

INDEX

ADVERTISING

- Affirmative disclosure, § 57
- Background information, §§ 41, 42
- Bait and switch, § 48
- Children's advertising, regulation, § 43
- Cigarettes,
 - Federal regulation, § 52
 - Warnings required, § 52
- Commercial speech, constitutional protection, § 44
- Corrective advertising, § 58
- Credit, § 53
 - Generally, §§ 301-310
 - "Advertisement" defined, §§ 302, 397
 - Bait advertising, § 304
 - Catalogs, § 309
 - "Clear and conspicuous" standard, § 301
 - Closed-end credit rates, § 305
 - Enforcement of Truth in Lending advertising provisions, § 310
 - Leases of personal property, § 397
 - Multiple-page advertisements, § 309
 - Partial disclosure of credit terms, §§ 306-308
 - Persons regulated, § 303
 - "Triggering" terms, §§ 306-308, 397
- Deception, standard, § 45
- Endorsements and testimonials, § 49
- False advertising, defined, § 45
- Federal Trade Commission Regulation, generally, § 43
- First Amendment, effect, § 44
- Guarantees, § 50
- Psychological influences, § 42
- Puffing, § 47
- Remedies for unlawful advertising,
 - Generally, §§ 54-62
 - Consumer Redress,
 - Generally, § 60
 - Action under State Consumer Protection Acts, § 61
 - Class actions, § 62
 - FTC Procedure,
 - Generally, § 54
 - Advertising substantiation, § 56
 - Affirmative disclosure, § 57
 - Corrective advertising, § 58
 - Court action, § 54
 - Injunctive relief, § 55
 - State Action,
 - Generally, § 59
 - Criminal statute, § 59
- Substantiation requirement, § 56
- TV mockups, § 51
- Unfairness, standard, § 46
- Warranties, § 50
 - Generally, § 223

INDEX

ADVERTISING—Continued

“Basis of the bargain” test, § 225

CASH DISCOUNT ACT

See Credit Cards

CATALOG SALES

Warranties, § 215

CAVEAT EMPTOR

See Unconscionability; Warranties

CONDOMINIUM ACT

See Unconscionability

CONSUMER CREDIT

See also Credit Cards, Truth In Lending
Federal consumer credit law, survey of, § 272
Relationship between federal and state law, generally, § 274
State consumer credit law, survey of, § 273
Unconscionability of credit provisions, § 196

CONSUMER CREDIT PROTECTION ACT

See Truth In Lending

CONSUMER LEASING ACT

See Leases of Personal Property

CONSUMER PROTECTION ACTS

Deception,

Federal Trade Commission Act,
Established policy, § 127
1983 policy statement, § 127

Prohibited conduct,
Advertising, § 129
Nondisclosure of material facts, § 131
Pricing, § 129
Retail inducements, § 130

State Interpretations, § 128

Federal Trade Commission Act,
Background, § 101
Enforcement, §§ 149–153
Exemptions, § 112
Jurisdiction, § 108
Preemption of state law, § 117

Model Acts,

Generally, § 102
Consumer Fraud Acts, § 107
National Consumer Act, § 105
Unfair Trade Practices and Consumer Protection Act, § 106
Uniform Consumer Sales Practices Act, § 104
Uniform Deceptive Trade Practices Act, § 103

State Acts,

Exemptions,
Conformitory conduct, § 115
Interstate businesses, § 116
Particular industries, § 113
Regulated industries, § 114

Jurisdiction,
Consumer transactions, § 110
Private sales, § 109

INDEX

CONSUMER PROTECTION ACTS—Continued

- Public interest, § 111
- Solicitations, § 110
- Trade or commerce, § 109
- Official enforcement,
 - Generally, § 154
 - Assurance of voluntary compliance, § 156
 - Civil investigative demand, § 156
 - Civil penalties, § 159
 - Criminal prosecution, § 162
 - Injunctive relief, § 157
 - Investigational devices, § 156
 - License revocation, § 161
 - Receivership, § 160
 - Regulations, § 155
 - Restitution for consumers, § 158
- Preemption by federal law, § 117
- Preemption by another state law, § 118
- Private enforcement,
 - Attorney's fees,
 - Generally, § 148
 - Award to prevailing party, § 148
 - Criteria for amount awarded, § 148
 - Discretionary award, § 148
 - Mandatory award, § 148
 - Class actions, § 138
 - Consumer's Action,
 - Generally, § 133
 - Implied, § 133
 - Damages,
 - Actual, § 140
 - Compensatory, § 140
 - Cost of repairs, § 140
 - Mandatory award of multiple damages, § 142
 - Mental anguish, § 140
 - Minimum, § 141
 - Misrepresentation, § 140
 - Multiple, §§ 142–144
 - Procedural conditions for awarding multiple damages, § 144
 - Punitive, § 145
 - Statutory, § 141
 - Wilfulness as condition for awarding multiple damages, § 143
 - Equitable relief, § 146
 - Injunctive relief, § 146
 - Prerequisites,
 - Consumer status, § 135
 - Demand letter, § 134
 - Emotional distress, § 136
 - Injury or damage, § 136
 - Loss of money or property, § 136
 - Necessity of purchase, § 135
 - Notice, § 134
 - Proof of violations, § 137
 - Restitution, § 147
 - Statute of limitations, § 139
- Unfairness,
 - Federal Trade Commission Act, §§ 119–120
 - Prohibited conduct,
 - Adhesion contracts, § 126
 - Coercion, § 124

INDEX

CONSUMER PROTECTION ACTS—Continued

- Failure to deliver goods, § 126
- Failure to honor revocation of acceptance, § 126
- Failure to return deposit, § 126
- Misrepresentations, § 132
- Nondisclosure of material facts, § 122
- Overreaching vulnerable consumers, § 125
- Suit in inconvenient forum, § 126
- Unlawful repossession, § 126
- Unsubstantiated advertising claims, § 123
- State interpretations, § 121
- Warranty enforcement, §§ 242, 251

CONSUMER REPORTS

See Credit Reports

CONTRACT LAW

- Acceptance, § 3
- Adhesion contracts, § 5
- Advertising as offer, § 2
- Bilateral contract, § 3
- Breach of contract,
 - Damages at common law, § 26
 - Compensatory damages, § 26
 - Consequential damages, § 26
 - Liquidated damages, § 26
 - Reliance damages, § 26
 - Damages under U.C.C., § 27
 - Remedies, §§ 26–29
 - Restitution, § 29
 - Specific enforcement, § 28
- Capacity to contract,
 - Generally, § 22
- Intoxication, § 25
- Mental disability, § 24
- Minority, § 23
- Consideration,
 - Building and construction cases, § 6
 - Pre-existing duty rule, § 6
 - Under common law, § 6
 - Under U.C.C., § 7
 - Firm offers, § 7
 - Inadequate amount, § 7
 - Modification, § 7
 - Sealed instruments, § 7
- Detrimental reliance, § 8
- Formation, §§ 1–5
- Formation under U.C.C., § 4
- Mutual assent, § 2
- Offer, § 2
- Parol Evidence Rule,
 - At common law, § 20
 - Effect of integration or merger clause, § 20
 - Fraud exception, § 20
 - Under U.C.C., § 21
- Promissory estoppel, § 8
- Standard form contracts, § 5
- Statute of Frauds,
 - Generally, §§ 9–19
 - Common Law Rule, §§ 10–12

INDEX

CONTRACT LAW—Continued

- Effect of noncompliance, § 12
- Part performance, § 12
- Subject matter, § 10
- Sufficiency of memorandum, § 11
- Subject matter,
 - Contract not to be performed within year, § 10
 - Promise to answer for debt of another, § 10
 - Sale of land, § 10
- U.C.C. Rule,
 - Generally, § 13
 - Admissions exception, § 18
 - Confirmatory memorandum exception, § 15
 - Estoppel exception, § 19
 - Partial performance exception, § 16
 - Sale of goods, § 14
 - Specially manufactured goods exception, § 17
- Unilateral contract, § 3

CREDIT CARDS

- See also Truth in Lending
- Generally, §§ 341–370
- Annual fees for use of, § 344
- Authorized use,
 - Burden of proof, § 358
 - Liability for, § 346
- “Authorized user,” § 342
- Business credit cards, § 361
- Cash advances, § 341
- Cash Discount Act, § 345
- Credit slips, § 360
- Criminal sanctions, § 363
- Defenses against card issuer,
 - Generally, §§ 347–350, 594
 - Federal defense-preservation statute, § 348
 - Relationship between defense-preservation and billing error statutes, § 349
 - State defense-preservation statutes, § 350
- Definitions,
 - “Accepted credit card,” § 353
 - “Adequate notice,” § 356
 - “Credit card,” § 341
 - “Creditor,” § 362
 - “Renewal” of credit card, § 342
 - “Substitution” of credit card, § 342
- Discount for cash, § 345
- Employees’ liability, § 361
- Enforcement, §§ 362, 363
- Fixed fees for use of, § 344
- Mail orders, § 354
- Nature of credit card transaction, § 341
- Offset of cardholder’s debt, § 359
- Refunds in credit card transactions, § 360
- Refusal to honor, liability for, § 343
- Remedies, § 362
- Surcharge for use of, § 345
- Telephone orders, § 354
- Termination of account, §§ 343, 359
- Unauthorized use, liability for,
 - Generally, §§ 351–357
 - Adequacy of notice to card issuer, § 357

INDEX

CREDIT CARDS—Continued

- Burden of proof, § 358
- Business credit cards, § 361
- Federal statute, § 351
- Identification of user, § 354
- Maximum liability, § 351
- Notification procedures, § 356
- Warning by card issuer of potential liability, § 355
- What constitutes, § 352
- Unsolicited distribution, § 342

CREDIT INSURANCE

- Consumer remedies,
 - Generally, § 574
 - Action under State Consumer Protection Laws, § 577
 - Breach of fiduciary duty, § 576
 - Truth in lending violations, § 575
- Coverage,
 - Failure to procure, § 573
 - Nature, § 561
 - Purpose, § 561
 - Types,
 - Accident and health, § 562
 - Disability, § 562
 - Liability, § 562
 - Life, § 562
 - Property, § 562
- Creditor practices,
 - Generally, § 566
 - Coercion, § 571
 - Deception, § 571
 - Excessive premiums, § 569
 - Failure to procure coverage, § 573
 - Overinsurance, § 567
 - Pyramiding, § 568
 - Refunds, § 570
 - Reverse competition, § 569
 - Tie-in arrangements, § 572
- Disclosure requirement,
 - Federal, § 564
 - State, § 565
- Model Act, National Association of Insurance Commissioners, § 563
- State regulation, generally, § 563
- Uniform Consumer Credit Code, § 563

CREDIT REPORTS

- Common law protection, § 532
- Fair Credit Reporting Act,
 - Administrative Enforcement, § 557
 - Civil Liability,
 - Damages, §§ 551, 552
 - Limitation on common law liability, § 555
 - Negligent violations, § 552
 - Reasonable procedures by agency, § 553
 - Reasonable procedures by user, § 554
 - Willful violations, § 551
 - Consumer Report,
 - Accurate reporting required, § 541
 - Defined, § 538
 - Exceptions, § 539

INDEX

CREDIT REPORTS—Continued

- False pretenses, § 540
- Obsolete information, § 542
- Permissible purposes, § 540
- Public record information requirements, § 543
- Relevancy requirement absent, § 545
- Consumer Rights,
 - Access to agency files, § 549
 - Correction of inaccurate reports, § 550
- Criminal liability, § 556
- Deficiencies, § 534
- Definitions,
 - "Consumer Report," § 538
 - "Consumer Reporting Agency," § 537
 - "Investigative Consumer Report," § 538
- Federal Trade Commission,
 - Enforcement, § 557
- Investigative Consumer Report,
 - Defined, § 538
 - Exceptions, § 539
 - User's Notice Requirement, § 548
 - Verification requirements, § 544
- Preemption of state law, § 536
- User's notice requirements,
 - Adverse action taken, §§ 546, 547
 - Investigative consumer report requested, § 548
- Federal regulation, generally, § 533
- Industry background, § 531
- State regulation,
 - Generally, § 534
- Comparison with Fair Credit Reporting Act,
 - Generally, § 535
 - Agency disclosures, § 535
 - Civil liability, § 535
 - Contents of reports, § 535
 - Correction of inaccuracies, § 535
 - Issuance of report, § 535
 - Reports covered, § 535
 - User disclosures, § 535
- Preemption by Federal Fair Credit Reporting Act, § 536

DEBT COLLECTION

- Attachment, § 660
- Common Law Action,
 - Generally, § 676
- Defamation, § 680
- Intentional infliction of emotional distress, § 677
- Interference with contractual relations, § 681
- Invasion of privacy, § 678
- Misuse of legal process, § 679
- Communicating with Consumer,
 - Generally, § 637
 - At work, § 639
 - Represented by attorney, § 638
 - Right to stop communications, § 640
- Communicating with consumer's employer, § 642
- Communicating with consumer's parent, § 641
- Communicating with consumer's spouse, § 641
- Confession of judgment, § 664
- Credit Practices Rule, § 628

INDEX

DEBT COLLECTION—Continued
Deception, see Misrepresentation
Default judgment, generally, § 665
Deficiency judgment, § 667
Execution of judgment, § 668
Extrajudicial collection tactics, generally, § 635
Fair Debt Collection Practices Act,
 Administrative enforcement, § 626
 Background, § 621
 Collectors Covered,
 Creditor-affiliated collectors, § 623
 Creditors, § 623
 Independent collectors, § 623
 Other collectors, § 623
 Communicating with consumer,
 Generally, § 637
 At work, § 639
 Represented by attorney, § 638
 Right to stop communications, § 640
 Communicating with consumer's employer, § 642
 Communicating with consumer's parent, § 641
 Communicating with consumer's spouse, § 641
 "Debt Collector," defined, § 623
 Debts covered, § 622
 Federal Trade Commission,
 Enforcement duties, § 626
 Forum abuse, § 666
 General requirements, § 625
 Harassment,
 Generally, § 644
 "Deadbeat" list, § 647
 Obscene, profane or abusive language, § 646
 Publication of debt, § 647
 Telephone excesses, § 648
 Threats, § 645
 Location information about consumer, § 643
 Misrepresentation,
 Generally, § 649
 Available legal remedies, § 653
 Collector's name and affiliations, § 650
 Required disclosures, § 654
 Simulating official process, § 651
 Status of debt, § 652
 Private enforcement,
 Generally, § 670
 Actual damages, § 672
 Class actions, § 670
 Defenses, § 673
 Parties protected, § 671
 Statutory damages, § 672
 Relation to state law, § 627
 "Skip-tracing," § 643
 Unfair practices,
 Generally, § 655
 Mailing, § 658
 Postcard communications, § 658
 Postdated checks, § 657
 Repossession, § 659
 Unauthorized charges, § 656
 Validation requirement, § 636

INDEX

DEBT COLLECTION—Continued

- Federal Communication Commission, use of telephone in harassing manner, § 648
- Federal penal statutes, § 629
- Federal Trade Commission,
 - Generally, § 628
 - Credit Practices Rule, § 628
 - Guides against debt collection deception, § 628
 - Unfair or deceptive collection practices, § 628
- Forum abuse, § 666
- Garnishment, § 661
- Harassment,
 - Generally, § 644
 - "Deadbeat" list, § 647
 - Obscene, profane, or abusive language, § 646
 - Publication of Debt, § 647
 - Telephone excesses, § 648
 - Threats, § 645
- Location information about consumer, § 643
- Misrepresentation,
 - Generally, § 649
 - Available legal remedies, § 653
 - Collector's name and affiliations, § 650
 - Required disclosures, § 654
 - Simulating official process, § 651
 - Status of debt, § 652
- Prejudgment remedies, constitutional limitations, § 663
- Private remedies,
 - Generally, §§ 669, 676
- Replevin, § 662
- "Sewer Service," § 665
- "Skip-tracing," § 643
- State law,
 - Collection agency regulation, § 631
 - Comprehensive regulatory schemes, § 632
 - Exemption from Fair Debt Collection Practices Act, § 627
 - Preemption by Fair Debt Collection Practices Act, § 627
 - Redress by court actions, §§ 634, 676-681
 - Redress under comprehensive regulatory statutes, § 674
 - Redress under General Consumer Protection Acts, §§ 633, 675
- Unconscionability, see Unfair Trade Practices
- Unfair practices,
 - Generally, § 655
 - Mailing, § 658
 - Postcard communications, § 658
 - Postdated checks, § 657
 - Repossession, § 659
 - Unauthorized charges, § 656
- Validation requirement, § 636

DECEPTION

- Criteria,
 - Under Federal Trade Commission Act,
 - Established policy, § 127
 - 1983 Policy Statement, § 127
 - Under state law, § 128
- Fair Debt Collection Practices Act, §§ 649-654
- False Advertising,
 - Generally, §§ 45, 129
 - Bait and switch, § 48
 - Cigarettes, § 52

INDEX

DECEPTION—Continued

- Consumer redress, §§ 60–62
- Credit, § 53
- Endorsements, § 49
- FTC remedies, §§ 54–58
- Guarantees, § 50
- State enforcement, §§ 59, 129
- Testimonials, § 49
- TV mockups, § 51
- Warranties, § 50
- Federal regulation, §§ 127, 149–153
- Misrepresentation, § 132
- Nondisclosure of material facts, § 131
- Pricing regulation,
 - Generally, §§ 71, 129
 - Clearance sales, § 76
 - Comparable merchandise, § 74
 - Comparison with former price, § 72
 - Comparison with other sellers' prices, § 73
 - Free gifts, § 77
 - Limited offers, § 76
 - Manufacturers' suggested retail price, § 75
 - Preticketing, § 75
 - Wholesale prices, § 76
- Private remedies, State Consumer Protection Acts, §§ 133–148
- Retail inducements, generally, § 130
- State regulation, §§ 102–107, 128, 154–162

DOOR-TO-DOOR SALES

- See also Retail Practices
- Warranties, § 215

FAIR CREDIT BILLING ACT

- See Truth In Lending

FAIR CREDIT REPORTING ACT

- See Credit Reports

FAIR DEBT COLLECTION PRACTICES ACT

- See Debt Collection

FEDERAL TRADE COMMISSION

- See also Warranties
- Advertising regulation,
 - Generally, § 54
 - Bait and switch, § 48
 - Credit, § 53
 - Deception standard, § 45
 - Endorsements and testimonials, § 49
 - Guarantees, § 50
 - Puffing, § 47
 - Remedies available, §§ 54–58
 - Unfairness standard, § 47
 - Warranties, § 50
- Closing out sales, § 84
- Deception, regulation, generally, § 101
- Door to door sales, § 79
- Federal Trade Commission Act,
 - Background, § 101
 - Deception,
 - Established standards, § 127

INDEX

FEDERAL TRADE COMMISSION—Continued

- Redefined standards, § 127
- Enforcement,
 - Generally, § 149
 - Adjudication, § 151
 - Court action, § 153
 - Investigation, § 150
 - Rulemaking, § 152
- Exemptions, § 112
- Historical development, § 101
- Jurisdiction, § 108
- Preemption of state law, § 117
- Private remedies, absence, § 133
- Public interest requirement, § 108
- Unfairness,
 - Established standards, § 119
 - Redefined standards, § 120
- Fire sales, § 84
- Lay away plans, § 81
- Mail order sales, §§ 87, 88
- Model Act, sponsor, § 106
- Pricing regulation,
 - Generally, § 71
 - Comparable merchandise, § 74
 - Comparison with former price, § 72
 - Comparison with other sellers' price, § 73
 - Free gifts, § 77
 - Manufacturers' suggested retail price, § 75
 - Preticketing, § 75
- Referral schemes, § 83
- Refunds, § 82
- Unordered merchandise, § 85

FEDERAL TRADE COMMISSION ACT

See Federal Trade Commission; Warranties

FINANCE CHARGES

- See also Interest; Usury
- Compounding, § 495
- Excessive charges, consumer remedies
 - Generally, § 505
 - Recovery of all charges, § 512
 - Recovery of principal and charges, § 514
 - Recovery under Consumer Protection Acts, § 516
 - Uniform Consumer Credit Code, § 506
- Methods of computation,
 - Adjusted balance, § 494
 - Average daily balance, § 494
 - Ending balance, § 494
 - Previous balance, § 494
- Rate limits, truth in lending distinguished, § 473
- Retail installment sales,
 - Closed-end, § 502
 - Open-end, § 503
 - Revolving, § 503
 - Uniform Consumer Credit Code, § 504
- Sale credit, defined, § 474
- Time-price doctrine,
 - Generally, § 485
 - Application to open-end credit sales, § 486

INDEX

FINANCE CHARGES—Continued

- Usury,
 - Applicability to credit sales, §§ 472, 485
 - Defined, § 472
 - Historical background, § 484
- What constitutes, generally, § 488

INSURANCE

- See Credit Insurance; Truth in Lending

INTEREST

- See also Finance Charges; Usury
- Broker's fees, not interest, § 488
- Closing charges, not interest, § 488
- Commitment fees, not interest, § 488
- Compound interest, § 495
- Discounts, as interest, § 488
- "Indexing," effect on interest, § 488
- Insurance fees, not interest, § 488
- Late charges, not interest, § 488
- Loan credit,
 - Check loans, § 475
 - Credit card use, § 475
 - Defined, § 475
- Loan origination fees, as interest, § 488
- Methods of computation,
 - Generally, § 489
 - Acceleration on default, § 492
 - Actuarial, § 489
 - Add-on, § 489
 - Discount, § 489
 - Simple interest, § 489
 - "Spreading", § 490
 - 360 day years—30 day months, § 493
 - Variable rate, § 491
- "Points," as interest, § 488
- Prepayment penalties, not interest, § 488
- Rate limits,
 - Corporate exemption, § 487
 - Federal regulation,
 - Alternative Mortgage Transaction Parity Act, § 480
 - Certain depository institutions, § 478
 - Certain financial institutions, § 479
 - Credit unions, § 479
 - Depository Institutions Act of 1982, § 480
 - Depository Institutions Deregulation and Monetary Control Act of 1980, § 479
 - Exporting of rates by state banks, § 479
 - Home mortgage loans, § 480
 - Loansharking, § 482
 - Most favored lender doctrine, § 478
 - National banks, § 478
 - Exporting of rates, § 478
 - "Opting out" by states, § 481
 - Preemption of state laws, § 480
 - Savings and loan associations, § 479
 - Historical background, § 484
 - Time-price exception,
 - Generally, § 485
 - Application to open-end credit sales, § 486
 - Uniform Small Loan Law, § 497

INDEX

INTEREST—Continued

Usury,

Consumer remedies,

- Generally, § 505
- Defense to creditor's action, § 504
- Equitable remedies, § 515
- Estoppel to assert usury defense, § 508
- Fraud by consumer, § 509
- National Bank Act violations, § 510
- Recovery of all charges, § 512
- Recovery of multiple charges, § 513
- Recovery of penalties, § 513
- Recovery of principal and charges, § 514
- Recovery of usurious charges, § 511
- Recovery under Consumer Protection Act, § 516
- Uniform Consumer Credit Code, § 506
- Waiver of usury defense, § 508

Definition, § 472

Special Laws,

- Generally, § 496
- Credit unions, § 498
- Finance companies, § 497
- Industrial banks, § 500
- Installment loans, § 501
- Morris plan banks, § 500
- Savings and loan associations, § 499
- Small loan companies, § 497
- Uniform Consumer Credit Code, § 504

LEASES OF PERSONAL PROPERTY

See also Advertising; Truth in Lending; Unconscionability; Warranties

Generally, §§ 391–407

"Balloon" payments, §§ 393, 402, 403

Consumer Leasing Act, generally, § 394

Defenses for lessors, § 407

Definitions,

- "Arrange for the leasing of personal property," § 395
- "Closed-end" lease, § 398
- "Consumer lease," § 396
- "Credit sale," §§ 278, 396
- "Finance" lease, § 398
- "Net" lease, § 398
- "Open-end" lease, § 398
- "Security interest," § 401

Disclosure of lease terms,

- Generally, §§ 398–404
- Assumption of lease, § 400
- Balloon payments, §§ 402, 403
- Extension of lease, § 400
- Finance or open-end leases, requirements for, § 403
- Form of disclosures, § 398
- Model forms, §§ 403, 404
- Multiple leases or parties, § 399
- Renegotiation of lease, § 400
- Specific requirements for all leases, § 401
- State law, relationship between federal and, § 392

Lessees covered, § 395

Lessors covered, § 395

Penalties against lessee, § 396

Remedies for lessee, § 406

INDEX

LEASES OF PERSONAL PROPERTY—Continued

Rental-purchase contracts, §§ 278, 396
Statute of limitations, §§ 406, 445
Uniform Consumer Credit Code, § 393

LEMON LAWS

See Warranties

MAGNUSON-MOSS WARRANTY ACT

See Warranties

MAIL ORDER SALES

See also Retail Practices
Warranties, § 215

MISREPRESENTATION

See Consumer Protection Acts; Debt Collection; Deception

NATIONAL CONSUMER ACT

Generally, §§ 105, 273

PAROL EVIDENCE

See also Warranties
Common Law Rule,
 Generally, § 20
 Effect of integration or merger clause, § 20
 Fraud exception, § 20
U.C.C. Rule,
 Generally, § 21
 Effect of merger or integration clause, § 21
 Fraud exception, § 21

REPOSSESSION

See Debt Collection

RESTATEMENT OF CONTRACTS

Unconscionability, § 176

RESTATEMENT OF PROPERTY

Unconscionability, § 177

RESTITUTION

Federal Trade Commission Act, § 153
Remedy for breach of contract, § 29
State Consumer Protection Acts,
 Private remedy, § 147
 State enforcement, § 158
Unlawful advertising, FTC court action, § 54

RETAIL PRACTICES

Closing out sales, § 84
Deceptive pricing,
 Generally, § 71
 Clearance sales, § 76
 Comparable merchandise, § 74
 Comparison with former price, § 72
 Comparison with other sellers' prices, § 73
 Free gifts, § 77
 Limited offers, § 76
 Manufacturers' suggested retail price, § 75
 Preticketing, § 75

INDEX

RETAIL PRACTICES—Continued

- Wholesale prices, § 76
- Fire sales, § 84
- Door to door sales,
 - Generally, § 78
 - Cooling off period, §§ 79, 80
 - Federal regulation, § 79
 - State regulation, § 80
- Lay away plans, § 81
- Mail fraud,
 - Administrative action, § 90
 - Criminal liability, § 89
- Mail order sales,
 - Generally, § 87
 - Negative option plans, § 88
- Mailing unordered merchandise,
 - Federal regulation, § 85
 - State regulation, § 86
- Referral schemes, § 83
- Refunds, § 82

SALES APPROACHES

- Clearance sales, § 76
- Closing out sales, § 84
- Door to door sales,
 - Generally, § 78
 - Cooling off period, §§ 79, 80
 - Federal regulation, § 79
 - State regulation, § 80
- Fire sales, § 84
- Lay away plans, § 81
- Limited offers, § 76
- Mail order sales,
 - Generally, § 87
 - Negative option plans, § 88
- Mailing unordered merchandise, §§ 85, 86
- Referral schemes, § 83
- Refunds, § 82

SERVICE CONTRACTS

See Warranties

THIRD-PARTY FINANCING

- See also Credit Cards; Truth in Lending
- Generally, 591-608
- Defense cut-off devices, generally, § 591
- Definitions,
 - "Business arrangement," § 604
 - "Contract," § 604
 - "Purchase money loan," § 604
- Federal Trade Commission Rule, generally, § 602
 - Administrative enforcement, § 606
 - Failure to include notice, effect of, § 605
 - Interlocking loans, application to, § 604
 - Notice required, §§ 602, 604
 - Operation and effect, §§ 603, 605
 - Private remedies, generally, § 607
 - Interlocking loans, § 608
 - State law, relationship to, § 605
- Historical background, § 592

INDEX

THIRD-PARTY FINANCING—Continued

- Holder-in-due-course doctrine, generally, § 595
- Interlocking loans, generally, § 598
 - “Close-connectedness doctrine,” § 599
 - Federal Trade Commission Rule, §§ 604, 608
- Introduction, § 591
- Policy reasons for limiting defense cut-offs, § 593
- Real and personal defenses, difference between, § 597
- State law, relationship to Federal Trade Commission Rule, § 605
- State regulation of defense cut-offs,
 - Judicial invalidation, § 599
 - Legislative limitation or prohibition, § 600
 - Uniform Consumer Credit Code, § 601
 - Public policy, § 599
 - Unconscionability doctrine, § 599
- Uniform Commercial Code, holder-in-due-course doctrine, § 595
- Waiver-of-defense clauses, generally § 596

TRADE RESTRAINTS

- Warranty “tie-in” arrangements, § 247

TRUTH IN LENDING

- See also Advertising; Credit Cards; Leases of Personal Property; Third-party Financing
- Administrative implementation of Act, § 276
- Annual percentage rate,
 - Generally, §§ 317–319
 - Closed-end transactions, § 319
 - Open-end transactions, 318
- Billing errors,
 - Generally, §§ 371–381
 - “Billing error” defined, § 373
 - Correction notice, § 377
 - Disclosure of billing error rights, § 374
 - Obligations of creditor, § 377
 - Penalties and liabilities, § 381
 - Procedure for asserting, generally, § 375
 - Notifying creditor, § 376
 - “Reasonable investigation” by creditor, § 377
 - Restrictions on creditor,
 - Collecting disputed amount, § 379
 - Making adverse credit report, § 380
 - Retaliatory action, § 378
- Credit balances, § 287
- Credit insurance disclosures, § 564
- Defenses for assignees, § 454
- Defenses for creditors,
 - Generally, §§ 423–427
 - Bona fide error, § 425
 - Good faith reliance on administrative interpretation, § 426
 - Release by consumer, § 423
 - Use of official forms, § 427
 - Voluntary correction of error, § 424
- Definitions,
 - “Annual percentage rate,” § 317
 - “Billing error,” § 373
 - “Closed-end” credit, § 285
 - “Consumer credit,” § 279
 - “Consummation,” § 328
 - “Credit,” § 277

INDEX

TRUTH IN LENDING—Continued

- "Credit sale," §§ 278, 396
- "Creditor," § 280
- "Dwelling," § 435
- "Exemption," § 282
- "Finance charge," § 312
- "Free ride" period, §§ 307, 325
- "Inconsistent," §§ 274, 283, 350
- "Lessee," § 395
- "Lessor," § 395
- "Material disclosure," § 438
- "Open-end" credit, § 285
- "Periodic rate," § 318
- "Preemption," § 282
- "Principle dwelling," § 435
- "Regularly," § 280
- "Security interest," § 434
- Disclosure of credit terms,
 - Generally, §§ 311–331
- Billing error rights, § 374
- "Clear and conspicuous" standard, § 324
- Closed-end, generally, §§ 328–330
 - Irregularities, § 328
 - Pre-transaction disclosures, § 329
 - Subsequent disclosures, § 330
- Model forms, § 331
- Multiple creditors or consumers, § 323
- Open-end, generally, §§ 324–327
 - Other disclosures, § 327
 - Periodic statement disclosures, § 326
 - Pre-transaction disclosures, § 325
- Oral disclosure, § 321
- Overview of disclosure requirements, § 320
- Rescission right, § 322
- Tolerances, §§ 317, 329, 429
- Enforcement of Act,
 - Generally, §§ 421–467
- Administrative enforcement of Act, generally, § 428
- Restitution orders, § 429
- Class actions, generally, § 455
 - Actual damages, § 458
 - Attorney's fees, § 458
 - Court costs, § 458
 - Statutory damages, §§ 456, 457
- Counterclaim for relief under Act, § 451
- Criminal penalties, § 430
- Debt owed by consumer; relationship to claim under Act, § 451
 - Model complaint, § 467
 - Multiple parties, § 453
 - Multiple violations, § 452
 - Private actions, generally, § 443
 - Set-offs, §§ 287, 451, 466
 - Technical violations, §§ 443, 455
- Failure to make credit insurance disclosures, remedy, § 575
- Fair Credit Billing Act, § 371
- Finance charge,
 - Generally, §§ 312–316
 - Discount for cash in lieu of credit card, § 312
 - Examples, § 316
 - General exclusions from, § 313

INDEX

- TRUTH IN LENDING**—Continued
 - Insurance premiums, § 314
 - Residential mortgage transactions, § 315
 - Security interest fees, § 315
 - Surcharge for use of credit card, § 312
- “Four installment” rule, § 280
- Insurance transactions, § 281
- Lease distinguished from sale, § 278
- Official Staff Commentaries of Federal Reserve Board, § 276
- Overview of Act, § 275
- Penalties, billing error provisions, § 381
- Posting of consumer payments, § 286
- “Primary purpose” rule, § 279
- Purpose of Act, § 311
- Rate regulation distinguished, § 473
- Recordkeeping by creditors, § 422
- Refunds of credit balances, § 287
- Regulation M, generally, § 276
- Regulation Z, generally, § 276
- Remedies,
 - Actual damages, §§ 447, 458
 - Advertising provisions, § 310
 - Assignees, liability of, § 454
 - Attorney’s fees, generally, § 459
 - Class actions, § 458
 - Factors considered in determining award, § 465
 - Measurement of award, generally, § 464
 - Persons entitled to receive, § 460
 - Procedure for determining award, § 462
 - Rescission actions, § 459
 - Settlement of case, effect of, § 461
 - “Successful action” requirement, § 461
 - Work covered by award, § 463
 - Billing error provisions, § 381
 - Court costs, generally, § 466
 - Class actions, § 458
 - Election of remedies, §§ 431, 443, 448
 - Reliance by consumer, §§ 443, 447
 - Restitution orders, § 429
 - Statutory damages, generally, § 448
 - Class actions, §§ 456, 457
 - Grounds for award, § 449
 - Multiple parties, § 453
 - Multiple violations, § 452
 - Prohibition against self-help offset, § 450
- Rental-purchase agreement, §§ 278, 396
- Rescission,
 - Generally, §§ 431–442
 - Assignment of credit obligation, effect of, § 454
 - Consumer purpose requirement, § 433
 - Delay of creditor’s performance, § 439
 - Disclosure of rescission right, § 322
 - Duration of rescission right, § 438
 - Election of remedies, §§ 431, 443, 448
 - Legal effect of rescission, § 442
 - “Material disclosures” requirement, § 438
 - Obligations of parties after rescission, § 441
 - Persons entitled to rescind, § 437
 - Principal dwelling requirement, § 435
 - Procedure for exercising rescission right, § 440

INDEX

TRUTH IN LENDING—Continued

- Residential mortgage exception, § 434
- Security interest requirement, § 434
- Transactions rescindable, § 436
- Waiver of rescission right, § 432
- Scope of Act,
 - Generally, §§ 277–281
 - Consumer leases, §§ 395, 396
 - Credit sales, § 278
 - Creditor, requirement of, § 280
 - Exempt transactions, § 281
 - Purpose of transaction, § 279
- Simplification and Reform Act, § 272
- State law, relationship between federal and,
 - Generally, §§ 274, 282–284
 - Advertising provisions, § 301
 - Billing error provisions, §§ 349, 372
 - Consumer lease provisions, § 392
 - Credit card provisions, § 350
 - Enforcement provisions, § 444
 - Exemption from federal law, §§ 284, 301
 - Preemption of state law, generally, §§ 274, 283
- Statute of limitations, generally, § 445
 - Consumer counterclaims, § 446
- Usury law distinguished, § 473
- Utility bills, § 281

UNCONSCIONABILITY

- Generally, §§ 171–210
- Acceleration clause, §§ 196, 199
- “Adhesion” contracts, use of, § 191
- Bargaining power, inequality of, § 187
- Burden of proof, § 183
- Caveat emptor, § 171
- “Commercial setting,” § 188
- Condominium Act, § 174
- Consequential damages, exclusion of, §§ 181, 200, 269
- Credit arrangements, § 196
- Cross-collateral clauses, § 196
- Definitions, § 172
- Equitable doctrine, § 173
- Evidence relevant to issue, § 184
- Evidentiary hearing, § 183
- Form contracts, use of, § 191
- Good faith, § 182
- High pressure sales tactics, § 188
- Home improvement contracts, § 180
- Inequality of bargaining power, § 187
- Insurance provisions, § 194
- Invalidation of defense cut-offs, § 599
- Jury question, § 183
- Leases, §§ 177, 178, 180, 201
- Liquidated damages provisions, § 199
- Merchant’s conduct,
 - Generally, § 188
 - Door-to-door sales, § 190
 - Referral sales, § 189
 - Post-transaction conduct, § 192
 - Use of form contracts, § 191
- “No Refund” policies, § 198

INDEX

UNCONSCIONABILITY—Continued

- Non-sales contracts, § 180
- Notice provisions, § 194
- Post-transaction conduct, § 179
- Pre-U.C.C. unconscionability, § 173
- Price unconscionability, §§ 193, 195
- Procedural unconscionability,
 - Generally, §§ 187–193
 - Distinguished from substantive unconscionability, § 186
- Procedure for determining, § 183
- Real estate contracts, §§ 180, 201
- Remedies,
 - Generally, § 185
 - Attorneys' fees, §§ 175, 185
 - Consequential damages, exclusion of, § 181
 - Damages, §§ 175, 176, 185
 - Declaratory judgment, § 185
 - Injunctions, § 175
 - Liquidated damages, § 181
 - Punitive damages, § 185
 - Refund, § 185
 - Specific performance, denial of, § 176
- Remedy provisions, unconscionability of,
 - Generally, § 198
 - Liquidated damages provisions, § 199
 - Limitation or exclusion provisions, § 200
- "Repair or replacement" provisions, § 200
- Restatement of Contracts, § 176
- Restatement of Property, § 177
- Substantive unconscionability,
 - Generally, §§ 194–201
 - Distinguished from procedural unconscionability, § 186
- "Termination without notice" provisions, § 181
- Test for unconscionability, § 179
- Uniform Commercial Code, §§ 179–183
- Uniform Consumer Credit Code, § 175
- Uniform Residential Landlord and Tenant Act, § 178
- Waiver-of-defense clauses, § 198
- Warranty disclaimers, § 197
- Weaknesses of consumer, § 193

UNFAIR TRADE PRACTICES

See Consumer Protection Acts

UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

Generally, § 106

UNFAIRNESS

- Adhesion contracts, § 126
- Children's advertising rulemaking, ban, § 120
- Cigarette rule standards, § 119
- Coercion, § 124
- Failure to deliver goods, § 126
- Failure to honor revocation of acceptance, § 126
- Failure to return deposit, § 126
- False advertising,
 - Generally, § 46
 - Substantiation requirement, §§ 56, 123
- Federal regulation, §§ 119, 120, 149–153
- FTC Policy Statement, 1980, § 120

INDEX

UNFAIRNESS—Continued

- Historical development of doctrine, § 119
- Modern refinement of doctrine, § 120
- Nondisclosure of material facts, § 122
- Overreaching of vulnerable consumers, § 125
- Private remedies, State Consumer Protection Acts, §§ 133–148
- State regulation, §§ 106, 121, 154–162
- Suit in inconvenient forum, § 126
- Unlawful repossession, §§ 126, 659
- Unsubstantiated advertising claims, §§ 56, 123

UNIFORM COMMERCIAL CODE

- See also Third-party Financing; Unconscionability; Warranties
- Consideration, § 7
- Damages for breach of contract, § 27
- Deficiency judgment, § 667
- Formation of contract, § 4
- Parol Evidence Rule, § 21
- Repossession, § 659
- Statute of Frauds, §§ 13–19

UNIFORM CONSUMER SALES PRACTICES ACT

- Generally, §§ 104, 273
- Consumer leases, § 393
- Credit cards, § 344
- Holder-in-due-course rule, § 601
- Unconscionability, § 175
- Waiver-of-defense clauses, § 601

UNIFORM DECEPTIVE TRADE PRACTICES ACT

- Generally, § 103

UNIFORM LAND TRANSACTIONS ACT

- See Warranties

UNIFORM MOTOR VEHICLE CERTIFICATE OF TITLE AND ANTI-THEFT ACT

- See Warranties

UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT

- Unconscionability, § 178

USURY

- See also Finance Charges; Interest
- Contract rate, defined, § 483
- Definition, § 472
- Economic theories, § 476
- Federal regulation,
 - Generally, § 477
 - Charges by certain depository institutions, § 478
 - Charges by certain financial institutions, § 479
 - Charges by credit unions, § 479
 - Charges by national banks, § 478
 - Charges by savings and loan associations, § 479
- Consumer remedies,
 - National Bank Act violations, § 510
- Exporting of rates by state banks, § 479
- Home mortgage loans, § 480
- Loansharking, § 482
- Preemption of state regulatory laws, § 480
- State “Opting Out” of, § 481
- Loan credit, definition, § 475

INDEX

USURY—Continued

Sale credit, definition, § 474

State law,

Generally, § 483

Closed-end transactions, computation methods,

Generally, § 489

Acceleration on default, § 492

Actuarial, § 489

Add-on, § 489

Discount, § 489

Simple interest, § 489

"Spreading" interest, § 490

360 day years—30 day months, § 493

Variable rate, § 491

Compound interest, § 495

Consumer remedies,

Generally, § 505

Defense to creditor's action, § 507

Equitable remedies, § 515

Estoppel to assert usury defense, § 508

Fraud by consumer, § 509

Recovery of all charges, § 512

Recovery of multiple of charges, § 513

Recovery of penalties, § 513

Recovery of principal and charges, § 514

Recovery of usurious charges, § 511

Recovery under Consumer Protection Acts, § 516

Uniform Consumer Credit Code, § 506

Waiver of usury defense, § 508

Corporate exemption, § 487

Finance charge, what constitutes, § 488

Historical background, § 484

Interest, what constitutes, § 488

Open-end transactions, computation methods,

Generally, § 494

Adjusted balance, § 494

Average daily balance, § 494

Ending balance, § 494

Previous balance, § 494

Special Laws,

Generally, § 496

Credit unions, § 498

Finance companies, § 497

Industrial banks, § 500

Installment loan laws, § 501

Morris plan banks, § 500

Retail installment sales,

Closed-end, § 502

Open-end, § 503

Revolving, § 503

Savings and loan associations, § 499

Small loan companies, § 497

Uniform Consumer Credit Code, § 504

Time Price Doctrine,

Application to open-end credit sales, § 486

Definition, § 485

Uniform Small Loan Law, § 497

Truth in lending requirements, distinction, § 473

INDEX

WAIVER-OF-DEFENSE CLAUSES

See Unconscionability

WARRANTIES

See also Unconscionability

Generally, §§ 211-270

Administrative enforcement, § 256

Adopting manufacturer's warranty, retailer's liability by, § 222

Advertising, warranties in,

Generally, § 223

"Basis of the bargain" test, § 225

"Affirmation of fact or promise" as express warranty, § 223

Agent, liability of real estate, § 236

Alternative designs, effect of availability of, § 228

"As is" language, see Exclusion, this topic

Authorized service, requirement of, § 247

"Basis of the bargain" test, §§ 217, 225

Blood, warranty as to sale of, § 226

Blueprints as warranty, § 223

Building materials, § 231

Burden of proof, § 229

Catalog sales, § 215

Caveat emptor, §§ 235, 241

Class actions, § 258

Collateral source rule, § 263

Component supplier, warranty by, § 231

Consistency, § 254

"Conspicuous," requirement that disclosures be, § 216

Constitutional questions, §§ 214, 230

Construction contracts, § 219

Construction of warranties, §§ 252, 254

Continued use of motor vehicle, § 218

Contributory negligence as defense, § 252

"Cure," seller's right to, §§ 258, 261

Damages, see Remedies, this topic

Defenses, § 252

Definitions,

"Commerce," § 230

"Conspicuous," §§ 245, 268, 269

"Consumer product," § 231

"Cover," § 263

"Deceptive warranty," § 256

"Distributed in commerce," § 230

"Goods," § 219

"Guarantee," § 211

"Implied warranty," § 220

"Merchant," § 227

"Privity," § 248

"Reasonable time," §§ 249, 259

"Remedy," § 255

"Seller," §§ 219, 220, 229, 249

"Service contract," § 217

"Supplier," § 220

"Warrantor," § 220

"Warranty," § 211

"Without charge," § 255

"Written warranty," § 232

Description, warranty by, § 223

Designated service representatives, § 251

Disclaimer, see Exclusion, this topic

INDEX

WARRANTIES—Continued

- Disclosures,
 - Generally, § 216
 - Conflicting state and federal requirements, § 214
 - Disclaimer, see Exclusion, this topic
 - Duration of implied warranty, § 245
 - Registration card, § 246
 - Service contract, § 217
 - Terms of warranty, § 216
 - Text of warranty, in-store display of, § 215
- Door-to-door sales, § 215
- Drink, § 227
- Duration of implied warranties,
 - Generally, § 233
 - Habitability, §§ 237, 238
 - Magnuson-Moss Warranty Act, effect of, § 245
- Encumbrances, warranty of freedom from, § 220
- Energy use or efficiency, warranty as to, §§ 222, 226, 232
- Enforcement,
 - Generally, § 251
 - Magnuson-Moss Warranty Act, §§ 255–258
- “Essential purpose,” failure of, §§ 268, 269
- Estimate as warranty, § 223
- Exclusion,
 - Distinguished from remedy limitation, § 267
 - Express warranties, § 244
 - Habitability in lease transactions, § 241
 - Habitability in sale transactions, § 239
 - Implied warranties, § 245
 - Magnuson-Moss Warranty Act, § 245
 - Statutory warranty, § 218
 - Title, warranty of, § 243
- Exclusive remedy, what constitutes, § 268
- Express warranties,
 - Generally, § 222
 - Advertising, § 223
 - Disclaimer of modification, see Exclusion, this topic
 - Distinguished from “written warranty” under Magnuson-Moss Warranty Act, § 222
 - Examples, § 223
 - Express language, created by, § 223
 - Model, created by, § 224
 - Sample, created by, § 224
- Federal court, requirements for suit in, § 258
- Federal Trade Commission,
 - Enforcement of Magnuson-Moss Warranty Act, § 256
 - Rule-making authority, §§ 217, 256
- Federal Trade Commission Act, § 256
- Financer, liability of, §§ 230, 236
- Fitness for a particular purpose, § 229
- Fixtures, § 231
- Food, § 227
- “Full” warranties, § 233
- Good faith, §§ 223, 227, 244, 252, 254
- Goods, what constitutes, § 219
- Habitability,
 - Generally, § 235
 - Content of warranty, § 237
 - Housing code, breach of, § 241
 - Land, defect in, § 237
 - Lease, residential, § 241

INDEX

WARRANTIES—Continued

- New house, sale of, § 236
- Previously-occupied house, sale of, § 238
- Remedies, sale transactions, § 240
- Waiver, see Exclusion, this topic
- House, see Habitability, this topic
- "Hybrid" contracts, § 219
- Implied warranties,
 - Generally, § 226
 - Agreement of parties, necessity for, § 226
 - Disclaimer or modification, see Exclusion, this topic
 - Fitness for a particular purpose, § 229
 - Habitability, §§ 235–242
 - Magnuson-Moss Warranty Act, as affected by, §§ 226, 230
 - Merchantable goods, what constitutes, § 228
 - Merchantability, § 227
- Infringement, warranty against, § 220
- Integration clause, effect on oral warranties, § 253
- Interpretation, § 252
- Labeling of warranties, § 233
- Land, see Habitability, this topic
- Latent defects, §§ 237, 238, 241, 245, 250
- Leases, warranties as applicable to,
 - Habitability, § 241
 - Lemon laws, § 218
 - Magnuson-Moss Warranty Act, § 230
 - Uniform Commercial Code, §§ 219, 259
- Lemon laws, generally, § 218
- Limitation of remedies, §§ 267–269
- "Limited" warranties, § 233
- Magnuson-Moss Warranty Act,
 - Generally, § 230
 - "Consumer product" requirement, § 231
 - Disclaimers, see Exclusion, this topic
 - Disclosures required by, § 216
 - Effect on implied warranties, generally, § 213
 - Empirical studies, § 213
 - Enforcement, §§ 255–258
 - "Full" warranties, § 233
 - "Limited" warranties, § 233
 - Minimum price requirement, §§ 215, 234
 - Overview, § 213
 - Preemption of state law, § 214
 - Registration cards, § 246
 - Relationship to state law, § 214
 - Remedies, § 258
 - Title, warranty of, § 220
 - "Written warranty requirement," § 232
- Mail order sales, § 215
- Manufacturers' warranties,
 - Generally, § 222
 - Lemon laws, § 218
 - Magnuson-Moss Warranty Act, §§ 230, 255
 - Privity requirement, § 248
- Medical services contracts, § 219
- Merchantability,
 - Generally, § 227
 - Merchantable goods, what constitutes, § 228
- Merger clause, effect on oral warranties, § 253
- Misuse of product, § 252

INDEX

WARRANTIES—Continued

- Mitigation of damages, § 262
- Model or sample, §§ 224, 254
- Modification, see Exclusion, this topic
- Negligence, § 238
- Notice requirement,
 - Generally, § 249
 - Deduction of damages, § 262
 - Habitability, warranty of, §§ 236, 242
 - Lemon laws, § 218
 - Waiver, § 249
- Opinion as warranty, § 223
- Oral warranties, §§ 223, 230
- “Ordinary purposes” standard, § 228
- Overview,
 - Magnuson-Moss Warranty Act, § 213
 - Uniform Commercial Code warranties, § 212
- Parol evidence rule, § 253
- Particular purpose, warranty of fitness for, § 229
- Patent defects, §§ 241, 250
- Post-sale statements by seller, § 225
- Pre-sale availability, § 215
- Privity,
 - Generally, § 248
 - Habitability, warranty of, § 238
- Product standards, § 228
- Products liability, §§ 214, 227, 248, 265
- Proving warranties and breach,
 - Generally, § 252
 - Conflicting warranties, § 254
 - Parol evidence rule, § 253
- Proximate cause, § 252
- Public policy, § 239
- “Puffing” as warranty, § 223
- Quiet possession, warranty of, § 221
- Real estate transactions, see Habitability, this topic
- Registration card, § 246
- Relationship between state and federal law, § 214
- Reliance requirement, §§ 225, 229
- Remedies,
 - Availability of,
 - Habitability,
 - Lease transactions, § 242
 - Sale transactions, § 240
 - Magnuson-Moss Warranty Act, § 258
 - Limitation of, §§ 267–269
 - Types of,
 - Attorneys’ fees, §§ 218, 258, 264, 265
 - Cease and desist orders, § 256
 - Civil penalties, § 256
 - Consequential damages, §§ 218, 242, 258, 265, 269
 - Consumer protection act remedies, §§ 242, 251
 - Court costs, §§ 218, 258
 - Cover, § 263
 - Damages, §§ 240, 242, 258, 262–266
 - Equitable relief, § 258
 - Incidental damages, §§ 218, 264
 - Informal dispute settlement procedure, § 218
 - Injunctions, §§ 256, 258
 - Mental anguish, §§ 240, 242, 258, 265

INDEX

- WARRANTIES—Continued**
 - Multiple damages, § 218
 - Nominal damages, §§ 242, 262
 - Penalties, civil, § 256
 - Punitive damages, §§ 240, 242, 258, 266
 - Refund, §§ 218, 233, 255, 263
 - Repair, §§ 255, 263
 - Replacement, §§ 218, 233, 255
 - Revocation of acceptance, §§ 259–261
 - Tenant remedies, § 242
- Right to transfer, warranty of seller's, § 220
- Sale, requirement of, § 219
- Sample or model, §§ 223, 254
- Secondhand goods, see Used goods
- Security interest, §§ 220, 259
- Seller's talk as warranty, § 223
- Service contracts, §§ 217, 219
- Statute of limitations,
 - Generally, § 250
 - Habitability, warranty of, § 236
 - Title, warranty of, § 221
- Statutes, consumer warranty, § 211
- Statutory warranties, motor vehicles, § 218
- "Substantial impairment," § 260
- Technical specifications, §§ 223, 254
- "Tie-in" arrangements, § 247
- Title, warranty of,
 - Generally, § 220
 - Breach, what constitutes, § 221
 - Damages, measure of, § 263
 - Notice requirement, § 249
- Tolling,
 - Statute of limitations, § 250
 - Warranty period, §§ 218, 252
- Trade usage, § 228
- Uniform Commercial Code,
 - Generally, § 219
 - Disclosures required by, § 216
 - Overview, § 212
 - Relationship to federal law, § 214
- Uniform Land Transactions Act, § 238
- Uniform Motor Vehicle Certificate of Title and Anti-Theft Act, § 220
- Uniform Sales Act, §§ 225, 229
- Used goods,
 - Generally, §§ 227, 229
 - Previously-occupied houses, § 238
 - Privity requirement, § 248
- Waiver,
 - See also Exclusion, this topic
 - Notice requirement, § 249
 - Revocation of acceptance, § 261
- Warnings, effect of,
 - Generally, § 228
 - Consumer Product Safety Act, § 232
- Workmanlike construction, implied warranty of, § 235