

STATE OF NEW YORK

3704

2019-2020 Regular Sessions

IN SENATE

February 13, 2019

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to requirements for the use of plain language in consumer transactions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The closing paragraph of subdivision a of section 5-702 of
2 the general obligations law, as amended by chapter 484 of the laws of
3 2018, is amended to read as follows:

4 Any creditor, seller or lessor who fails to comply with this subdivi-
5 sion shall be liable to a consumer who is a party to a written agreement
6 governed by this subdivision in an amount equal to any actual damages
7 sustained plus a penalty of fifty dollars. The total class action penal-
8 ty against any such creditor, seller or lessor shall not exceed ten
9 thousand dollars in any class action or series of class actions arising
10 out of the use by a creditor, seller or lessor of an agreement which
11 fails to comply with this subdivision. No action under this subdivision
12 may be brought after both parties to the agreement have fully performed
13 their obligation under such agreement, nor shall any creditor, seller or
14 lessor who attempts in good faith to comply with this subdivision be
15 liable for such penalties. This subdivision shall not apply to a good
16 faith attempt to describe the constant yield or other method of deter-
17 mining the lease charge and depreciation portions of each base rental
18 payment under a lease of personal property. It also shall not apply to
19 agreements involving amounts in excess of ~~[one]~~ two hundred fifty thou-
20 sand dollars nor prohibit the use of words or phrases or forms of agree-
21 ment required by state or federal law, rule or regulation or by a
22 governmental instrumentality.

23 § 2. This act shall take effect on the one hundred eightieth day after
24 it shall have become a law and shall apply to any contract entered into
25 after such effective date; provided, however, that if chapter 484 of the
26 laws of 2018 shall not have taken effect on or before such date then
27 section one of this act shall take effect on the same date and in the
28 same manner as such chapter of the laws of 2018 takes effect.

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

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