. For purposes of section three hundred thirty-four and subdi-  
5 visions two and three of section three hundred forty-six of this arti-  
6 cle, the term also includes a person who makes a payment to a lessor or  
7 leaves his vehicle with a lessor pending the execution of a retail lease  
8 agreement. Except as provided in sections three hundred forty-eight and  
9 three hundred forty-nine of this article, the term does not include a  
10 person who leases a motor vehicle primarily for agricultural, business  
11 or commercial use or for the purpose of subleasing.

12     3. "Retail lessor" or "lessor" means a person regularly engaged in the  
13 business of leasing or selling motor vehicles who leases a motor vehicle  
14 to a retail lessee under or subject to a retail lease agreement.

15     4. "Retail lease" or "lease" means a transfer from a retail lessor to  
16 a retail lessee of the right to possession and use of a motor vehicle in  
17 return for consideration. The term does not include a sale, including a  
18 sale on approval or a sale or return, a retail instalment sale as  
19 defined in article nine of this chapter or the retention or creation of  
20 a security interest in a motor vehicle.

21     5. "Retail lease agreement" or "agreement" means an agreement, entered  
22 into in this state, for the lease of a motor vehicle, and which may  
23 include the purchase of goods or services incidental thereto, by a  
24 retail lessee for a scheduled term exceeding four months, whether or not  
25 the lessee has the option to purchase or otherwise become the owner of  
26 the vehicle at the expiration of the agreement. The term includes such  
27 an agreement wherever entered into if executed by the lessee in this  
28 state and if solicited in person by a person acting on his OR HER own  
29 behalf or that of the lessor. The term does not include a retail instal-  
30 ment contract or a rental-purchase agreement as defined in articles nine  
31 and eleven of this chapter. An agreement that substantially complies  
32 with this article does not create a security interest in a motor vehicle  
33 as the term "security interest" is defined in subdivision thirty-seven  
34 of section 1-201 of the uniform commercial code.

35     6. "Additional early termination charge" means the initial dollar  
36 amount of the early termination charge the portion of which is recovera-  
37 ble by the holder upon early termination in addition to the amounts  
38 specified in paragraphs (a) through (e) of subdivision one of section  
39 three hundred forty-one of this article. [The additional early termi-  
40 nation charge may only include amounts which are reasonable in light of  
41 the anticipated or actual harm caused by the delinquency, default or  
42 early termination, the difficulties of proof of loss and the inconven-  
43 ience or nonfeasibility of otherwise obtaining an adequate remedy.] Any  
44 fees or charges included in the additional early termination charge may  
45 not also be included in the capitalized cost.

46     7. "Adjusted capitalized cost" means the GROSS capitalized cost less  
47 any capitalized cost reduction payments made by the lessee at the incep-  
48 tion of the lease and any net trade-in allowance granted by the lessor.

49     8. "Anticipated assignee" means the person to whom the lessor antic-  
50 ipates that the agreement will be assigned and to whom the agreement  
51 subsequently is assigned by the lessor.

52     9. "Base rental payment" means that portion of the monthly or other  
53 periodic rental payment which is equal to the sum of: (a) the average  
54 monthly or other periodic lease charge; and (b) the average monthly or  
55 other periodic depreciation. For purposes of this article, the average  
56 monthly or other periodic depreciation may include a monthly or other

periodic charge for any item that the lessor has included in the GROSS capitalized cost.

10. "Conspicuous" means that a term or clause is so written that a reasonable person against whom it is to operate ought to have noticed it. Whether or not a term or clause is conspicuous is a question of law for decision by the court.

11. "[Capitalized] GROSS CAPITALIZED cost" means the agreed upon amount which serves as the basis for determining the base rental payment and a portion of the early termination liability of the lessee. The GROSS capitalized cost may include any taxes, registration, license acquisition, assignment and other fees and charges for insurance, for a waiver of the contractual obligation to pay the gap amount, for accessories and their installation, for delivering, servicing, repairing or improving the motor vehicle and for other services incidental to the agreement. It also may include the unpaid balance of any amount financed under an outstanding motor vehicle loan agreement or motor vehicle retail instalment contract or the unpaid portion of the early termination obligation under an outstanding motor vehicle retail lease agreement. The term does not include any lease charge or any amount included in the additional early termination charge.

12. "Capitalized cost reduction" means any payments made by cash, check or similar means that are in the nature of downpayments made by the lessee at the inception of the lease for the purpose of reducing the GROSS capitalized cost.

13. "Constant yield method" means: (a) in the case of a periodic payment lease, that method of determining the lease charge portion of each base rental payment pursuant to which the lease charge for each computational period is earned in advance by multiplying the constant rate implicit in the lease times the balance subject to lease charge as it declines during the lease term. At any given time during the scheduled term of a periodic payment lease, the balance subject to lease charge is the difference between the adjusted capitalized cost and the sum of: (i) all depreciation amounts accrued during the preceding computational periods; and (ii) the first base rental payment; (b) in the case of a single or advance payment lease, that method of determining the periodic earning of lease charges pursuant to which the lease charge for each computational period is earned in advance by multiplying the constant rate implicit in the lease times the balance subject to lease charge as it increases during the scheduled lease term. At any given time during the scheduled term of a single or advance payment lease, the balance subject to lease charge is determined by subtracting from the [estimated] residual value the total lease charge scheduled to be earned over the term of the lease and adding to the difference all lease charges accrued during the preceding computational periods; (c) in the case of either type of lease, the periodic lease charge calculations are based on the assumption that the holder will receive the rental payments on their exact due dates and that the lease goes to its full term.

14. "[Estimated residual] RESIDUAL value" means the estimated value of the leased vehicle at the scheduled end of the lease term, used by the lessor in determining the base rental payment, as established by the lessor at the time he enters into a retail lease agreement.

15. "Gap amount" has the meaning ascribed to it in paragraph fifty-two of subsection (a) of section one hundred seven of the insurance law.

16. "Gap insurance" has the meaning ascribed to it in paragraph twenty-six of subsection (a) of section one thousand one hundred thirteen of

1 the insurance law. For purposes of paragraphs (a) and (b) of subdivision  
2 six of section three hundred thirty-seven of this article, gap insurance  
3 shall not be deemed "liability insurance or insurance on the vehicle".

4 17. "Group credit insurance" means group credit life insurance, group  
5 credit accident insurance, group credit health insurance, group credit  
6 accident and health insurance or group credit unemployment insurance.

7 18. "Holder" means the retail lessor of a motor vehicle under or  
8 subject to a retail lease agreement or, if the agreement is purchased by  
9 an assignee, the assignee. Unless and until it realizes upon its securi-  
10 ty interest therein, the term does not include a pledgee of one or more  
11 lease agreements to secure a bona fide loan thereon.

12 19. "Lease charge" means the charge to be paid by the retail lessee  
13 for the privilege of making the rental payments as scheduled under a  
14 retail lease agreement. The term does not include any amount included in  
15 the GROSS capitalized cost. The term also does not include any delin-  
16 quency, default, disposition, early termination, collection, or rein-  
17 statement charge and the amount, if any, included in a retail lease  
18 agreement for taxes, registration, license acquisition, assignment and  
19 other fees and charges for insurance, for accessories and their instal-  
20 lation, for delivering, servicing, repairing or improving the motor  
21 vehicle and for other services incidental to the agreement, whether or  
22 not such amounts are included in the GROSS capitalized cost, paid for  
23 separately at lease inception by cash, check or similar means or paid  
24 for on a monthly or other periodic basis in addition to the base rental  
25 payment.

26 20. "Person" means an individual, partnership, corporation, associ-  
27 ation or other group, however organized.

28 21. "Precomputed lease transaction" means a retail lease transaction  
29 in which the base rental obligation is a sum comprising the total depre-  
30 ciation estimated to occur during the scheduled term of the lease and  
31 the amount of the lease charge computed in advance. A disclosure  
32 required by the act of Congress entitled "Consumer Leasing Act of 1976"  
33 AND THE REGULATIONS PROMULGATED THEREUNDER, AS SUCH ACT AND REGULATIONS  
34 MAY FROM TIME TO TIME BE AMENDED, does not in itself make a lease charge  
35 or transaction precomputed.

36 22. "Realized value" means: (a) the price received by the holder for  
37 the leased vehicle at disposition; (b) the highest offer received by the  
38 holder for disposition of the leased vehicle; or (c) the fair market  
39 value of the vehicle, determined pursuant to subdivision one of section  
40 three hundred forty of this article by a mutually acceptable independent  
41 appraiser, at the scheduled end of the lease term or, if the lease is  
42 terminated prior thereto, at early termination. The realized value of  
43 the vehicle may be its value in the customary wholesale market.

44 23. "Renegotiation" means the satisfaction of an existing retail lease  
45 agreement and the replacement of the existing agreement by a new lease  
46 agreement undertaken by the same lessor or holder and the same lessee.  
47 The term does not include: (a) the ADDITION, DELETION, OR substitution  
48 of the leased vehicle [or the addition or return of a vehicle] in a  
49 multiple-vehicle lease, if in either case the average payment allocable  
50 to a rental period is not increased by more than twenty-five percent;  
51 (b) a deferral or extension of one or more periodic payments, or  
52 portions of a periodic payment, WHETHER OR NOT A FEE IS CHARGED; (c) a  
53 reduction in charges in the agreement; (d) an agreement involving a  
54 court proceeding; [or] (e) THE EXTENSION OF A LEASE FOR NOT MORE THAN  
55 SIX MONTHS ON A MONTH-TO-MONTH BASIS OR OTHERWISE; (F) A SUBSTITUTION OF  
56 THE MOTOR VEHICLE SUBJECT TO THE RETAIL LEASE AGREEMENT WITH A MOTOR

1 VEHICLE THAT HAS A SUBSTANTIALLY EQUIVALENT OR GREATER ECONOMIC VALUE,  
2 PROVIDED NO OTHER LEASE TERMS ARE CHANGED; OR (G) any other agreement or  
3 event which does not constitute a "renegotiation" under the act of  
4 Congress entitled "Consumer Leasing Act of 1976" and the regulations  
5 thereunder, as such act and regulations may from time to time be  
6 amended.

7 24. Words in the singular include the plural and vice versa.

8 25. "CLOSED-END LEASE" MEANS A RETAIL LEASE AGREEMENT OTHER THAN AN  
9 OPEN-END LEASE AS DEFINED IN SUBDIVISION TWENTY-SIX OF THIS SECTION.

10 26. "OPEN-END LEASE" MEANS A RETAIL LEASE AGREEMENT IN WHICH THE  
11 LESSEE'S LIABILITY AT THE END OF THE LEASE TERM IS BASED ON THE DIFFER-  
12 ENCE BETWEEN THE RESIDUAL VALUE OF THE MOTOR VEHICLE AND ITS REALIZED  
13 VALUE.

14 S 3. Section 333 of the personal property law, as added by chapter 1  
15 of the laws of 1994, is amended to read as follows:

16 S 333. Pre-lease availability of sample form of agreement. 1. The  
17 lessor of a motor vehicle shall make a blank sample copy of its current  
18 form of retail lease agreement AND A BLANK COPY OF ITS CURRENT FORM OF  
19 THE DISCLOSURES REQUIRED TO BE SEGREGATED PURSUANT TO SECTION THREE  
20 HUNDRED THIRTY-SEVEN-A OF THIS ARTICLE AND TITLE 12, CHAPTER 2, PART 213  
21 OF THE CODE OF FEDERAL REGULATIONS readily available for examination by  
22 prospective lessees by:

23 (a) Furnishing it upon request prior to the consummation of a retail  
24 lease [transaction] AGREEMENT; and

25 (b) Posting in its place of business a sign stating that a blank  
26 sample copy of [its form of] A retail lease agreement [is] AND ALL  
27 REQUIRED DISCLOSURES ARE available upon request.

28 THE LESSOR MAY NOT PREVENT THE PROSPECTIVE LESSEE FROM REMOVING ANY  
29 BLANK SAMPLE COPIES FROM THE PREMISES.

30 2. An assignee who has prepared a form of retail lease agreement AND A  
31 FORM OF THE DISCLOSURES REQUIRED TO BE SEGREGATED PURSUANT TO SECTION  
32 THREE HUNDRED THIRTY-SEVEN-A OF THIS ARTICLE AND TITLE 12, CHAPTER 2,  
33 PART 213 OF THE CODE OF FEDERAL REGULATIONS that is used by a lessor  
34 shall provide the lessor with blank sample copies of [that form of  
35 agreement] SUCH FORMS which the lessor may use to comply with the deliv-  
36 ery requirement imposed upon it by paragraph (a) of subdivision one of  
37 this section. An assignee who does so shall have no liability if the  
38 lessor to whom those materials are provided fails to comply with this  
39 section.

40 S 4. Subdivision 3 of section 334 of the personal property law, as  
41 added by chapter 1 of the laws of 1994, is amended to read as follows:

42 3. If a lessee leaves his OR HER motor vehicle with the lessor in lieu  
43 of or in addition to a payment by cash, check or similar means, and the  
44 lessor and lessee agree that the parties shall enter into a retail lease  
45 agreement, the lessor shall not sell or transfer the vehicle traded-in  
46 until the [lessee and the lessor execute a retail lease agreement] EXPI-  
47 RATION OR WAIVER OF THE CANCELLATION PERIOD PROVIDED PURSUANT TO PARA-  
48 GRAPH (G) OF SUBDIVISION FIVE OF SECTION THREE HUNDRED THIRTY-SEVEN OF  
49 THIS ARTICLE. In the event a lease agreement is not executed, the  
50 lessor shall promptly return to the lessee the vehicle traded-in.

51 S 5. Section 337 of the personal property law, as added by chapter 1  
52 of the laws of 1994, subdivision 1 and paragraph (i) of subdivision 14  
53 as amended by chapter 111 of the laws of 1995, subdivision 5 and para-  
54 graph (b) of subdivision 7 as amended by chapter 140 of the laws of  
55 1995, is amended to read as follows:

1 S 337. Requirements as to retail lease agreements. 1. A retail lease  
2 agreement shall be in a writing and, except as otherwise provided in  
3 subdivision two of section three hundred forty-five of this article,  
4 signed contemporaneously by the lessor and the lessee. Except as  
5 provided in sections three hundred thirty-five [and], three hundred  
6 thirty-six AND THREE HUNDRED THIRTY-SEVEN-A of this article AND AS  
7 PROVIDED IN TITLE 12, CHAPTER 2, PART 213 OF THE CODE OF FEDERAL REGU-  
8 LATIONS, a retail lease agreement shall contain in a single document all  
9 the agreements of the parties.

10 2. The printed portion of the agreement shall be printed in at least  
11 eight-point type in ink that contrasts with the paper used. The agree-  
12 ment shall contain the following items printed or written in a size  
13 equal to at least ten-point bold type:

14 (a) Both at the top of the agreement and directly above the space  
15 reserved for the signature of the lessee, the words "LEASE AGREEMENT",  
16 "RETAIL LEASE AGREEMENT" or "MOTOR VEHICLE LEASE AGREEMENT";

17 (b) A [specific statement that physical damage or liability insurance  
18 coverage for bodily injury and property damage caused to others is not  
19 included, if that is the case] BRIEF IDENTIFICATION OF INSURANCE IN  
20 CONNECTION WITH THE RETAIL LEASE AGREEMENT INCLUDING: (I) THE TYPES AND  
21 AMOUNTS OF COVERAGE AND THE COST TO THE LESSEE, IF THE INSURANCE IS  
22 PROVIDED BY OR PAID THROUGH THE LESSOR; OR (II) THE TYPES AND AMOUNTS OF  
23 COVERAGE REQUIRED BY FEDERAL, STATE, OR LOCAL LAW OR REQUIRED BY THE  
24 LESSOR OF THE LESSEE, IF THE LESSEE MUST OBTAIN THE INSURANCE; and

25 (c) Directly [above the acknowledgment permitted by subdivision three  
26 of this section to appear] above the space reserved for the signature of  
27 the lessee, a written notice informing the lessee that: (i) the lessee  
28 should not sign the agreement before he or she reads it AND ANY SEGRE-  
29 GATED DISCLOSURES REQUIRED TO BE PROVIDED TO THE LESSEE PURSUANT TO  
30 SECTION THREE HUNDRED THIRTY-SEVEN-A OF THIS ARTICLE AND TITLE 12, CHAP-  
31 TER 2, PART 213 OF THE CODE OF FEDERAL REGULATIONS or if [it contains]  
32 THE AGREEMENT OR SUCH SEGREGATED DISCLOSURES CONTAIN any blank [space]  
33 SPACES; and (ii) the lessee is entitled to a completely filled in copy  
34 of the agreement AND THE SEGREGATED DISCLOSURES REQUIRED PURSUANT TO  
35 SECTION THREE HUNDRED THIRTY-SEVEN-A OF THIS ARTICLE AND TITLE 12, CHAP-  
36 TER 2, PART 213 OF THE CODE OF FEDERAL REGULATIONS when he or she signs  
37 it. A notice substantially similar to the following notice complies with  
38 the requirements of this paragraph: "NOTICE TO THE LESSEE: 1. Do not  
39 sign this agreement before you read it AND THE SEGREGATED DISCLOSURES  
40 ENTITLED "FEDERAL CONSUMER LEASING ACT DISCLOSURES" or if [it contains]  
41 THIS AGREEMENT OR THE SEGREGATED DISCLOSURES CONTAIN any blank [space]  
42 SPACES.

43 2. You are entitled to a completely filled in copy of this agreement  
44 when you sign it. ACCORDING TO STATE LAW AND FEDERAL REGULATIONS, YOU  
45 ARE ENTITLED TO THE FEDERAL CONSUMER LEASING ACT DISCLOSURES PRIOR TO  
46 THE CONSUMMATION OF YOUR LEASE AGREEMENT."

47 3. The lessor shall deliver to the lessee, or mail to him or her at  
48 his or her address shown on the agreement, a copy of the agreement  
49 signed by the lessor. Until the lessor does so, a lessee who has not  
50 received delivery of the motor vehicle shall have an unconditional right  
51 to cancel the agreement and to receive an immediate refund of all  
52 payments made and redelivery of all goods traded-in to the lessor on  
53 account of or in contemplation of the agreement. Any acknowledgment by  
54 the lessee of delivery of a copy of the agreement shall be printed or  
55 written in a size equal to at least eight-point bold type and[, if  
56 contained in the agreement, shall appear directly above the legend

required by paragraph (a) of subdivision two of this section to appear directly above the space reserved for the signature of the lessee] SHALL BE PROVIDED FOR ON A SEPARATE DOCUMENT FROM THE RETAIL LEASE AGREEMENT. PROVIDED, HOWEVER, ANY SUCH DELIVERY BY MAIL OF A COPY OF THE AGREEMENT AND ACKNOWLEDGMENT DOCUMENT SHALL BE DELIVERED BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED.

4. The agreement shall contain the names of the lessor and the lessee, the place of business of the lessor, the residence or place of business of the lessee as specified by the lessee and a description of the motor vehicle including its make, year model, model and identification number or marks.

5. The agreement shall contain:

(a) All items required to be disclosed by the act of Congress entitled "Consumer Leasing Act of 1976" and the regulations thereunder, as such act and regulations may from time to time be amended IN THE MANNER REQUIRED BY SUCH ACT AND/OR REGULATIONS; provided, however, that the disclosures required by the "Consumer Leasing Act of 1976" shall be: (I) PRINTED OR WRITTEN IN A SIZE EQUAL TO AT LEAST TEN-POINT TYPE; AND (II) made in all leasing transactions covered by this article regardless of the exemption in the "Consumer Leasing Act of 1976" for lease transactions in which the total contractual obligation exceeds twenty-five thousand dollars;

(b) [The capitalized cost, using the term "capitalized cost" and a descriptive explanation such as "the sum of the adjusted capitalized cost and any capitalized cost reduction. The capitalized cost and the amount of the rental payment may be negotiable";

(c) The adjusted capitalized cost of the vehicle, using the term "adjusted capitalized cost", a descriptive explanation such as "the amount which is capitalized in connection with the lease and is used in determining the amount of your periodic payment" and immediately thereafter one of the following additional explanatory statements:

(i) In the case of an agreement which provides for an "additional early termination charge" and whose early termination provisions expressly refer to the "adjusted capitalized cost," a statement that "this amount plus the additional early termination charge will be used in determining your early termination liability";

(ii) In the case of an agreement which provides for an "additional early termination charge" and whose early termination provisions do not expressly refer to the "adjusted capitalized cost," a statement that "this amount plus the additional early termination charge will be used in determining the legal limit on your early termination liability";

(iii) In the case of an agreement which does not provide for an "additional early termination charge" and whose early termination provisions expressly refer to the "adjusted capitalized cost," a statement that "this amount will be used in determining your early termination liability"; or

(iv) In the case of an agreement which does not provide for an "additional early termination charge" and whose early termination provisions do not expressly refer to the "adjusted capitalized cost," a statement that "this amount will be used in determining the legal limit on your early termination liability";

(d) The amount, if any, included for insurance and other benefits, specifying and describing the coverages and the amount included for each type of coverage;

(e) In close proximity to the adjusted capitalized cost disclosure required by paragraph (c) of this subdivision and only as applicable,

1 any additional early termination charge provided for under the agree-  
2 ment, using the term "additional early termination charge", and one of  
3 the following descriptive explanations:

4 (i) In the case of an agreement whose early termination provisions  
5 expressly refer to the "adjusted additional early termination charge," a  
6 descriptive explanation such as "an additional amount the unamortized  
7 portion of which will be used in determining your early termination  
8 liability"; or

9 (ii) In the case of an agreement whose provisions do not expressly  
10 refer to the "additional early termination charge," a descriptive expla-  
11 nation such as "an additional amount the unamortized portion of which  
12 will be used in determining the legal limit on your early termination  
13 liability"; and immediately after the descriptive explanation additional  
14 explanatory statements that "this amount represents the total costs and  
15 damages, in addition to the adjusted capitalized cost, which we would  
16 incur if this agreement were to be terminated before you had made any  
17 rental payments."

18 (f) In close proximity to the "adjusted capitalized cost" and "addi-  
19 tional early termination charge" disclosures required by paragraphs (c)  
20 and (e) of this subdivision, one of the following statements:

21 (i) In the case of an agreement which provides for an "additional  
22 early termination charge" and whose early termination provisions do not  
23 expressly refer to either the "adjusted capitalized cost" or the "addi-  
24 tional early termination charge," a statement that "although they are  
25 not referred to in the early termination provisions of this lease, the  
26 'adjusted capitalized cost' and the 'additional early termination  
27 charge' may be used to compare the early termination provisions of  
28 competing lessors";

29 (ii) In the case of an agreement which provides for an "additional  
30 early termination charge" and whose early termination provisions do not  
31 expressly refer to the "additional early termination charge," a state-  
32 ment that "although the 'additional early termination charge' is not  
33 referred to in the early termination provisions of this lease, the  
34 'additional early termination charge' and the 'adjusted capitalized  
35 cost' may be used to compare the early termination provisions of compet-  
36 ing lessors";

37 (iii) In the case of an agreement which provides for an "additional  
38 early termination charge" and whose early termination provisions do not  
39 expressly refer to the "adjusted capitalized cost," a statement that  
40 "although the 'adjusted capitalized cost' is not referred to in the  
41 early termination provisions of this lease, the 'adjusted capitalized  
42 cost' and the 'additional early termination charge' may be used to  
43 compare the early termination provisions of competing lessors";

44 (iv) In the case of an agreement which provides for an "additional  
45 early termination charge" and whose early termination provisions  
46 expressly refer to both the "adjusted capitalized cost," and the "addi-  
47 tional early termination charge," a statement that "the 'adjusted capi-  
48 talized cost' and the 'additional early termination charge' may be used  
49 to compare the early termination provisions of competing lessors";

50 (v) In the case of an agreement which does not provide for any "addi-  
51 tional early termination charge" and whose early termination provisions  
52 do not expressly refer to the "adjusted capitalized cost," a statement  
53 that "although the 'adjusted capitalized cost' is not referred to in the  
54 early termination provisions of this lease, the 'adjusted capitalized  
55 cost' may be used to compare the early termination provisions of compet-  
56 ing lessors"; or



(vi) In the case of an agreement which does not provide for any "additional early termination charge" and whose early termination provisions expressly refer to the "adjusted capitalized cost," a statement that "the 'adjusted capitalized cost' may be used to compare the early termination provisions of competing lessors."

(g)] A NOTICE TO THE LESSEE REGARDING FEES AND CHARGES. SUCH NOTICE SHALL INCLUDE THE FOLLOWING STATEMENT, AS SET FORTH HEREIN:

"SEGREGATED FROM YOUR LEASE AGREEMENT ARE CERTAIN DISCLOSURES REQUIRED BY FEDERAL REGULATIONS AND STATE LAW. THERE MAY BE FEES AND CHARGES INCLUDED IN YOUR GROSS CAPITALIZED COST. YOU MAY WANT TO INQUIRE OF YOUR LESSOR WHAT THESE FEES AND/OR CHARGES MAY BE. ALSO, FEES AND CHARGES MAY BE ASSESSED AT THE TERMINATION OF THE LEASE AGREEMENT. YOU MAY WANT TO INQUIRE AS TO THE CAUSES OR REASONS FOR THESE FEES/CHARGES. AS WITH ALL CONTRACT AGREEMENTS, ALL FEES AND CHARGES ARE NEGOTIABLE AND MAY BE USED TO COMPARE WITH COMPETING LESSORS."

(C) A statement in at least eight-point bold type informing the lessee that he or she has the right to terminate the agreement voluntarily at any time after the first fifty percent of the total number of months constituting the full scheduled lease term, or earlier if the agreement so provides, if he or she is in full compliance with the terms of the agreement and satisfies his or her early termination obligation. SUCH STATEMENT MUST ALSO DISCLOSE ANY CONDITIONS UNDER WHICH THE LESSEE OR LESSOR MAY TERMINATE THE LEASE PRIOR TO THE END OF THE LEASE TERM AND A DESCRIPTION OF THE METHOD FOR DETERMINING THE AMOUNT OF ANY PENALTY OR OTHER CHARGES FOR EARLY TERMINATION IN ACCORDANCE WITH SECTION THREE HUNDRED FORTY-ONE OF THIS ARTICLE;

[(h) A statement in at least eight-point bold type to the effect that "early termination may require you to pay a substantial charge";

(i)](D) A provision permitting a lessee whose default consists solely of the failure to make timely rental payments to cure his or her default and reinstate the agreement, without losing any rights or options previously acquired under the agreement, by paying all past due rental and delinquency charges and, if the agreement so provides, a reinstatement fee not to exceed ten dollars and the actual and reasonable costs of repossession, storage, pickup and redelivery within twenty-five days after the lessee is sent written notice of his or her reinstatement rights. The reinstatement right granted pursuant to this paragraph may be restricted to a lessee who has not previously been afforded the opportunity to reinstate the agreement. For purposes of this paragraph, a [rental] LEASE charge is past due if it is not paid by its scheduled due date or within any grace period specified in the agreement;

[(j) The estimated residual value of the vehicle, using the term "estimated residual value";

(k)] (E) In the case of an agreement which does not obligate the lessee upon a total loss of the vehicle occasioned by its theft or physical damage for any of the items specified in paragraphs (e) and (f) of subdivision one of section three hundred forty-one of this article, a conspicuous notice that the lessee has no such obligation.

Nothing in this subdivision prevents a holder from attempting to repossess a vehicle, accepting its voluntary surrender or selling it during the reinstatement period, but such a repossession, voluntary surrender, or sale shall not affect the reinstatement right of the lessee. Upon reinstatement, the holder shall provide the lessee with the same vehicle leased by the lessee prior to reinstatement or, if that vehicle is not available, a substitute vehicle of comparable worth, quality and condition.

(F) A STATEMENT NOTIFYING THE LESSEE OF HIS OR HER RIGHT TO CANCEL SUCH RETAIL LEASE AGREEMENT IN ACCORDANCE WITH PARAGRAPH (C) OF THIS SUBDIVISION. A NOTICE SUBSTANTIALLY SIMILAR TO THE FOLLOWING NOTICE COMPLIES WITH REQUIREMENTS OF THIS PARAGRAPH: "NOTICE TO THE LESSOR: YOU, THE LESSEE, MAY CANCEL THIS LEASE CONTRACT WITHIN THREE (3) BUSINESS DAYS AFTER THE DATE OF THIS CONTRACT. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT."

(G) ABSOLUTE RIGHT TO CANCEL PROVISIONS. (I) IN ADDITION TO ANY OTHER RIGHTS TO REVOKE AN OFFER, A PERSON MAY CANCEL A RETAIL LEASE AGREEMENT, WHETHER OR NOT SUCH PERSON HAS RECEIVED A COPY OF SUCH AGREEMENT SIGNED BY THE LESSOR, PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER EITHER THE DATE ON WHICH THE PERSON SIGNED THE AGREEMENT OR THE DATE ON WHICH THE LESSOR DELIVERED A SIGNED COPY OF THE AGREEMENT TO THE PERSON, WHICHEVER IS LATER. FOR THE PURPOSES OF THIS PARAGRAPH, CANCELLATION WILL BE DEEMED TO HAVE OCCURRED WHEN WRITTEN NOTICE OF CANCELLATION IS GIVEN TO THE LESSOR. IF GIVEN BY MAIL, A NOTICE OF CANCELLATION SHALL BE SENT BY CERTIFIED OR REGISTERED UNITED STATES MAIL AND SHALL BE DEEMED DELIVERED ON THE DATE OF THE POSTMARK. NOTICE OF CANCELLATION SHALL BE SUFFICIENT IF IT INDICATES THE INTENTION OF THE PERSON NOT TO BE BOUND. RETURN OF THE NOTICE OF CANCELLATION FORM PROVIDED PURSUANT TO SECTION THREE HUNDRED THIRTY-SEVEN-B OF THIS ARTICLE BY THE LESSEE TO THE LESSOR IS SUFFICIENT TO COMPLY WITH THE REQUIREMENT OF THIS PARAGRAPH.

(II) IN ORDER TO OBTAIN IMMEDIATE DELIVERY OF A MOTOR VEHICLE, A PERSON MAY WAIVE THE RIGHT TO CANCEL PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH. SUCH WAIVER MUST BE WRITTEN AND CLEARLY INDICATE THE INTENTION OF THE PERSON TO WAIVE HIS OR HER RIGHT TO CANCEL THE AGREEMENT.

(III) UNLESS THE PERSON WAIVES THE RIGHT TO CANCEL AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE LESSOR IS NOT REQUIRED TO DELIVER ANY MOTOR VEHICLE TO A PERSON UNTIL AFTER THE CLOSE OF BUSINESS ON THE THIRD BUSINESS DAY AFTER THE DAY ON WHICH THE PERSON OR LESSOR SIGNS THE RETAIL LEASE AGREEMENT.

(IV) FOR THE PURPOSES OF A CANCELLATION PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF A PERSON, PURSUANT TO AN UNDERSTANDING WITH THE LESSOR, REMOVES ANY TRADE-IN MOTOR VEHICLE FROM THE LESSOR'S LOT AFTER SIGNING A RETAIL LEASE AGREEMENT OR OFFER, BUT BEFORE THE EXPIRATION OF THE PERIOD OF TIME DURING WHICH THE PERSON HAS THE RIGHT TO CANCEL, THE LESSOR MAY REAPPRAISE THE VALUE OF THE TRADE-IN VEHICLE UPON ITS RETURN TO THE LESSOR IF THE VEHICLE IS IN A CONDITION THAT IS NOT SUBSTANTIALLY THE SAME AS WHEN IT WAS ORIGINALLY APPRAISED FOR TRADE-IN PURPOSES. HOWEVER, SUCH REAPPRAISAL SHALL NEITHER EXTEND THE CANCELLATION PERIOD PROVIDED FOR IN SUBPARAGRAPH (I) OF THIS PARAGRAPH NOR ENTITLE THE PERSON TO ANOTHER SUCH CANCELLATION PERIOD.

(V) IF A PERSON CANCELS AN AGREEMENT PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH: (A) THE LESSOR MAY RETAIN, FROM ANY DOWN PAYMENT PAID BY THE PERSON TO THE LESSOR, COMPENSATION FOR CANCELLATION OF THE AGREEMENT THAT SHALL NOT EXCEED ONE HUNDRED DOLLARS, BUT SHALL NOT IMPOSE ANY OTHER PENALTY OR OBLIGATION; AND (B) THE LESSOR SHALL REFUND TO THE LESSEE ANY PAYMENTS, LESS THOSE PROVIDED BY CLAUSE (A) OF THIS SUBPARAGRAPH, WITHIN TEN BUSINESS DAYS OF SUCH CANCELLATION.

6. (a) (i) The amount, if any, included for liability insurance or insurance on the vehicle, shall not exceed the premiums charged by the insurance company for such insurance. The holder, if the cost of liability insurance or insurance on the motor vehicle is included in a retail lease agreement and the policy or policies are delivered to the holder, shall within thirty days after execution of the retail lease agreement,

1 send or cause to be sent to the lessee a copy of the policy or policies  
2 of insurance, issued by an insurance company authorized to do that kind  
3 of insurance business in this state, clearly setting forth the amount of  
4 the premium, the kind or kinds of insurance and the scope of the cover-  
5 age and all the terms, exceptions, limitations, restrictions and condi-  
6 tions of the contract or contracts of insurance.

7 (ii) The lessee of a motor vehicle under a retail lease agreement  
8 shall have the privilege of purchasing such insurance from an agent or  
9 broker of his or her own selection and of selecting an insurance company  
10 acceptable to the lessor; provided, however, that the inclusion of the  
11 insurance premium in the retail lease agreement when the lessee selects  
12 the agent, broker or company, shall be optional with the lessor and in  
13 such case the lessor or assignee shall have no obligation to send, or  
14 cause to be sent, to the lessee a copy of the policy of insurance.

15 (b) If any such policy of liability insurance or insurance on the  
16 motor vehicle is cancelled, the unearned insurance premium refund  
17 received or receivable by the holder of the agreement or, if the amount  
18 included therefor in the agreement exceeds the cost to the holder of the  
19 agreement for such insurance, the unearned portion of the amount so  
20 included, shall be either: (i) refunded to the lessee within ten busi-  
21 ness days after it is received by the holder; or (ii) credited, together  
22 with the unearned portion of the lease charge applicable thereto, to the  
23 final maturing rental payments or, at the option of the holder, to the  
24 end of term obligations under the retail lease agreement except to the  
25 extent applied toward payment for similar insurance protecting the  
26 interests of the lessee and the holder of the agreement or either of  
27 them, provided that no such credit or refund need be made if the amount  
28 thereof would be less than one dollar.

29 (c) The amount, if any, included for group credit insurance or for  
30 insurance other than gap insurance, liability insurance or insurance on  
31 the motor vehicle shall not exceed the premiums charged by the insurance  
32 company for such insurance. If such group credit or other insurance is  
33 cancelled the refund for unearned insurance premiums received or receiv-  
34 able by the holder of the agreement, or the excess of the amount  
35 included in the agreement for group credit or other insurance over the  
36 premiums paid or payable by the holder of the agreement therefor shall  
37 be either: (i) refunded to the lessee within ten business days after it  
38 is received by the holder; or (ii) credited, together with, in either  
39 case, the unearned portion of the lease charge applicable thereto, to  
40 the final maturing rental payments or, at the option of the holder, to  
41 the end of term obligations under the retail lease agreement, provided  
42 that no such credit or refund need be made if the amount thereof would  
43 be less than one dollar.

44 (d) The amount of any separate charge included for a waiver by the  
45 lessor of its contractual right to hold the lessee liable for the gap  
46 amount shall not exceed the cost of lessor gap insurance covering the  
47 retail lease transaction.

48 7. (a) If the lessee is obligated in connection with the lease to  
49 maintain liability insurance or insurance on the motor vehicle that is  
50 the subject of the agreement and if subsequent to the execution of the  
51 agreement the lessee fails to maintain the required insurance, the hold-  
52 er may make advances to procure the equivalent limits of insurance for  
53 either the interests of the lessee and the holder or the interest of  
54 either of them, and any amount so advanced may be the subject of a lease  
55 charge as though such amount was part of the initial lease value.

1 (b) If under subdivision two of section three hundred thirty-five of  
2 this article, the lessor waives its contractual right to hold the lessee  
3 liable for the gap amount, and lessor gap insurance coverage which the  
4 lessor or holder purchased in connection with the transaction subse-  
5 quently is terminated prior to the filing of a claim due to the insol-  
6 vency of the insurance company, notwithstanding the provisions of para-  
7 graph three of subsection (b) of section one thousand one hundred one of  
8 the insurance law the holder may make an advance to procure equivalent  
9 limits of lessor gap insurance covering the transaction and any amount  
10 so advanced may be the subject of a lease charge as though such amount  
11 [was] WERE part of the GROSS capitalized cost.

12 (c) Each amount so advanced shall be subject to the default provisions  
13 of the lease agreement if so provided in the agreement and if the holder  
14 notifies the lessee in writing of the advance of such amount and of his  
15 or her option to repay such amount in any one of the following ways:

16 (i) Full payment within ten days from the date of giving or mailing  
17 the notice;

18 (ii) Full amortization during the term of the insurance or the remain-  
19 ing term of the agreement, at the option of the holder;

20 (iii) If offered by the holder, as a final balloon payment payable one  
21 month after the last scheduled payment under the agreement;

22 (iv) If offered by the holder, full amortization after the term of the  
23 agreement, to be made in periodic payments which do not exceed the aver-  
24 age periodic payment under the agreement; or

25 (v) If offered by the holder, any other amortization plan.

26 If the lessee neither pays in full the amount so advanced nor notifies  
27 the holder in writing of his or her choice regarding the amortization  
28 options before the expiration of ten days from the date of giving or  
29 mailing the notice by the holder, the holder shall amortize the amount  
30 so advanced pursuant to subparagraph (ii) of paragraph (c) of this  
31 subdivision.

32 8. (a) The holder of a retail lease agreement may, if the agreement so  
33 provides, collect a delinquency and collection charge on each rental  
34 payment in default for a period not less than ten days in an amount not  
35 in excess of the amount or amounts agreed to in the agreement. In addi-  
36 tion to a delinquency and collection charge, the retail lease agreement  
37 may provide for the payment of reasonable attorneys' fees not exceeding  
38 fifteen percent of the amount due and payable under the agreement where  
39 the agreement is referred to an attorney not a salaried employee of the  
40 holder of the agreement for collection, plus the court costs.

41 (b) The holder may not assess or collect a delinquency and collection  
42 charge under paragraph (a) of this subdivision on a rental payment,  
43 which payment is otherwise a full payment for the applicable period and  
44 is paid within ten days after its scheduled or deferred due date, when  
45 the only delinquency is attributable to delinquency and collection  
46 charges assessed on an earlier rental payment or payments.

47 9. No retail lease agreement shall be signed by any party thereto when  
48 it contains blank spaces to be filled in after it has been signed except  
49 that, if delivery of the motor vehicle is not made at the time of the  
50 execution of the agreement, the identifying numbers or marks of the  
51 motor vehicle or similar information and the due date of the first  
52 payment may be inserted in the agreement after its execution. The  
53 lessee's written acknowledgment, conforming to the requirements of  
54 subdivision three of this section, of delivery of a copy of the agree-  
55 ment shall be conclusive proof of such delivery and of compliance with  
56 this subdivision in any action or proceeding by or against an assignee

1 of the agreement without knowledge to the contrary when he or she  
2 purchases the agreement.

3 10. No retail lease agreement shall contain any provision by which the  
4 lessee agrees not to assert against a holder a claim or defense or  
5 require or entail the execution of any note or series of notes which,  
6 when separately negotiated, will cut off as to third parties any right  
7 of action or defense which the lessee may have against the lessor. The  
8 holder of a retail lease agreement shall be subject to all claims and  
9 defenses of the lessee against the lessor arising from the lease  
10 notwithstanding any agreement to the contrary, but the holder's liabil-  
11 ity under this subdivision shall not exceed the amount owing to the  
12 holder at the time the claim or defense is asserted against the holder.  
13 The holder shall have recourse against the lessor to the extent of any  
14 liability incurred by the holder pursuant to this subdivision regardless  
15 of whether the assignment of the agreement was with or without recourse.

16 11. Notwithstanding any contrary provision of this chapter, the lien  
17 law, banking law or other law: (a) a person may purchase a retail lease  
18 agreement from a lessor on such terms and conditions and for such price  
19 as may be mutually agreed upon; and (b) no filing of the assignment, no  
20 notice to the lessee of the assignment, and no requirement that the  
21 lessor be deprived of dominion over payments upon the agreement or over  
22 the vehicle if repossessed by or returned to the lessor, shall be neces-  
23 sary to the validity of a written assignment of a retail lease agreement  
24 as against creditors, subsequent purchasers, pledgees, mortgagees or  
25 encumbrancers of the lessor.

26 12. Unless the lessee has notice of actual or intended assignment of a  
27 retail lease agreement, payment thereunder made by the lessee to the  
28 last known holder of such agreement shall be binding upon all subsequent  
29 holders or assignees. A notification which does not reasonably identify  
30 the rights assigned is ineffective. If requested by the lessee, the  
31 assignee shall furnish reasonable proof that the assignment has been  
32 made and unless he or she does so the lessee may pay the original  
33 lessor.

34 13. (a) Upon written request from the lessee, the holder of a retail  
35 lease agreement shall give or forward to the lessee a written statement  
36 of the dates and amounts of the rental payments that have been made  
37 under the agreement and the total amount of the remaining rental  
38 payments. A lessee shall be given a written receipt for any payment when  
39 made in cash.

40 (b) Upon written request from a lessee who is then entitled to termi-  
41 nate the agreement early, the holder of a retail lease agreement shall  
42 give or forward to the lessee a written statement of his or her gross  
43 early termination liability under the agreement.

44 14. No retail lease agreement shall contain any provision applicable  
45 to a natural person who leases a vehicle primarily for personal, family  
46 or household use by which:

47 (a) in the absence of the lessee's default, the holder may, arbitrar-  
48 ily and without reasonable cause, accelerate the maturity of any part or  
49 all of the amount owing thereon;

50 (b) a power of attorney is given to confess judgment, or an assignment  
51 of wages is given;

52 (c) the lessor or holder of the agreement or other person acting on  
53 his or her behalf is given authority to enter upon the lessee's premises  
54 unlawfully, or to commit any breach of the peace in the repossession of  
55 the motor vehicle;

(d) the lessee waives any right of action against the lessor or holder of the agreement, or other person acting on his or her behalf, for any illegal act committed in the collection of payments under the agreement or in the repossession of the motor vehicle;

(e) the lessee executes a power of attorney appointing the lessor or holder of the agreement, or other person acting on his or her behalf, as the lessee's agent in collection of payments under the agreement or in the repossession of the motor vehicle; provided, however, that this paragraph shall not prohibit the inclusion in a retail lease agreement of a limited power of attorney or other provision authorizing the holder to execute in the name of the lessee any proofs of insurance claims or losses or to endorse the name of the lessee on any insurance settlement draft or check;

(f) the lessor is relieved from liability for any legal remedy which the lessee may have had against the lessor under the agreement, or any separate instrument executed in connection therewith;

(g) the maturity of any part or all of the amount owing thereon is accelerated where, following a default consisting solely of the failure to make timely rental payments, a lessee who has the right to reinstate the agreement makes timely tender of an amount which would be sufficient to reinstate the agreement under paragraph [(i)] (D) of subdivision five of this section;

(h) the lessee waives any right to a trial by jury in any action or proceeding arising out of the agreement; or

(i) a lessee who is not in default of his or her obligations under the agreement would be prohibited from terminating the agreement at any time after the expiration of the first fifty percent of the total number of months of the lease term. The exercise of this right to terminate early voluntarily is contingent upon the lessee discharging fully his or her liability under the early termination provisions of the agreement.

15. Any such prohibited provision shall be void but shall not otherwise affect the validity of the agreement.

16. Where necessary to ensure consistency with the pronoun usage in the underlying agreement, any language required by this article to be used in connection with a required disclosure may be modified to refer to the lessee in the first person and the holder in the second person.

S 6. The personal property law is amended by adding three new sections 337-a, 337-b and 337-c to read as follows:

S 337-A. OTHER REQUIRED DISCLOSURES. 1. FOR ANY RETAIL LEASE AGREEMENT SUBJECT TO THIS ARTICLE, THE LESSOR SHALL PROVIDE THE FOLLOWING DISCLOSURES, PRIOR TO THE CONSUMMATION OF SUCH LEASE, TO BE SEGREGATED FROM THE LEASE AGREEMENT:

(A) AMOUNT DUE AT LEASE SIGNING. THE TOTAL AMOUNT TO BE PAID PRIOR TO OR AT CONSUMMATION, USING THE TERM "AMOUNT DUE AT LEASE SIGNING." THE LESSOR SHALL ITEMIZE EACH COMPONENT BY TYPE AND AMOUNT, INCLUDING ANY REFUNDABLE SECURITY DEPOSIT, ADVANCE MONTHLY OR OTHER RENTAL PAYMENT, AND CAPITALIZED COST REDUCTION. THE LESSOR SHALL ITEMIZE HOW THE AMOUNT DUE WILL BE PAID, BY TYPE AND AMOUNT, INCLUDING ANY NET TRADE-IN ALLOWANCE, REBATES, NONCASH CREDITS, AND CASH PAYMENTS.

(B) PAYMENT SCHEDULE AND TOTAL AMOUNT OF RENTAL PAYMENTS. THE NUMBER, AMOUNT, AND DUE DATES OR PERIODS OF PAYMENTS SCHEDULED UNDER THE LEASE AGREEMENT AND THE TOTAL AMOUNT OF THE RENTAL PAYMENTS.

(C) OTHER CHARGES. THE TOTAL AMOUNT OF OTHER CHARGES PAYABLE TO THE LESSOR, ITEMIZED BY TYPE AND AMOUNT, THAT ARE NOT INCLUDED IN THE RENTAL PAYMENTS. SUCH CHARGES INCLUDE, BUT ARE NOT LIMITED TO, THE AMOUNT OF ANY LIABILITY THE RETAIL LEASE AGREEMENT IMPOSES UPON THE LESSEE AT THE

1 END OF THE LEASE TERM; PROVIDED, HOWEVER, THAT THE POTENTIAL DIFFERENCE  
2 BETWEEN THE RESIDUAL AND REALIZED VALUES REFERRED TO IN PARAGRAPH (E) OF  
3 SUBDIVISION TWO OF THIS SECTION SHALL BE EXCLUDED FROM THIS REQUIREMENT.

4 (D) TOTAL OF PAYMENTS. THE TOTAL OF PAYMENTS, WITH A DESCRIPTION SUCH  
5 AS "THE AMOUNT YOU WILL HAVE PAID BY THE END OF THE LEASE". THIS AMOUNT  
6 IS THE SUM OF THE AMOUNT DUE AT LEASE SIGNING (LESS ANY REFUNDABLE  
7 AMOUNTS), THE TOTAL AMOUNT OF RENTAL PAYMENTS (LESS ANY PORTION OF THE  
8 RENTAL PAYMENT PAID AT LEASE SIGNING), AND OTHER CHARGES UNDER PARA-  
9 GRAPHS (A), (B), AND (C) OF THIS SUBDIVISION. IN AN OPEN-END LEASE, A  
10 DESCRIPTION SUCH AS "YOU WILL OWE AN ADDITIONAL AMOUNT IF THE ACTUAL  
11 VALUE OF THE VEHICLE IS LESS THAN THE RESIDUAL VALUE" SHALL ACCOMPANY  
12 THE DISCLOSURE.

13 (E) PAYMENT CALCULATION. A MATHEMATICAL PROGRESSION OF HOW THE SCHED-  
14 ULED RENTAL PAYMENT IS DERIVED WHICH SHALL CONTAIN:

15 (I) THE GROSS CAPITALIZED COST, INCLUDING A DISCLOSURE OF THE AGREED  
16 UPON VALUE OF THE VEHICLE, WITH A DESCRIPTION SUCH AS "THE AGREED UPON  
17 VALUE OF THE VEHICLE (STATE THE AMOUNT) AND ANY ITEMS YOU PAY FOR OVER  
18 THE LEASE TERM (SUCH AS SERVICE CONTRACTS, INSURANCE, AND ANY OUTSTAND-  
19 ING PRIOR LOAN OR LEASE BALANCE)", AND A STATEMENT OF THE LESSEE'S  
20 OPTION TO RECEIVE A SEPARATE WRITTEN ITEMIZATION OF THE GROSS CAPITAL-  
21 IZED COST. IF REQUESTED BY THE LESSEE, THE ITEMIZATION SHALL BE PROVIDED  
22 BEFORE CONSUMMATION;

23 (II) THE CAPITALIZED COST REDUCTION, WITH A DESCRIPTION SUCH AS "THE  
24 AMOUNT OF ANY NET TRADE-IN ALLOWANCE, REBATE, NONCASH CREDIT, OR CASH  
25 YOU PAY THAT REDUCES THE GROSS CAPITALIZED COST";

26 (III) THE ADJUSTED CAPITALIZED COST, WITH A DESCRIPTION SUCH AS "THE  
27 AMOUNT USED IN CALCULATING YOUR BASE (OR PERIODIC) RENTAL PAYMENT";

28 (IV) THE RESIDUAL VALUE, WITH A DESCRIPTION SUCH AS "THE VALUE OF THE  
29 VEHICLE AT THE END OF THE LEASE USED IN CALCULATING YOUR BASE (OR PERI-  
30 ODIC) RENTAL PAYMENT";

31 (V) THE DEPRECIATION AND ANY AMORTIZED AMOUNTS, WHICH IS THE DIFFER-  
32 ENCE BETWEEN THE ADJUSTED CAPITALIZED COST AND THE RESIDUAL VALUE, WITH  
33 A DESCRIPTION SUCH AS "THE AMOUNT CHARGED FOR THE VEHICLE'S DECLINE IN  
34 VALUE THROUGH NORMAL USE AND FOR ANY OTHER ITEMS PAID OVER THE LEASE  
35 TERM";

36 (VI) THE LEASE CHARGE, WITH A DESCRIPTION SUCH AS "THE AMOUNT CHARGED  
37 IN ADDITION TO THE DEPRECIATION AND ANY AMORTIZED AMOUNTS". THIS AMOUNT  
38 IS THE DIFFERENCE BETWEEN THE TOTAL OF THE BASE RENTAL PAYMENTS OVER THE  
39 LEASE TERM MINUS THE DEPRECIATION AND ANY AMORTIZED AMOUNTS;

40 (VII) THE TOTAL OF BASE RENTAL PAYMENTS, WITH A DESCRIPTION SUCH AS  
41 "DEPRECIATION AND ANY AMORTIZED AMOUNTS PLUS THE LEASE CHARGE";

42 (VIII) THE LEASE TERM, WITH A DESCRIPTION SUCH AS "THE NUMBER OF  
43 (PERIODS OF REPAYMENT) IN YOUR LEASE";

44 (IX) THE TOTAL OF THE BASE RENTAL PAYMENTS DIVIDED BY THE NUMBER OF  
45 PAYMENT PERIODS IN THE RETAIL LEASE AGREEMENT;

46 (X) AN ITEMIZATION OF OTHER CHARGES THAT ARE PART OF THE RENTAL  
47 PAYMENT; AND

48 (XI) THE SUM OF THE BASE RENTAL PAYMENTS AND ANY OTHER CHARGES THAT  
49 ARE PART OF THE RENTAL PAYMENT.

50 (F) EARLY TERMINATION NOTICE. A NOTICE SUBSTANTIALLY SIMILAR TO THE  
51 FOLLOWING: "EARLY TERMINATION. YOU MAY HAVE TO PAY A SUBSTANTIAL CHARGE  
52 IF YOU END THIS LEASE EARLY. THE CHARGE MAY BE UP TO SEVERAL THOUSAND  
53 DOLLARS. THE ACTUAL CHARGE WILL DEPEND ON WHEN THE LEASE IS TERMINATED.  
54 THE EARLIER YOU END THE LEASE, THE GREATER THIS CHARGE IS LIKELY TO BE."

55 (G) NOTICE OF WEAR AND USE STANDARD. A NOTICE REGARDING WEAR AND USE  
56 SUBSTANTIALLY SIMILAR TO THE FOLLOWING: "EXCESSIVE WEAR AND USE. YOU MAY

BE CHARGED FOR EXCESSIVE WEAR BASED ON OUR STANDARDS FOR NORMAL USE." SUCH NOTICE SHALL ALSO SPECIFY THE AMOUNT OR METHOD FOR DETERMINING ANY CHARGE FOR EXCESS MILEAGE.

(H) PURCHASE OPTION. A STATEMENT OF WHETHER OR NOT THE LESSEE HAS THE OPTION TO PURCHASE THE MOTOR VEHICLE AT THE END OF THE LEASE TERM AND, IF SO, THE PURCHASE PRICE AT THE END OF THE LEASE TERM.

(I) STATEMENT REFERENCING RETAIL LEASE AGREEMENT DISCLOSURES. A STATEMENT THAT THE LESSEE SHOULD REFER TO THE LEASE DOCUMENTS FOR ADDITIONAL INFORMATION ON EARLY TERMINATION, PURCHASE OPTIONS AND MAINTENANCE RESPONSIBILITIES, WARRANTIES, LATE AND DEFAULT CHARGES, AND INSURANCE, IF APPLICABLE.

(J) LIABILITY AT END OF LEASE TERM BASED ON RESIDUAL VALUE. IF THE RETAIL LEASE AGREEMENT IS AN OPEN-END LEASE, THE LEASE CHARGE AND OTHER CHARGES, PAID BY THE LESSEE AND REQUIRED BY THE LESSOR AS AN INCIDENT TO THE LEASE TRANSACTION, WITH A DESCRIPTION SUCH AS "THE TOTAL AMOUNT OF RENT AND OTHER CHARGES IMPOSED IN CONNECTION WITH YOUR LEASE (STATE THE AMOUNT)".

2. FOR ANY RETAIL LEASE AGREEMENT SUBJECT TO THIS ARTICLE, THE LESSOR SHALL PROVIDE THE FOLLOWING DISCLOSURES PRIOR TO THE CONSUMMATION OF THE RETAIL LEASE AGREEMENT TO BE GIVEN TO THE LESSEE TOGETHER WITH A DATED STATEMENT THAT IDENTIFIES THE LESSOR AND THE LESSEE. THE DISCLOSURES MAY BE MADE EITHER IN A SEPARATE STATEMENT THAT IDENTIFIES THE RETAIL LEASE AGREEMENT OR IN THE CONTRACT OR OTHER DOCUMENT EVIDENCING THE LEASE:

(A) A STATEMENT SPECIFYING WHETHER THE LESSOR OR THE LESSEE IS RESPONSIBLE FOR MAINTAINING OR SERVICING THE MOTOR VEHICLE, TOGETHER WITH A BRIEF DESCRIPTION OF THE RESPONSIBILITY;

(B) A STATEMENT OF THE LESSOR'S STANDARDS FOR WEAR AND USE (IF ANY), WHICH MUST BE REASONABLE;

(C) A STATEMENT REGARDING THE PURCHASE PRICE OR THE METHOD FOR DETERMINING THE PRICE AND WHEN THE LESSEE MAY EXERCISE THIS OPTION UPON EARLY TERMINATION OF A RETAIL LEASE AGREEMENT;

(D) A STATEMENT OF THE LESSEE'S LIABILITY, IF ANY, AT EARLY TERMINATION OR AT THE END OF THE LEASE TERM FOR THE DIFFERENCE BETWEEN THE RESIDUAL VALUE OF THE MOTOR VEHICLE AND ITS REALIZED VALUE;

(E) IF AN AGREEMENT IS TERMINATED EARLY AND THERE IS NO OPTION TO PURCHASE THE VEHICLE OR THE LESSEE DOES NOT EXERCISE ANY OPTION HE OR SHE MAY HAVE TO PURCHASE THE VEHICLE, OR IF THE LESSEE DOES NOT EXERCISE ANY OPTION HE OR SHE MAY HAVE TO PURCHASE THE VEHICLE AT THE SCHEDULED END OF AN OPEN-END LEASE, A STATEMENT THAT THE LESSEE MAY OBTAIN, AT THE LESSEE'S EXPENSE, A PROFESSIONAL APPRAISAL BY AN INDEPENDENT THIRD PARTY (AGREED TO BY THE LESSEE AND THE LESSOR) OF THE VALUE THAT COULD BE REALIZED AT SALE OF THE MOTOR VEHICLE IN ACCORDANCE WITH SECTION THREE HUNDRED FORTY OF THIS ARTICLE;

(F) A STATEMENT ABOUT A REBUTTABLE PRESUMPTION THAT, AT THE END OF THE LEASE TERM, THE RESIDUAL VALUE OF THE MOTOR VEHICLE IS UNREASONABLE AND NOT IN GOOD FAITH TO THE EXTENT THAT THE RESIDUAL VALUE EXCEEDS THE REALIZED VALUE BY MORE THAN THREE TIMES THE BASE RENTAL PAYMENT; AND THAT THE LESSOR CANNOT COLLECT THE EXCESS AMOUNT UNLESS THE LESSOR BRINGS A SUCCESSFUL COURT ACTION AND PAYS THE LESSEE'S REASONABLE ATTORNEY'S FEES, OR UNLESS THE EXCESS OF THE RESIDUAL VALUE OVER THE REALIZED VALUE IS DUE TO UNREASONABLE OR EXCESSIVE WEAR AND USE OF THE MOTOR VEHICLE (IN WHICH CASE THE REBUTTABLE PRESUMPTION DOES NOT APPLY);

(G) A STATEMENT PROVIDING THE TOTAL DOLLAR AMOUNT FOR ALL OFFICIAL AND LICENSE FEES, REGISTRATION, TITLE, OR TAXES REQUIRED TO BE PAID TO THE LESSOR IN CONNECTION WITH THE RETAIL LEASE AGREEMENT;



(H) A STATEMENT IDENTIFYING ALL EXPRESS WARRANTIES AND GUARANTEES FROM THE MANUFACTURER OR LESSOR WITH RESPECT TO THE MOTOR VEHICLE THAT APPLY TO THE LESSEE; AND

(I) A STATEMENT OF THE AMOUNT OR THE METHOD OF DETERMINING THE AMOUNT OF ANY PENALTY OR OTHER CHARGE FOR DELINQUENCY, OR LATE PAYMENTS, IN ACCORDANCE WITH PARAGRAPH (E) OF SUBDIVISION FIVE AND SUBDIVISION EIGHT OF SECTION THREE HUNDRED THIRTY-SEVEN OF THIS ARTICLE.

3. ADDITIONAL INFORMATION MAY BE PROVIDED WITH ANY DISCLOSURE NOT LISTED IN THIS SECTION, BUT SHALL NOT BE STATED, USED, OR PLACED SO AS TO MISLEAD OR CONFUSE THE LESSEE OR CONTRADICT, OBSCURE, OR DETRACT ATTENTION FROM ANY DISCLOSURE REQUIRED BY THIS SECTION.

4. IF AN AMOUNT OR OTHER ITEM NEEDED TO COMPLY WITH A REQUIRED DISCLOSURE IS UNKNOWN OR UNAVAILABLE AFTER REASONABLE EFFORTS HAVE BEEN MADE TO ASCERTAIN THE INFORMATION, THE LESSOR MAY USE A REASONABLE ESTIMATE THAT IS BASED ON THE BEST INFORMATION AVAILABLE TO THE LESSOR, IS CLEARLY IDENTIFIED AS AN ESTIMATE, AND IS NOT USED TO CIRCUMVENT OR EVADE ANY DISCLOSURES REQUIRED BY THIS SECTION.

5. IF A REQUIRED DISCLOSURE BECOMES INACCURATE BECAUSE OF AN EVENT OCCURRING AFTER CONSUMMATION, THE INACCURACY IS NOT A VIOLATION OF THIS SECTION IF THE HOLDER GIVES NOTICE TO THE LESSEE OF SUCH INACCURACY AND PROVIDES THE APPROPRIATE CORRECTION WITHIN A REASONABLE TIME AFTER THE INACCURACY IS DISCOVERED.

6. A LESSOR MAY DISREGARD THE EFFECTS OF THE FOLLOWING IN MAKING DISCLOSURES: (A) THAT PAYMENTS MUST BE COLLECTED IN WHOLE CENTS; (B) THAT DATES OF SCHEDULED PAYMENTS MAY BE DIFFERENT BECAUSE A SCHEDULED DATE IS NOT A BUSINESS DAY; (C) THAT MONTHS HAVE DIFFERENT NUMBERS OF DAYS; AND (D) THAT FEBRUARY TWENTY-NINE OCCURS IN A LEAP YEAR.

7. IF A LESSOR PROVIDES A PERCENTAGE RATE IN AN ADVERTISEMENT OR IN DOCUMENTS EVIDENCING THE RETAIL LEASE AGREEMENT, INCLUDING THOSE DISCLOSURES REQUIRED BY THIS SECTION, A NOTICE STATING THAT "THIS PERCENTAGE MAY NOT MEASURE THE OVERALL COST OF FINANCING THIS LEASE" SHALL ACCOMPANY THE RATE DISCLOSURE. THE LESSOR SHALL NOT USE THE TERM "ANNUAL PERCENTAGE RATE", "ANNUAL LEASE RATE", OR ANY EQUIVALENT TERM.

S 337-B. RIGHT OF CANCELLATION FORM. AT THE TIME A LESSEE SIGNS A RETAIL LEASE AGREEMENT SUBJECT TO THE TERMS OF THIS ARTICLE, A COMPLETED FORM IN DUPLICATE, CAPTIONED "NOTICE OF CANCELLATION", SHALL BE ATTACHED TO THE LEASE CONTRACT AND SHALL BE EASILY DETACHABLE, AND SHALL CONTAIN IN NOT LESS THAN TEN-POINT BOLD FACE TYPE THE FOLLOWING INFORMATION AND STATEMENTS IN THE SAME LANGUAGE, E.G., SPANISH, AS THAT USED IN THE LEASE AGREEMENT:

NOTICE OF CANCELLATION  
(ENTER DATE OF TRANSACTION)  
(DATE)

YOU MAY CANCEL THIS CONTRACT WITHIN THREE (3) BUSINESS DAYS AFTER THE DATE OF THIS CONTRACT WITHOUT PENALTY OR OBLIGATION, EXCEPT THAT THE LESSOR IS ENTITLED TO KEEP NO MORE THAN \$100 FROM ANY DOWN PAYMENT YOU HAVE PAID. IF YOU CANCEL, ANY ADDITIONAL PAYMENTS MADE BY YOU UNDER THE CONTRACT WILL BE RETURNED WITHIN TEN (10) BUSINESS DAYS FOLLOWING RECEIPT BY THE LESSOR OF THIS CANCELLATION NOTICE OR OTHER WRITTEN DOCUMENTATION WHICH INDICATES YOUR INTENTION NOT TO BE BOUND. TO CANCEL THIS TRANSACTION, YOU MUST EITHER: DELIVER THIS CANCELLATION NOTICE OR OTHER WRITTEN DOCUMENTATION WHICH INDICATES YOUR INTENTION NOT TO BE BOUND TO THE LESSOR IN PERSON OR MAIL, BY CERTIFIED OR REGISTERED UNITED STATES MAIL, A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR OTHER DOCUMENTATION TO THE LESSOR AT THE ADDRESS SPECIFIED HEREIN:

1 (NAME OF LESSOR) NOT LATER THAN (ENTER FINAL DATE)  
2 (ADDRESS OF LESSOR) (DATE)  
3 (CONSUMER SIGNATURE)

4 S 337-C. PLAIN LANGUAGE. 1. ANY RETAIL LEASE AGREEMENT ENTERED INTO  
5 PURSUANT TO THIS ARTICLE AND ITS SEGREGATED DISCLOSURES REQUIRED TO BE  
6 PROVIDED TO A LESSEE SHALL BE WRITTEN IN CLEAR AND UNDERSTANDABLE  
7 LANGUAGE INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING GUIDELINES:

8 (A) AN AGREEMENT MUST BE WRITTEN IN THE ACTIVE VOICE, WHERE PRACTICA-  
9 BLE;

10 (B) AN AGREEMENT MAY NOT USE LATIN OR OTHER FOREIGN WORDS (UNLESS  
11 REQUESTED BY THE CONSUMER OR OTHERWISE REQUIRED BY APPLICABLE LAW);

12 (C) IN INSTANCES WHEN AN AGREEMENT REFERS TO THE PARTIES ENTERING INTO  
13 THE RETAIL LEASE AGREEMENT, THE REFERENCE SHOULD USE PERSONAL PRONOUNS,  
14 THE ACTUAL OR SHORTENED NAMES OF THE PARTIES, OR THE TERMS "LESSOR" AND  
15 "LESSEE"; AND

16 (D) WHENEVER POSSIBLE, AN AGREEMENT MAY NOT USE SENTENCES WITH DOUBLE  
17 NEGATIVES OR EXCEPTIONS TO EXCEPTIONS.

18 2. ANY USE OF LANGUAGE REQUIRED, RECOMMENDED, OR APPROVED BY A FEDERAL  
19 OR NEW YORK STATE STATUTE, RULE, REGULATION, OR OFFICIAL INTERPRETATION  
20 OR THE USE OF MODEL FORMS REQUIRED, AUTHORIZED, APPROVED, OR RECOMMENDED  
21 BY FEDERAL OR NEW YORK STATE AUTHORITIES SHALL NOT CONSTITUTE A  
22 VIOLATION OF THIS SECTION.

23 3. NO PERSON, FIRM, PARTNERSHIP, CORPORATION, OR ASSOCIATION SHALL BE  
24 DEEMED TO HAVE VIOLATED THE PROVISIONS OF THIS SECTION, IF ANY OF THE  
25 FOLLOWING OCCURS:

26 (A) ALL PARTIES HAVE FULFILLED THEIR OBLIGATIONS UNDER THE AGREEMENT;

27 (B) THE LESSEE WROTE THE CONTRACT OR THE PROVISIONS THAT VIOLATE THIS  
28 SECTION;

29 (C) THE LESSOR MADE A GOOD FAITH AND REASONABLE EFFORT TO COMPLY WITH  
30 THIS SECTION. CORRECTION OF THE AGREEMENT OR THE PROVISIONS THAT VIOLATE  
31 THIS SECTION SHALL BE CONCLUSIVE EVIDENCE OF GOOD FAITH.

32 S 7. Section 340 of the personal property law, as added by chapter 1  
33 of the laws of 1994, is amended to read as follows:

34 S 340. Establishment of realized value at lease termination when  
35 purchase option not exercised; notice of intention to sell motor vehi-  
36 cle. 1. If an agreement is terminated early and there is no option to  
37 purchase the vehicle or the lessee does not exercise any option he or  
38 she may have to purchase the vehicle, or if the [lessee's liability at  
39 the scheduled end of the lease term is based upon the estimated residual  
40 value of the vehicle] RETAIL LEASE AGREEMENT IS AN OPEN-END LEASE and  
41 the lessee does not exercise any option he or she may have to purchase  
42 the vehicle, the holder shall act in a commercially reasonable manner  
43 when disposing of the vehicle or obtaining cash bids for the purpose of  
44 establishing the realized value of the vehicle, which may be its value  
45 in the customary wholesale market. A lessee whose agreement is termi-  
46 nated early without the exercise of a purchase option or whose [liabil-  
47 ity at the scheduled end of the lease term is based upon the estimated  
48 residual value of the vehicle] RETAIL LEASE AGREEMENT IS AN OPEN-END  
49 LEASE may obtain, at his or her expense, a professional appraisal by an  
50 independent third party agreed to by the lessee and the holder of the  
51 wholesale value which could be realized at sale of the leased vehicle.  
52 If a professional appraisal is obtained by such a lessee, the appraised  
53 value shall be final and binding upon the parties and shall be used as  
54 the realized value in determining the liability of the lessee at early  
55 termination or at the scheduled end of the lease term.

1 2. If an agreement is terminated early and there is no option to  
2 purchase the vehicle or the lessee does not exercise any option he or  
3 she may have to purchase the vehicle, or if [the lessee's liability at  
4 the scheduled end of the lease term is based upon the estimated residual  
5 value of the vehicle] THE RETAIL LEASE AGREEMENT IS AN OPEN-END LEASE  
6 and the lessee does not exercise any option he or she may have to  
7 purchase the vehicle, the holder shall give the lessee at least ten days  
8 written notice of its intention to sell the motor vehicle. A notice of  
9 intention to sell the vehicle need not be given if the holder and lessee  
10 have agreed in writing to the amount of the lessee's liability under the  
11 retail lease agreement after the lessee returns the vehicle to the hold-  
12 er or the lessee has fully satisfied his or her obligations under the  
13 agreement. A holder gives notice to the lessee under this subdivision  
14 when he or she delivers the notice to the lessee or mails the notice to  
15 him or her at his or her last known address.

16 3. The notice of intention to sell the vehicle shall set forth sepa-  
17 rately any charges or sums due under the agreement and shall clearly and  
18 conspicuously state that the lessee will be liable for the difference  
19 between the [estimated] residual value of the vehicle and its realized  
20 value, if such liability exists. The notice also shall state that the  
21 lessee has the right to submit a cash bid for the purchase of the vehi-  
22 cle. SUCH NOTICE SHALL NOTIFY THE LESSEE OF HIS OR HER RIGHT TO OBTAIN  
23 A PROFESSIONAL APPRAISAL BY A PARTY AGREED TO BY BOTH THE LESSEE AND THE  
24 HOLDER IN ORDER TO DETERMINE THE REALIZED VALUE OF THE MOTOR VEHICLE AND  
25 THAT ANY SUCH APPRAISAL WOULD BE BINDING.

26 S 8. Subdivision 2 of section 341 of the personal property law, as  
27 amended by chapter 140 of the laws of 1995, is amended to read as  
28 follows:

29 2. This section does not limit or restrict the manner of calculating  
30 the early termination liability of a lessee, whether by way of unamor-  
31 tized GROSS capitalized cost, discounted present value of remaining  
32 rental payments, multiples of monthly payments or otherwise, so long as  
33 the early termination liability of the lessee does not exceed that  
34 permitted by this section.

35 S 9. Section 343 of the personal property law, as amended by chapter  
36 111 of the laws of 1995, is amended to read as follows:

37 S 343. Assessment of excess wear and [damage] USE to the vehicle. 1.  
38 (a) Upon the scheduled termination of a retail lease agreement, the  
39 holder shall not charge, receive or collect a charge for excess wear and  
40 [damage] USE to the vehicle which exceeds: (i) the actual cost of  
41 repairs, reduced by all discounts, paid by the holder; or (ii) a true  
42 itemized estimate of the cost of such repairs by an appraiser licensed  
43 pursuant to section three hundred ninety-eight-d of the vehicle and  
44 traffic law selected by the holder, of the cost of such repairs.

45 (b) Upon early termination of a retail lease agreement, the holder  
46 shall not charge, receive or collect a charge for excess wear and  
47 [damage] USE to the vehicle which exceeds the actual costs of repairs,  
48 reduced by all discounts, paid by the holder.

49 2. [In order for a holder to impose a charge for excess wear and  
50 damage to a vehicle subject to a retail lease agreement, such agreement  
51 shall contain a clause describing the excess wear and damage to the  
52 vehicle for which the lessee may be liable. Such] THE holder shall, not  
53 more than forty days nor less than twenty days prior to the scheduled  
54 termination date, or, not more than ten business days after the date of  
55 an early termination of a lease agreement, mail or deliver to the lessee

1 a notice advising the lessee of the following rights and obligations of  
2 the parties, herein granted and imposed:

3 (a) Such notice shall include the following statement, as set forth  
4 herein, at the beginning of the notice in at least ten-point bold type:

5 "YOUR LEASE AGREEMENT ALLOWS (HOLDER) TO ASSESS A  
6 CHARGE FOR EXCESS WEAR AND [DAMAGE] USE TO THE VEHI-  
7 CLE. YOU SHOULD OBTAIN YOUR OWN EVIDENCE OF THE  
8 CURRENT CONDITION OF THE VEHICLE NOT MORE THAN TWEN-  
9 TY (20) DAYS PRIOR TO THE SCHEDULED TERMINATION OF  
10 YOUR LEASE. YOU ALSO WILL HAVE THE RIGHT TO SUBMIT  
11 DISPUTES TO THE ALTERNATE ARBITRATION MECHANISM  
12 ESTABLISHED UNDER REGULATIONS PROMULGATED BY THE NEW  
13 YORK STATE ATTORNEY GENERAL."

14 (b) In the case of a scheduled termination, of the lessee's right to  
15 turn the vehicle in with a copy of an itemized appraisal of excess wear  
16 and [damage] USE to the vehicle prepared by an appraiser licensed under  
17 section three hundred ninety-eight-d of the vehicle and traffic law,  
18 selected by the lessee and conducted not more than twenty days prior to  
19 the scheduled termination date;

20 (c) Of the right of the holder to, within thirty days after the date  
21 on which the vehicle comes into the actual physical possession of the  
22 holder, obtain a written itemized appraisal of excessive wear and  
23 [damage] USE to the vehicle prepared by an appraiser licensed under  
24 section three hundred ninety-eight-d of the vehicle and traffic law  
25 selected by the holder;

26 (d) That if the lessee had not previously obtained and submitted to  
27 the holder a written itemized appraisal on the lessee's own behalf in  
28 accordance with paragraph (b) of this subdivision, the lessee will have  
29 the greater of ten business days after the lessee has received or four-  
30 teen business days to do so after the holder has sent, in conformance  
31 with subdivision three of this section, an itemized bill for excess wear  
32 and [damage] USE and a copy of the itemized appraisal prepared on behalf  
33 of the holder, unless the lessee does not dispute any of the items  
34 contained therein. In the case where the holder bases the charge for  
35 excess wear and [damage] USE on the actual cost of repairs, the notice  
36 shall also inform the lessee that should the lessee fail to obtain an  
37 itemized written appraisal, he or she is entitled to dispute only wheth-  
38 er any items claimed exist and/or are excess wear and [damage] USE to  
39 the vehicle, but not the actual cost of making the repairs;

40 (e) That if the lessee disputes that any of the items claimed for  
41 excess wear and [damage] USE to the vehicle exist or are excessive in  
42 nature, the lessee may submit the dispute within sixty days of the date  
43 on which the vehicle comes into the actual physical possession of the  
44 holder to the holder's informal dispute settlement procedure, if any,  
45 or, upon the payment of the prescribed filing fee which is refundable if  
46 the arbitrator finds in the lessee's favor, to an alternative arbi-  
47 tration mechanism established under regulations promulgated by the  
48 attorney general of the state of New York;

49 (f) That if there exists a discrepancy between the itemized appraisals  
50 obtained by the holder and the lessee, if any, the holder shall submit  
51 the dispute within sixty days of the date on which the vehicle comes  
52 into the actual physical possession of the holder to the holder's  
53 informal dispute settlement procedure, if any, unless the lessee exer-  
54 cises the option granted by paragraph (b) of subdivision five of this  
55 section; provided, however, that in the event the holder has complied  
56 with the provisions of this subdivision, a lessee who has failed to

1 obtain an itemized appraisal of the excessive wear and [damage] USE to  
2 the vehicle in accordance with either paragraph (b) or (c) of this  
3 subdivision may dispute only the existence of any item or whether the  
4 wear is excessive in nature, but may not dispute the actual cost of  
5 repairs.

6 3. (a) Itemized bill. (i) In the event that the holder wishes to  
7 impose a charge for excess wear and [damage] USE to the vehicle, the  
8 holder shall send by registered mail or hand-deliver to the lessee a  
9 bill containing an itemized list of the estimated or actual cost of  
10 repairing or replacing each item as to which an excess wear and [damage]  
11 USE charge is claimed and specifying the address to which any response  
12 must be mailed. The bill shall be mailed or hand-delivered to the  
13 lessee within thirty days after the date on which the vehicle comes into  
14 the actual possession of the holder.

15 (ii) The itemized bill shall include the following statements printed  
16 in at least ten-point type: "You are being asked to pay an amount  
17 claimed for excess wear and [damage] USE to the vehicle. If you wish to  
18 contest this amount, you must obtain an itemized appraisal from an  
19 appraiser licensed by the New York State Department of Motor Vehicles,  
20 and mail or deliver a copy of such appraisal to (NAME AND ADDRESS OF  
21 HOLDER) within the greater of fourteen business days after (NAME OF  
22 HOLDER) has sent, or ten business days of receipt of this bill and (NAME  
23 OF HOLDER'S) itemized appraisal. If you fail to do so, you will forfeit  
24 your right to contest in arbitration any actual repair costs incurred by  
25 the (HOLDER) for excess wear and [damage] USE; however, you do not  
26 forfeit your right to contest the existence of any item or whether the  
27 wear is excessive in nature."

28 (iii) The itemized bill shall also notify lessees of their material  
29 rights and obligations for dispute resolution in arbitration.

30 (b) Itemized appraisal. (i) A holder who imposes a charge for excess  
31 wear and [damage] USE to the vehicle shall send by registered mail or  
32 hand-deliver, within thirty days after the date on which the vehicle  
33 comes into actual physical possession of the holder, a written itemized  
34 appraisal prepared by an appraiser licensed under section three hundred  
35 ninety-eight-d of the vehicle and traffic law. The appraisal shall be  
36 dated, signed by the holder or its agent, and identify by type each item  
37 of excess wear and [damage] USE.

38 (ii) The following notice shall be included at the beginning of the  
39 itemized appraisal prepared on behalf of the holder and furnished to the  
40 lessee,

41 "ALL ITEMS OF DAMAGE FOR WHICH A CHARGE FOR EXCES-  
42 SIVE WEAR OR [DAMAGE] USE WILL BE CLAIMED BY THE  
43 HOLDER MUST BE NOTED IN THIS APPRAISAL. IF YOU  
44 DISPUTE THE EXISTENCE OR NATURE OF ANY ITEM OF  
45 DAMAGE IDENTIFIED IN THIS NOTICE, YOU MAY SUBMIT THE  
46 DISPUTE TO THE ALTERNATE ARBITRATION MECHANISM  
47 ESTABLISHED UNDER REGULATIONS PROMULGATED BY THE NEW  
48 YORK STATE ATTORNEY GENERAL."

49 4. (a) The itemized bill and appraisal required by subdivision three  
50 of this section may be combined into a single document. Mere acknowl-  
51 edgement by the lessee of receipt of an itemized bill, an appraisal, or  
52 a combination of the two shall not operate as an admission of the exist-  
53 ence, nature or amount of any of the items therein.

54 (b) (i) The holder shall grant the lessee access to the vehicle at a  
55 reasonable time and place in order for the lessee to obtain an itemized  
56 appraisal on the lessee's own behalf. The holder shall not be required,

1 however, to deliver the vehicle to, or produce the vehicle at, a desti-  
2 nation designated by the lessee for such purpose. FOR THE PURPOSES OF  
3 THIS PARAGRAPH, A REASONABLE PLACE SHALL BE LIMITED TO TWENTY-FIVE MILES  
4 FROM THE LOCATION WHERE THE VEHICLE WAS SURRENDERED BY THE LESSEE AT THE  
5 TERMINATION OF THE LEASE.

6 (ii) A holder may not fail to provide, either intentionally or by  
7 actions or omissions, reasonable access to the vehicle by the licensed  
8 appraiser chosen by the lessee within the period during which a lessee  
9 must obtain and submit an appraisal. If the holder fails to so provide  
10 reasonable access to the vehicle, the holder shall be deemed to have  
11 forfeited its contractual right to charge, receive or collect any charge  
12 for excessive wear and [damage] USE to the vehicle from the lessee.

13 (c) A lessor or holder of a retail lease agreement shall not report an  
14 unsatisfied claim for excess wear and [damage] USE to a credit reporting  
15 agency as a derogatory item of information until: (i) the expiration of  
16 the time granted under article seventy-five of the civil practice law  
17 and rules for the filing of a petition to vacate or modify an  
18 arbitrator's award; (ii) the issue has been a subject of a final judg-  
19 ment; or (iii) where the holder and the lessee execute a settlement,  
20 thirty days after the date a payment is due under the settlement if no  
21 payment has been made.

22 5. (a) Arbitration and enforcement. If a holder has established or  
23 participates in an informal dispute settlement procedure which is  
24 consistent in all respects with the provisions of part seven hundred  
25 three of title sixteen of the code of federal regulations, any dispute,  
26 disparity or conflict between any appraisal report prepared by an  
27 appraiser licensed by the state department of motor vehicles on behalf  
28 of the holder and one prepared on behalf of the lessee shall be decided  
29 by such informal dispute settlement procedure. Holders utilizing  
30 informal dispute settlement procedures pursuant to this subdivision  
31 shall insure that the arbitrators participating in such informal dispute  
32 settlement procedures are familiar with the provisions of this section.

33 (b) Upon the payment of a prescribed filing fee, a [consumer] LESSEE  
34 shall have the option of submitting any dispute arising under this  
35 section to an alternate arbitration mechanism established pursuant to  
36 regulations to be promulgated hereunder by the attorney general. Upon  
37 application of the [consumer] LESSEE and payment of the filing fee, the  
38 holder shall submit to such alternate arbitration. Such alternate arbi-  
39 tration shall be conducted by a professional arbitrator or arbitration  
40 firm appointed by and under regulations established by the attorney  
41 general. Such alternate arbitration mechanism shall ensure the personal  
42 objectivity of its arbitrators and the right of each party to present  
43 its case, to be in attendance during any presentation made by the other  
44 party and to rebut or refute such presentation. In all other respects,  
45 such alternate arbitration mechanism shall be governed by article seven-  
46 ty-five of the civil practice law and rules. Holder or lessee shall have  
47 thirty days from the date of mailing of a copy of the arbitrator's deci-  
48 sion to such holder or lessee to comply with the terms of such decision.

49 (c) In no event shall any person who has participated in an informal  
50 dispute settlement procedure be precluded from seeking the rights or  
51 remedies available to such person under applicable law.

52 (d) Nothing in this section shall be deemed to prohibit: (i) the  
53 holder and the lessee from agreeing upon termination of the agreement to  
54 the payment by the lessee, in satisfaction of his or her obligation  
55 under the provisions of the agreement, of an amount which the lessor and  
56 the lessee agree is a reasonable figure to compensate for damage to the

1 vehicle RESULTING FROM EXCESSIVE WEAR AND USE; (ii) the holder from  
2 retaining any portion of a security deposit in satisfaction of amounts  
3 owed to the holder that are not attributable to excess wear and [tear]  
4 USE; or (iii) to restrict or otherwise regulate the assessment of charg-  
5 es for excess mileage.

6 (E)(I) NOTWITHSTANDING THE PROVISIONS OF SECTION THREE HUNDRED FIFTY  
7 OF THIS ARTICLE, FOR ANY RETAIL AGREEMENT WHICH DOES NOT CHARGE OR  
8 ASSESS A FEE FOR THE TERMINATION OF THE RETAIL LEASE AGREEMENT, OR FOR  
9 THE STORAGE, RETAKING, RE-REGISTRATION, PREPARING FOR SALE, OR SELLING  
10 OF A MOTOR VEHICLE, OR ANY OTHER FEE OR CHARGE WHICH IS RELATED TO THE  
11 TERMINATION OR DISPOSITION OF THE RETAIL LEASE AGREEMENT, A HOLDER AND  
12 LESSEE MAY AGREE TO WAIVE ANY OF THEIR RIGHTS UNDER THIS SECTION,  
13 PROVIDED THAT THE HOLDER AND LESSEE HAVE AGREED, PURSUANT TO SUBPARA-  
14 GRAPH (I) OF PARAGRAPH (D) OF THIS SUBDIVISION, TO AN AMOUNT REPRESENT-  
15 ING A REASONABLE FIGURE TO COMPENSATE THE HOLDER FOR DAMAGE TO THE VEHI-  
16 CLE RESULTING FROM EXCESS WEAR AND USE.

17 (II) SUCH AGREEMENT AND WAIVER SHALL INCLUDE THE FOLLOWING STATEMENT,  
18 AS SET FORTH HEREIN, AT THE BEGINNING OF THE AGREEMENT IN AT LEAST TEN-  
19 POINT BOLD TYPE: "(HOLDER) AND (LESSEE) AGREE THAT THE AMOUNT DUE FOR  
20 EXCESS WEAR AND USE TO THE VEHICLE SHALL BE (AGREED AMOUNT). THIS  
21 AGREEMENT SHALL CONSTITUTE A WAIVER OF RIGHTS UNDER SECTION 343 OF THE  
22 PERSONAL PROPERTY LAW, WHICH INCLUDE THE RIGHT FOR EACH PARTY TO OBTAIN  
23 SEPARATE APPRAISALS OF THE AMOUNT DUE AND HAVE ANY DISPUTES SUBMITTED TO  
24 AN ALTERNATE ARBITRATION MECHANISM."

25 S 10. Section 345 of the personal property law, as added by chapter 1  
26 of the laws of 1994 and subdivision 2 as amended by chapter 140 of the  
27 laws of 1995, is amended to read as follows:

28 S 345. Renegotiations and extensions. 1. A renegotiation is a new  
29 lease which is subject to the disclosure requirements of [section]  
30 SECTIONS three hundred thirty-seven AND THREE HUNDRED THIRTY-SEVEN-A of  
31 this article.

32 2. The disclosure requirements of [section] SECTIONS three hundred  
33 thirty-seven AND THREE HUNDRED THIRTY-SEVEN-A of this article are not  
34 applicable to any extension of a retail lease agreement. An extension of  
35 a retail lease agreement need not be signed contemporaneously by the  
36 holder and the lessee if the extension is transacted by mail, is for a  
37 period of [twenty-four] SIX months or less and is first signed by the  
38 holder prior to signature by the lessee.

39 S 11. Section 346 of the personal property law, as added by chapter 1  
40 of the laws of 1994 and subdivision 2 as amended by chapter 111 of the  
41 laws of 1995, is amended to read as follows:

42 S 346. Penalties. 1. A lessee who has suffered a loss due to a  
43 violation of any provision of this article by a lessor or holder is  
44 entitled to recover his or her actual damages from the lessor or holder;  
45 PROVIDED, HOWEVER, THAT A LESSEE WHO HAS SUFFERED A LOSS DUE TO A  
46 VIOLATION OF SECTION THREE HUNDRED THIRTY-SEVEN OR THREE HUNDRED THIR-  
47 TY-SEVEN-A OF THIS ARTICLE IS ENTITLED TO RECEIVE THE SUM OF: (I) HIS OR  
48 HER ACTUAL DAMAGES FROM THE LESSOR OR HOLDER; AND (II) TWENTY-FIVE PER  
49 CENTUM OF THE TOTAL AMOUNT OF MONTHLY PAYMENTS UNDER THE LEASE, EXCEPT  
50 THAT THE LIABILITY UNDER THIS CLAUSE SHALL NOT BE LESS THAN ONE HUNDRED  
51 DOLLARS NOR GREATER THAN ONE THOUSAND DOLLARS.

52 2. Any lessor who fails to refund any payment made pending the  
53 execution of a retail lease agreement within the time required by subdi-  
54 vision one of section three hundred thirty-four of this article shall be  
55 liable to the lessee for twice the amount of the payment not refunded  
56 within the time required.

1 3. Any lessor who fails to return a vehicle which the lessee left with  
2 the lessor pending the execution of a retail lease agreement, or who  
3 sells or transfers such a vehicle contrary to the provisions of subdivi-  
4 sion three of section three hundred thirty-four of this article, shall  
5 be liable to the lessee for the value of the vehicle traded-in and all  
6 costs and expenses incurred by the lessee because of the loss of the  
7 vehicle.

8 4. In an action in which it is determined that a lessor or holder has  
9 violated this article, the court shall award to the lessee a civil  
10 penalty of one hundred dollars.

11 5. (a) In an action in which it is determined that a lessor or holder  
12 has violated this article, the court also shall award to the lessee the  
13 costs of the action and to his or her attorneys their reasonable fees.  
14 In determining the award of attorney's fees, the amount of the recovery  
15 on the behalf of the lessee is not controlling.

16 (b) In an action for the recovery of an amount claimed for excess wear  
17 and [tear] USE, the court shall award to the lessee the costs of the  
18 action and to his or her attorneys their reasonable fees if the holder  
19 is awarded an amount less than an amount that the lessee offered, in  
20 writing and prior to the institution of the action, to pay in satisfac-  
21 tion of the contested portion of the amount claimed for excess wear and  
22 [tear] USE.

23 6. A violation of subdivision fourteen of section three hundred thir-  
24 ty-seven of this article is a deceptive trade practice under section  
25 three hundred forty-nine of the general business law.

26 7. Whenever there shall be a violation of this article an application  
27 may be made by the attorney general in the name of the people of the  
28 state of New York to a court or justice having jurisdiction by a special  
29 proceeding to issue an injunction, and upon notice to the defendant of  
30 not less than five days, to enjoin and restrain the continuance of such  
31 violations; and if it shall appear to the satisfaction of the court or  
32 justice that the defendant has, in fact, violated this [section]  
33 ARTICLE, an injunction may be issued by the court or justice, enjoining  
34 and restraining any further violations, without requiring proof that any  
35 person has, in fact, been injured or damaged thereby. In any such  
36 proceeding, the court may make allowances to the attorney general as  
37 provided in paragraph six of subdivision (a) of section eighty-three  
38 hundred three of the civil practice law and rules, and direct restitu-  
39 tion. Whenever the court shall determine in any such proceeding that a  
40 violation of this [section] ARTICLE has occurred, the court may impose a  
41 civil penalty of not more than five hundred dollars for each violation.  
42 In connection with any such proposed application the attorney general is  
43 authorized to take proof and make a determination of the relevant facts  
44 and to issue subpoenas in accordance with the civil practice law and  
45 rules.

46 8. (a) Notwithstanding the provisions of this section, and except as  
47 provided in subdivisions two and three of this section, any failure to  
48 comply with the substantive provisions of this article, EXCEPT SECTION  
49 THREE HUNDRED THIRTY-SEVEN-A OF THIS ARTICLE, may be corrected within  
50 sixty days after the holder is notified thereof in writing by the lessee  
51 or, in the absence of such notice, the lessor or holder may voluntarily  
52 correct any such failure to comply and, if so corrected, neither the  
53 lessor nor the holder shall be liable to a lessee for any penalty under  
54 this section. Within sixty days after discovering a violation of the  
55 disclosure provisions of this article, and prior to the institution of  
56 an action under this section or the receipt of written notice of the



1 violation from the lessee, the lessor or holder may correct the disclo-  
2 sure violation and, if so corrected, neither the lessor nor the holder  
3 shall be subject to any penalty under this section.

4 (b) Nothing in this subdivision shall be construed so as to nullify or  
5 impair the right of the attorney general to proceed, under subdivision  
6 seven of this section or subdivision twelve of section sixty-three of  
7 the executive law, against a lessor or holder who has violated this  
8 article.

9 9. A lessor or holder may not be held liable in an action brought  
10 under this article for a violation of this article that was uninten-  
11 tional and resulted from a bona fide error notwithstanding the mainte-  
12 nance of procedures reasonably adapted to avoid any such error. Examples  
13 of a bona fide error include, but are not limited to, clerical, calcu-  
14 lation, computer malfunction and programming, and printing errors,  
15 except that an error of legal judgment with respect to a person's obli-  
16 gations under this article is not a bona fide error.

17 10. An action shall not be brought under this article more than four  
18 years after the occurrence of the act, method or practice which is the  
19 subject of the action or more than one year after the last payment in a  
20 transaction involving the method, act or practice which is the subject  
21 of the action, whichever is later.

22 S 12. Section 396-p of the general business law, as added by chapter  
23 736 of the laws of 1978, is amended by adding two new subdivisions 2-a  
24 and 4-a to read as follows:

25 2-A. EVERY CONTRACT PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION ONE  
26 OF THIS SECTION SHALL CONTAIN A STATEMENT NOTIFYING THE CONSUMER OF HIS  
27 OR HER RIGHT TO CANCEL SUCH CONTRACT IN ACCORDANCE WITH SUBDIVISION  
28 FOUR-A OF THIS SECTION. A NOTICE SUBSTANTIALLY SIMILAR TO THE FOLLOWING  
29 NOTICE COMPLIES WITH REQUIREMENTS OF THIS SUBDIVISION: "NOTICE TO THE  
30 CONSUMER: YOU, THE BUYER, MAY CANCEL THIS CONTRACT WITHIN THREE (3)  
31 BUSINESS DAYS AFTER THE DATE OF THIS CONTRACT. SEE THE ATTACHED NOTICE  
32 OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT."

33 4-A. (A) IN ADDITION TO ANY OTHER RIGHTS TO REVOKE AN OFFER, THE  
34 CONSUMER MAY CANCEL A CONTRACT, WHETHER OR NOT SUCH CONSUMER HAS  
35 RECEIVED A COPY OF SUCH CONTRACT SIGNED BY THE RETAIL DEALER, UNTIL  
36 MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE ON WHICH THE CONSUMER  
37 SIGNED THE CONTRACT OR THE DATE ON WHICH THE RETAIL DEALER DELIVERED A  
38 COPY OF THE CONTRACT SIGNED BY HIM OR HER, WHICHEVER IS LATER. FOR  
39 PURPOSES OF THIS PARAGRAPH, CANCELLATION WILL BE DEEMED TO HAVE OCCURRED  
40 WHEN WRITTEN NOTICE OF CANCELLATION IS GIVEN TO THE RETAIL DEALER. IF  
41 GIVEN BY MAIL, A NOTICE OF CANCELLATION SHALL BE SENT BY CERTIFIED OR  
42 REGISTERED UNITED STATES MAIL AND SHALL BE DEEMED DELIVERED ON THE DATE  
43 OF THE POSTMARK. NOTICE OF CANCELLATION SHALL BE SUFFICIENT IF IT INDI-  
44 CATES THE INTENTION OF THE CONSUMER NOT TO BE BOUND. RETURN OF THE  
45 NOTICE OF CANCELLATION FORM PROVIDED PURSUANT TO PARAGRAPH (F) OF THIS  
46 SUBDIVISION BY THE LESSEE TO THE LESSOR IS SUFFICIENT TO COMPLY WITH THE  
47 REQUIREMENTS OF THIS SUBDIVISION.

48 (B) THE CONSUMER MAY, IN ORDER TO OBTAIN IMMEDIATE DELIVERY OF A MOTOR  
49 VEHICLE, WAIVE THE RIGHT TO CANCEL PROVIDED IN PARAGRAPH (A) OF THIS  
50 SUBDIVISION. SUCH WAIVER MUST BE WRITTEN AND CLEARLY INDICATE THE INTEN-  
51 TION OF THE CONSUMER TO WAIVE HIS OR HER RIGHT TO CANCEL THE CONTRACT.

52 (C) UNLESS THE CONSUMER WAIVES THE RIGHT TO CANCEL AS PROVIDED IN  
53 PARAGRAPH (B) OF THIS SUBDIVISION, THE RETAIL DEALER IS NOT REQUIRED TO  
54 DELIVER ANY MOTOR VEHICLE TO A CONSUMER UNTIL AFTER THE CLOSE OF BUSI-  
55 NESS ON THE THIRD BUSINESS DAY AFTER THE DAY ON WHICH THE CONSUMER OR  
56 RETAIL DEALER SIGNS A MOTOR VEHICLE INSTALMENT CONTRACT.

1 (D) FOR PURPOSES OF A CANCELLATION PURSUANT TO PARAGRAPH (A) OF THIS  
2 SUBDIVISION, IF A CONSUMER, PURSUANT TO AN AGREEMENT WITH THE RETAIL  
3 DEALER, REMOVES ANY TRADE-IN MOTOR VEHICLE FROM THE RETAIL DEALER'S LOT  
4 AFTER SIGNING A MOTOR VEHICLE CONTRACT OR OFFER, BUT BEFORE THE EXPIRA-  
5 TION FOR THE PERIOD OF TIME DURING WHICH THE CONSUMER HAS THE RIGHT TO  
6 CANCEL, THE RETAIL DEALER MAY REAPPRAISE THE VALUE OF THE TRADE-IN VEHI-  
7 CLE UPON ITS RETURN TO THE RETAIL DEALER IF THE VEHICLE IS IN A CONDI-  
8 TION THAT IS NOT SUBSTANTIALLY THE SAME AS WHEN IT WAS ORIGINALLY  
9 APPRAISED FOR TRADE-IN PURPOSES. HOWEVER, SUCH REAPPRAISAL SHALL  
10 NEITHER EXTEND THE CANCELLATION PERIOD PROVIDED FOR IN PARAGRAPH (A) OF  
11 THIS SUBDIVISION NOR ENTITLE THE CONSUMER TO ANOTHER SUCH CANCELLATION  
12 PERIOD.

13 (E) IF A CONSUMER CANCELS A CONTRACT PURSUANT TO THE PROVISIONS OF  
14 THIS SUBDIVISION: (I) THE RETAIL DEALER MAY RETAIN, FROM ANY CASH DOWN  
15 PAYMENT PAID BY THE CONSUMER TO THE RETAIL DEALER, COMPENSATION FOR  
16 CANCELLATION OF THE CONTRACT THAT SHALL NOT EXCEED ONE HUNDRED DOLLARS,  
17 BUT SHALL NOT IMPOSE ANY OTHER PENALTY OR OBLIGATION; AND (II) THE  
18 LESSOR SHALL REFUND TO THE LESSEE ANY PAYMENTS, LESS THOSE PROVIDED BY  
19 SUBPARAGRAPH (I) OF THIS PARAGRAPH, WITHIN TEN BUSINESS DAYS OF SUCH  
20 CANCELLATION.

21 (F) AT THE TIME A CONSUMER SIGNS A CONTRACT SUBJECT TO THE TERMS OF  
22 THIS SECTION, A COMPLETED FORM IN DUPLICATE, CAPTIONED "NOTICE OF  
23 CANCELLATION", SHALL BE ATTACHED TO THE CONTRACT AND SHALL BE EASILY  
24 DETACHABLE, AND SHALL CONTAIN IN NOT LESS THAN TEN-POINT BOLD FACE TYPE  
25 THE FOLLOWING INFORMATION AND STATEMENTS IN THE SAME LANGUAGE, E.G.,  
26 SPANISH, AS THAT USED IN THE CONTRACT:

27 NOTICE OF CANCELLATION  
28 (ENTER DATE OF TRANSACTION)  
29 (DATE)

30 YOU MAY CANCEL THIS CONTRACT WITHIN THREE (3) BUSINESS DAYS AFTER THE  
31 DATE OF THIS CONTRACT WITHOUT PENALTY OR OBLIGATION, EXCEPT THAT THE  
32 SELLER IS ENTITLED TO KEEP NO MORE THAN \$100 FROM ANY DOWN PAYMENT YOU  
33 HAVE PAID. IF YOU CANCEL, ANY ADDITIONAL PAYMENTS MADE BY YOU UNDER THIS  
34 CONTRACT WILL BE RETURNED WITHIN TEN (10) BUSINESS DAYS FOLLOWING  
35 RECEIPT BY THE SELLER OF THIS CANCELLATION NOTICE OR OTHER WRITTEN  
36 DOCUMENTATION WHICH INDICATES YOUR INTENTION NOT TO BE BOUND. TO CANCEL  
37 THIS TRANSACTION, YOU MUST EITHER: DELIVER THIS CANCELLATION NOTICE OR  
38 OTHER WRITTEN DOCUMENTATION WHICH INDICATES YOUR INTENTION NOT TO BE  
39 BOUND TO THE SELLER IN PERSON; OR MAIL, BY CERTIFIED OR REGISTERED  
40 UNITED STATES MAIL, A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE  
41 OR OTHER WRITTEN DOCUMENTATION TO THE SELLER AT THE ADDRESS SPECIFIED  
42 HEREIN:

43 (NAME OF SELLER) NOT LATER THAN (ENTER FINAL DATE)  
44 (ADDRESS OF SELLER) (DATE)  
45 (CONSUMER SIGNATURE)

46 S 13. The general business law is amended by adding a new section  
47 198-d to read as follows:

48 S 198-D. USED MOTOR VEHICLE SALES AGREEMENTS; REQUIRED CANCELLATION  
49 PROVISIONS. A. AS USED IN THIS SECTION, THE FOLLOWING WORDS SHALL HAVE  
50 THE FOLLOWING MEANINGS:

51 1. "CONSUMER" MEANS THE PURCHASER, OTHER THAN FOR THE PURPOSES OF  
52 RESALE, OF A USED MOTOR VEHICLE NORMALLY USED FOR PERSONAL, FAMILY, OR  
53 HOUSEHOLD PURPOSES AND SUBJECT TO A WARRANTY, AND THE SPOUSE OR CHILD OF  
54 THE PURCHASER IF SUCH MOTOR VEHICLE IS TRANSFERRED TO THE SPOUSE OR  
55 CHILD DURING THE DURATION OF ANY WARRANTY APPLICABLE TO SUCH MOTOR VEHI-

1 CLE, AND ANY OTHER PERSON ENTITLED BY THE TERMS OF SUCH WARRANTY TO  
2 ENFORCE THE OBLIGATIONS OF THE WARRANTY;

3 2. "USED MOTOR VEHICLE" MEANS A MOTOR VEHICLE, EXCLUDING MOTORCYCLES,  
4 MOTOR HOMES, AND OFF-ROAD VEHICLES, WHICH HAS BEEN PURCHASED OR TRANS-  
5 FERRED EITHER AFTER EIGHTEEN THOUSAND MILES OF OPERATION OR TWO YEARS  
6 FROM THE DATE OF ORIGINAL DELIVERY, WHICHEVER IS EARLIER; AND

7 3. "DEALER" HAS THE SAME MEANING AS PARAGRAPH THREE OF SUBDIVISION A  
8 OF SECTION ONE HUNDRED NINETY-EIGHT-B OF THIS ARTICLE.

9 B. IN ADDITION TO ANY OTHER RIGHTS TO REVOKE AN OFFER, A CONSUMER MAY  
10 CANCEL A CONTRACT FOR THE RETAIL SALE OF A MOTOR VEHICLE, WHETHER OR NOT  
11 SUCH CONSUMER HAS RECEIVED A COPY OF SUCH CONTRACT SIGNED BY THE DEALER,  
12 UNTIL MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE ON WHICH THE  
13 CONSUMER SIGNED THE CONTRACT OR THE DATE ON WHICH THE DEALER DELIVERED A  
14 COPY OF THE CONTRACT SIGNED BY HIM OR HER, WHICHEVER IS LATER. FOR  
15 PURPOSES OF THIS SUBDIVISION, CANCELLATION WILL BE DEEMED TO HAVE  
16 OCCURRED WHEN WRITTEN NOTICE OF CANCELLATION IS GIVEN TO THE DEALER. IF  
17 GIVEN BY MAIL, A NOTICE OF CANCELLATION SHALL BE SENT BY REGISTERED OR  
18 CERTIFIED UNITED STATES MAIL AND SHALL BE DEEMED DELIVERED ON THE DATE  
19 OF THE POSTMARK. NOTICE OF CANCELLATION SHALL BE SUFFICIENT IF IT INDI-  
20 CATES THE INTENTION OF THE CONSUMER NOT TO BE BOUND. RETURN OF THE  
21 NOTICE OF CANCELLATION FORM PROVIDED PURSUANT TO SUBDIVISION H OF THIS  
22 SECTION BY THE LESSEE TO THE LESSOR IS SUFFICIENT TO COMPLY WITH THE  
23 REQUIREMENT OF THIS SUBDIVISION.

24 C. THE CONSUMER MAY, IN ORDER TO OBTAIN IMMEDIATE DELIVERY OF A MOTOR  
25 VEHICLE, WAIVE THE RIGHT TO CANCEL PROVIDED IN SUBDIVISION B OF THIS  
26 SECTION. SUCH WAIVER MUST BE WRITTEN AND CLEARLY INDICATE THE INTENTION  
27 OF THE CONSUMER TO WAIVE HIS OR HER RIGHT TO CANCEL THE CONTRACT.

28 D. UNLESS THE CONSUMER WAIVES THE RIGHT TO CANCEL AS PROVIDED IN  
29 SUBDIVISION C OF THIS SECTION, THE DEALER IS NOT REQUIRED TO DELIVER ANY  
30 MOTOR VEHICLE TO A CONSUMER UNTIL AFTER THE CLOSE OF BUSINESS ON THE  
31 THIRD BUSINESS DAY AFTER THE DAY ON WHICH THE CONSUMER OR DEALER SIGNS A  
32 MOTOR VEHICLE INSTALMENT CONTRACT OR OTHER CONTRACT FOR THE RETAIL SALE  
33 OF A MOTOR VEHICLE.

34 E. FOR PURPOSES OF A CANCELLATION PURSUANT TO SUBDIVISION B OF THIS  
35 SECTION, IF A CONSUMER, PURSUANT TO AN AGREEMENT WITH THE DEALER,  
36 REMOVES ANY TRADE-IN MOTOR VEHICLE FROM THE DEALER'S LOT AFTER SIGNING A  
37 MOTOR VEHICLE CONTRACT OR OFFER, BUT BEFORE THE EXPIRATION OF THE PERIOD  
38 OF TIME DURING WHICH THE CONSUMER HAS THE RIGHT TO CANCEL, THE DEALER  
39 MAY REAPPRAISE THE VALUE OF THE TRADE-IN VEHICLE UPON ITS RETURN TO THE  
40 DEALER IF THE VEHICLE IS IN A CONDITION THAT IS NOT SUBSTANTIALLY THE  
41 SAME AS WHEN IT WAS ORIGINALLY APPRAISED FOR TRADE-IN PURPOSES. HOWEVER,  
42 SUCH REAPPRAISAL SHALL NEITHER EXTEND THE CANCELLATION PERIOD PROVIDED  
43 FOR IN SUBDIVISION B OF THIS SECTION NOR ENTITLE THE CONSUMER TO ANOTHER  
44 SUCH CANCELLATION PERIOD.

45 F. IF A CONSUMER CANCELS A CONTRACT PURSUANT TO THE PROVISIONS OF THIS  
46 SECTION: (I) THE DEALER MAY RETAIN, FROM ANY CASH DOWN PAYMENT PAID BY  
47 THE CONSUMER TO THE DEALER, COMPENSATION FOR CANCELLATION OF THE  
48 CONTRACT THAT SHALL NOT EXCEED ONE HUNDRED DOLLARS, BUT SHALL NOT IMPOSE  
49 ANY OTHER PENALTY OR OBLIGATION; AND (II) THE DEALER SHALL REFUND TO THE  
50 CONSUMER ANY PAYMENTS, LESS THOSE PROVIDED BY PARAGRAPH (I) OF THIS  
51 SUBDIVISION, WITHIN TEN BUSINESS DAYS OF SUCH CANCELLATION.

52 G. EVERY CONTRACT SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL  
53 CONTAIN A STATEMENT NOTIFYING THE CONSUMER OF HIS OR HER RIGHT TO CANCEL  
54 SUCH CONTRACT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. A  
55 NOTICE SUBSTANTIALLY SIMILAR TO THE FOLLOWING NOTICE COMPLIES WITH  
56 REQUIREMENTS OF THIS SUBDIVISION: "NOTICE TO THE CONSUMER: YOU, THE

1 BUYER, MAY CANCEL THIS CONTRACT WITHIN THREE (3) BUSINESS DAYS AFTER THE  
2 DATE ON THIS CONTRACT. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR  
3 AN EXPLANATION OF THIS RIGHT."

4 H. AT THE TIME A CONSUMER SIGNS A CONTRACT SUBJECT TO THE TERMS OF  
5 THIS SECTION, A COMPLETED FORM IN DUPLICATE, CAPTIONED "NOTICE OF  
6 CANCELLATION", SHALL BE ATTACHED TO THE CONTRACT AND SHALL BE EASILY  
7 DETACHABLE, AND SHALL CONTAIN IN NOT LESS THAN TEN-POINT BOLD FACE TYPE  
8 THE FOLLOWING INFORMATION AND STATEMENTS IN THE SAME LANGUAGE, E.G.,  
9 SPANISH, AS THAT USED IN THE CONTRACT:

10 NOTICE OF CANCELLATION

11 (ENTER DATE OF TRANSACTION)

12 (DATE)

13 YOU MAY CANCEL THIS CONTRACT WITHIN THREE (3) BUSINESS DAYS AFTER THE  
14 DATE OF THIS CONTRACT WITHOUT PENALTY OR OBLIGATION, EXCEPT THAT THE  
15 SELLER IS ENTITLED TO KEEP NOT MORE THAN \$100 FROM ANY DOWN PAYMENT YOU  
16 HAVE PAID. IF YOU CANCEL, ANY ADDITIONAL PAYMENTS MADE BY YOU UNDER THE  
17 CONTRACT WILL BE RETURNED WITHIN TEN (10) BUSINESS DAYS FOLLOWING  
18 RECEIPT BY THE SELLER OF THIS CANCELLATION NOTICE OR OTHER WRITTEN  
19 DOCUMENTATION WHICH INDICATES YOUR INTENTION NOT TO BE BOUND. TO CANCEL  
20 THIS TRANSACTION, YOU MUST EITHER: DELIVER THIS CANCELLATION NOTICE OR  
21 OTHER WRITTEN DOCUMENTATION WHICH INDICATES YOUR INTENTION NOT TO BE  
22 BOUND TO THE SELLER IN PERSON; OR MAIL, BY CERTIFIED OR REGISTERED  
23 UNITED STATES MAIL, A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE  
24 OR OTHER WRITTEN DOCUMENTATION TO THE SELLER AT THE ADDRESS SPECIFIED  
25 HEREIN:

26 (NAME OF SELLER)

NOT LATER THAN (ENTER FINAL DATE)

27 (ADDRESS OF SELLER)

(DATE)

28 (CONSUMER SIGNATURE)

29 S 14. This act shall take effect on the first of January next succeed-  
30 ing the date on which it shall have become a law.