# 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:**

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

Any creditor, seller or lessor who fails to comply with this subdivision shall be liable to a consumer who is a party to a written agreement governed by this subdivision in an amount equal to any actual damages sustained plus a penalty of fifty dollars. The total class action penalty against any such creditor, seller or lessor shall not exceed ten thousand dollars in any class action or series of class actions arising out of the use by a creditor, seller or lessor of an agreement which fails to comply with this subdivision. No action under this subdivision may be brought after both parties to the agreement have fully performed their obligation under such agreement, nor shall any creditor, seller or lessor who attempts in good faith to comply with this subdivision be liable for such penalties. This subdivision shall not apply to a good faith attempt to describe the constant yield or other method of determining the lease charge and depreciation portions of each base rental payment under a lease of personal property. It also shall not apply to agreements involving amounts in excess of [~~one~~] **two** hundred **fifty** thousand dollars nor prohibit the use of words or phrases or forms of agreement required by state or federal law, rule or regulation or by a governmental instrumentality.

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