

SUPPLEMENTAL STATEMENT OF THE METROPOLITAN WASHINGTON BOARD OF
TRADE ON S. 316, S. 2589, AND S. 2590, MARCH 29, 1968

Mr. Chairman and members of the subcommittee, the undersigned, C. Robert McBrier, as Chairman of the Legislative Committee, Retail Bureau, Metropolitan Washington Board of Trade, is submitting the following statement as a supplement to the statement previously presented to your Committee on December 13, 1967 during the course of hearings on S. 316, S. 2589 and S. 2590. The Board of Trade is most appreciative of the opportunity to further present its views and comments on certain specific areas and on certain detailed provisions of the proposed legislation. We would like to stress that the recommendations which are covered by this supplemental statement are made in the interest of assisting your Committee in carrying out its objectives of protecting consumers and at the same time safeguarding the legitimate interests of reputable businessmen.

The following specific modifications and additions to S. 2589 are recommended:

Page 7, line 9: Refers to residential property "as herein defined" but the bill does not contain a definition of residential property. The suggestion is made that the definition employed might well be drawn from the home improvement regulations of the District of Columbia which, with minor change, would provide as follows:

"Residential Property" means real property or interest therein consisting of a single-family dwelling or two-family dwelling, including an individual apartment or residential unit in a cooperative apartment or condominium building, together with any structure or grounds appurtenant to such apartment or single-family or two-family dwelling.

Page 7, lines 13-18: Defining "home solicitation sale"—A question is raised as to whether this definition is required in this Act since this Act does not undertake to deal with that subject. This subject is, however, dealt with in S. 2591. If the definition is to be left in the Act, the terminology or intent of "personal solicitation" as contained on line 18 should be clarified. In that connection, it should be made clear that the definition does not apply to those situations where the seller has come to the home of the buyer or is otherwise dealing with the buyer at the request and invitation of the buyer.

Page 8, line 12: Defines a "retail installment contract" as a contract which "has substantial contact with the District" requires clarification if it is to be left in the definition in order that the applicability or inapplicability of the law to those transactions involving residents of D.C., Maryland and Virginia who deal across the District line. The terms "or has substantial contact with" should otherwise be deleted from line 12.

Page 11, line 15: Substitute the word "would" for the words "tends to."

Page 13, line 14: Change "3" to "8" which was the figure established in the comparable section in S. 5, page 15, line 11.

Page 14, lines 23-25: Substitute the following for existing Sec. 2.102:

"Sec. 2.102. No regulation shall be adopted by the Council under the authority of this Act until after a public hearing has been held thereon, for the purpose of receiving evidence relevant and material to the proposed regulation. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Council shall act upon such proposed regulation and make any final regulations public. Such regulations shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the regulations, detailed findings of fact on which the regulations are based. The Council shall specify in the regulation the date on which it shall take effect, except that it shall not be made to take effect prior to the ninetieth day after its publication unless the Council finds that emergency conditions exist necessitating an earlier effective date, in which event the Council shall specify in the regulation its findings as to such conditions.

In a case of actual controversy as to the validity of any regulation under this section, any person who will be adversely affected by such regulation if placed in effect may at any time prior to the ninetieth day after such regulation is issued file a petition with the District of Columbia Court of Appeals, for a judicial review of such regulation. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Council or other officer designated by it for that purpose. The Council thereupon shall file in the court the record of the proceedings on which the Council based its regulation.

If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such