SB 258

Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 258 (Senator Glassman)

Finance Economic Matters

Credit Regulation - Installment Loans Secured by Motor Vehicle Lien - Balloon Payments

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This bill alters the circumstances in which a credit grantor may require a consumer borrower to make a balloon payment at the maturity of an installment loan secured by a lien on a motor vehicle. In order for a credit grantor to require the balloon payment, the installment loan must (1) be secured by a lien on a passenger car or motorcycle; and (2) exceed $10,000 if for a motorcycle or $30,000 if for a passenger car.

The bill takes effect June 1, 2012.

Fiscal Summary

State Effect: The bill does not directly affect State governmental operation or finances.

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill defines “motorcycle” and “passenger car” as having the meaning stated in the Transportation Article.

In the Transportation Article, “motorcycle” means a motor vehicle that (1) has motive power; (2) has a seat or saddle for the use of the rider; (3) is designed to travel faster than 35 miles per hour on not more than three wheels touching the ground; and (4) is of a type required to comply with all motor vehicle safety standards applicable to motorcycles under federal law.

In the Transportation Article, "passenger" car means a motor vehicle, except a multipurpose passenger vehicle or motorcycle, designed for carrying 10 persons or less.

Current Law: A credit grantor may charge and collect interest on a loan at any interest rate specified in the loan agreement; however, the effective rate of simple interest cannot exceed 24% per year. The credit grantor of an installment loan secured by a first or secondary lien on residential real property may require the borrower to pay a balloon payment at maturity. A "balloon payment" is defined as any scheduled payment on an installment loan that is more than two times the average of all other scheduled payments. A balloon payment does not include a down payment.

For an installment loan secured by a secondary lien on residential real property, a consumer borrower may postpone the balloon payment one time for up to six months. The borrower is required to continue making installment payments in the required amount during the extension period and prior to maturity. The credit grantor may not impose any charges or fees as a result of allowing an extension period.

Chapters 632 and 633 of 2010 authorize a creditor grantor of an installment loan secured by a lien on a motor vehicle to require a consumer borrower to pay a balloon payment at maturity if the amount of the installment loan exceeds $30,000. "Motor vehicle" means a vehicle that is self-propelled or propelled by electric power obtained from overhead electrical wires and is not operated on rails. A low speed vehicle may be considered a motor vehicle.

A willful violation by any credit grantor or an officer or employee of the credit grantor is punishable as a misdemeanor, and upon conviction, the violator is subject to a fine of up to $1,000, imprisonment for up to one year, or both. Except for a bona fide error of computation, if a credit grantor commits a violation, the credit grantor may collect only the principal amount of the loan and may not collect any interest, costs, fees, or other charges. For a willful violation, a credit grantor must forfeit to the borrower three times the amount of interest, fees, and charges collected in excess of the authorized amount.

A credit grantor making a loan or extension of credit under the credit grantor closed-end credit provisions of the Commercial Law Article is subject to the licensing, investigatory, enforcement, and penalty provisions governing installment lending under the Financial Institutions Article. Unless otherwise exempt, a credit grantor who violates provisions of law governing installment loans is guilty of a misdemeanor and, upon conviction, is subject to a fine of up to $5,000, imprisonment for up to three years, or both.

Background: A balloon note motor vehicle loan allows a dealer to offer a consumer low monthly payments with a larger balloon amount due at the end of a specified period, typically 24 or 36 months.

A new hybrid form of motor vehicle financing involves a balloon note with a "walk away" feature that combines a traditional motor vehicle loan with elements of a lease agreement. In a "walk away" balloon note, the vehicle is titled in the consumer's name with the leasing company as the lien holder. At the end of the term set forth in the note, the consumer can return the vehicle to the dealer and owe nothing more, or the consumer can elect to purchase the motor vehicle at the agreed-upon price – the "balloon" amount due on the loan.

Under a traditional motor vehicle lease, if sales and personal property taxes are levied on the vehicle, the leasing company is responsible for those payments. Those costs are likely passed on to the consumer as part of the monthly lease payment. If the consumer purchases the vehicle at the end of a lease, the consumer must pay sales tax again on the residual value. Alternatively, a balloon note titles the vehicle in the consumer's name from the beginning of the agreement. In the event the consumer pays the balance of the balloon note and elects to keep the vehicle, duplicate taxes will not be paid.

Additional Information

Prior Introductions: None.

Cross File: HB 730 (Delegate Kramer) – Economic Matters.

Information Source(s): USAA Educational Foundation; Office of the Attorney General (Consumer Protection Division); Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; Department of Legislative Services

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