

Maryland Considers Subjecting Certain Motor Vehicle Dealers to Maryland Credit Services Business Act and Proposes Regulation of Dealer Compensation

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On February 4, 2019, four senators introduced the Financial Consumer Protection Act of 2019 (Senate Bill 786). The Financial Consumer Protection Act of 2019 ("the Act") is wide-ranging legislation that, among other things, would:

- Impose new duties on mobile home retailers;
- Amend the Maryland Personal Information Protection Act;
- Create a new licensing and regulatory scheme for persons who provide currency exchange services; and
- Subject certain motor vehicle dealers to additional licensing under the Maryland Credit Services Businesses Act, require dealers to provide burdensome disclosures, and restrict dealer compensation.

In this alert, we focus on the provisions of the Act that would impact motor vehicle dealers.

The proposed Act would classify a motor vehicle dealer who "participates in finance charges associated with a contract for the sale of a vehicle by the dealer" as a "credit services business." For a complete definition of "credit services business," see Md. Code Ann., Com. Law § 14-1901(e). In addition to obtaining a license, a credit services business must enter into a contract with a consumer and must provide the consumer with an information statement that contains many disclosures that clearly should not apply to motor vehicle dealers.

The proposed Act would also require a dealer who participates in finance charges associated with a contract for the sale of a vehicle to disclose to the buyer in writing:

- All financing offers for which the buyer was approved, including the buy rate and the term in months for each offer; and
- Whether or not the dealer is being compensated for increasing the contract rate to a higher rate than the buy rate.

The disclosure regarding whether or not the dealer is being compensated for increasing the contract rate higher than the buy rate must include:

- The buy rate;
- The contract rate that the dealer is offering the consumer;
- The total amount of dealer compensation;
- The amount of the dealer compensation that is attributable to the difference between the buy rate and the contract rate; and
- The total amount that the consumer will owe during the term of the financing agreement that is a result of the total amount of dealer compensation and the amount of dealer compensation attributable to the difference between the buy rate and the contract rate.

In addition to the burdensome disclosure requirements placed on motor vehicle dealers, the proposed Act would also restrict dealer compensation. If a retail installment sale contract has an original scheduled term of up to 60 monthly payments, a dealer may not participate in finance charges that would result in a difference between the buy rate and the contract rate of more than 2 annual percentage rate points. If a retail installment sale contract has an original scheduled term of more than 60 monthly payments, a dealer may not participate in finance charges that would result in a difference between the buy rate and the contract rate of more than 1.5 annual percentage rate points.

The Act has been assigned to the Senate Finance Committee, but the Committee has not set a date for a hearing.

Senate Bill 786

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