STATE OF NEW YORK

2849--B

2021-2022 Regular Sessions

IN SENATE

January 26, 2021

Introduced by Sens. THOMAS, MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to restricting the repossession of motor vehicles and mobile homes for persons suffering financial hardship as a result of the COVID-19 pandemic

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

Section 1. For the purposes of this act, the following terms shall have the following meanings:

1. "Covered period" means March 7, 2020 until the later of December 31, 2021 or date on which none of the provisions that closed or otherwise restricted public or private businesses or places of public accommodation, or required postponement or cancellation of all non-essential gatherings of individuals of any size for any reason in Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.9, 202.10, 202.11, 202.12, 202.13, 202.15, as extended by Executive Orders 202.28 and 202.31 and as further extended by any future Executive Order, issued in response to the COVID-19 pandemic, continue to apply in the county of the qualified buyer's residence.

2. "Qualified buyer" means an individual (a) whose primary residence is located in New York and is encumbered by a vehicle-secured credit obligation, or (b) whose primary vehicle is used for transportation to work, school, or medical appointments and is encumbered by a vehicle-secured credit obligation.

3. "Holder of a retail instalment contract" shall have the same meaning as set forth in section 301 of the personal property law.

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

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4. "Financial hardship" means (a) significant loss of household income during the COVID-19 pandemic;

(b) increase in necessary out-of-pocket expenses related to performing essential work or related to health impacts during the COVID-19 pandemic;

(c) childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member during the COVID-19 pandemic have negatively affected the ability of holder of a retail instalment contract to obtain meaningful employment or earn income or increased necessary out-of-pocket expenses; or

(d) other circumstances related to the COVID-19 pandemic have negatively affected the ability to obtain meaningful employment or earn income or have significantly reduced household income or significantly increased expenses; and public assistance, including unemployment insurance, pandemic unemployment assistance, disability insurance, or paid family leave, does not fully make up for lost household income or increased expenses.

5. "Vehicle-secured credit obligation" means either a loan for personal, family, or household purposes that is secured by a mobile home or motor vehicle; or a retail instalment contract as defined in section 301 of the personal property law.

§ 2. 1. Notwithstanding any provision of law to the contrary, no creditor, or seller of a motor vehicle subject to a retail instalment contract shall repossess or otherwise take possession of a mobile home or motor vehicle of a qualified buyer for the duration of the covered period for failure of the qualified buyer to make payments if such person is experiencing financial hardship related to the COVID-19 public health emergency and is unable to make a loan or other agreed on payment for a vehicle-secured credit obligation.

2. A qualified buyer who is experiencing financial hardship as defined in this act shall make a written declaration to that fact and provide such declaration to the holder of a vehicle-secured credit obligation. A holder of a vehicle-secured credit obligation may request a qualified buyer submit a written declaration of hardship every 3 months.

3. No holder of a vehicle-secured credit obligation shall report any new adverse information that is a result of the COVID-19 public health emergency to any consumer reporting agency.

4. No holder of a vehicle-secured credit obligation shall assess any fees, penalties or additional interest on any vehicle-secured credit obligation for the duration of the covered period.

5. Upon expiration of the covered period, no holder of a vehicle-secured credit obligation shall require a lump sum payment or assess any fees, penalties or additional interest on any vehicle-secured credit obligation owed for the duration of the covered period. A holder of a vehicle-secured credit obligation shall shift the missed payments to the end of the scheduled term.

§ 3. This act shall take effect immediately.