

Report of Committee of Conference

S.206

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon Senate Bill, entitled:

S.206. An act relating to business consumer protection for point-of-sale equipment leases.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 63, subchapter 9 is added to read:

Subchapter 9. Credit Card Terminal Finance Leases

§ 2482h. SOLICITATION; MATERIAL MISREPRESENTATION

(a) As used in this subchapter, “credit card terminal” means physical equipment used at the point of sale to accept payment by a payment card, including a credit card, debit card, EBT card, prepaid card, or gift card.

(b) A person who solicits a finance lease for the use of a credit card terminal shall accurately disclose, orally and in writing:

(1) the nature and scope of his or her relationship to the person or persons who own, lease, service, and finance the credit card terminal and to the

person or persons, if known, who provide services related to the credit card terminal, including whether he or she is an employee, independent contractor, or agent of one or more of those persons; and

(2) the terms of a finance lease and whether oral statements or commitments he or she makes to the prospective lessee while soliciting a finance lease are included in the terms of the finance lease and enforceable against a party to a finance lease.

§ 2482i. CREDIT CARD TERMINAL; FINANCE LEASE PROVISIONS

The following provisions apply to a finance lease for the use of a credit card terminal:

(1) Plain language. The party primarily responsible for drafting the finance lease shall use plain language designed to be understood by ordinary consumers, presented in a reasonable format, typeface, and font.

(2) Finance lease; costs; disclosure. The finance lease shall specify:

(A) the terms of the finance lease;

(B) the total price of the finance lease;

(C) the total monthly payment due, including any recurring monthly fees or charges;

(D) any other penalties, charges, or fees and the conditions under which they may be incurred;

(E) whether the consumer has the option to purchase the credit card terminal and if so, the purchase price and terms; and

(F) if the lessor does not offer the option to purchase the credit card terminal, a disclaimer that the lessee may be able to purchase the same or a similar credit card terminal from another source.

(3) Relationship to bundled processing services and fees.

(A) If the lessor of a credit card terminal or an affiliated business offers to deliver services for the terminal, including credit card processing services, the delivery of services shall be the subject of a service agreement between the service provider and the consumer that is separate from the finance lease.

(B) The service agreement shall specify:

(i) the terms governing the delivery of services;

(ii) the total price for the services;

(iii) the total monthly payment due, including any recurring monthly fees or charges, for the services;

(iv) any other penalties, charges, or fees and the conditions under which they may be incurred.

(C) If the lessor or its affiliated business offers a discount for bundling the credit card terminal finance lease with the delivery of services, the lessor shall separately state in the finance lease and the service agreement

the information required in subdivisions (2) and (3)(B) of this section for each bundled and unbundled package offered.

(4) Contact information. The finance lease shall clearly and conspicuously identify the lessor of the credit card terminal and the name, mailing address, telephone number, email address or website, and relationship to the lessor of:

(A) the person to whom the lessee is required to make payments for the credit card terminal;

(B) the person whom the lessee should contact with questions or problems concerning the credit card terminal;

(C) the person to whom the lessee should deliver the credit card terminal for return or repair; and

(D) the sales representative or other person acting with actual or apparent authority on behalf of the lessor to solicit the finance lease.

(5) Prohibited provisions.

(A) If the judicial forum chosen by the parties to the lease is a forum that would not otherwise have jurisdiction over the lessee, the choice is not enforceable.

(B) A lessor shall not collect any charge or fee for business personal property tax on the credit card terminal unless the tax is actually imposed.

(6) Duty to retain and provide finance lease; right to cancel.

(A) A lessor shall provide a copy of the executed finance lease to the lessee and shall retain a written or electronic copy of the finance lease for not less than four years after the lease terminates.

(B) A lessee shall have the right to cancel a finance lease not later than 45 days after the lessor provides a copy of the executed finance lease to the lessee.

(C) If the lessee exercises his or her right to cancel:

(i) the lessor may retain any payments made by the lessee after the lessor delivered a copy of the executed finance lease;

(ii) the lessor may impose a reasonable cancellation fee, not to exceed the total monthly payment amount specified in subdivision (2)(C) of this section.

§ 2482j. VIOLATIONS

A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

COMMITTEE ON THE PART OF
THE SENATE

SEN. DAVID J. SOUCY

SEN. CHRISTOPHER A. PEARSON

SEN. PHILIP. E. BARUTH

COMMITTEE ON THE PART OF
THE HOUSE

REP. MICHAEL J. MARCOTTE

REP. MATTHEW HILL

REP. AMY D. SHELDON