

107TH CONGRESS
1ST SESSION

H. R. 1701

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2001

Mr. JONES of North Carolina (for himself, Mr. MALONEY of Connecticut, Mr. FROST, Mr. BOEHNER, Mr. JEFFERSON, Mr. KANJORSKI, Mr. WATTS of Oklahoma, Mr. ROSS, Mr. FORD, Mr. SESSIONS, Mr. SANDLIN, Mr. WAMP, Mr. BAKER, and Mr. ISAKSON) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Consumer Rental Pur-
3 chase Agreement Act”.

4 **SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.**

5 (a) FINDINGS.—The Congress finds as follows:

6 (1) The rental-purchase industry provides a
7 service that meets and satisfies the demands of
8 many consumers.

9 (2) Each year, approximately 2,300,000 United
10 States households enter into rental-purchase trans-
11 actions and over a 5-year period approximately
12 4,900,000 United States households will do so.

13 (3) Competition among the various firms en-
14 gaged in the extension of rental-purchase trans-
15 actions would be strengthened by informed use of
16 rental-purchase transactions.

17 (4) The informed use of rental-purchase trans-
18 actions results from an awareness of the cost thereof
19 by consumers.

20 (b) PURPOSE.—The purpose of this title is to assure
21 the availability of rental-purchase transactions and to as-
22 sure simple, meaningful, and consistent disclosure of rent-
23 al-purchase terms so that consumers will be able to more
24 readily compare the available rental-purchase terms and
25 avoid uninformed use of rental-purchase transactions, and

1 to protect consumers against unfair rental-purchase prac-
2 tices.

3 **SEC. 3. CONSUMER CREDIT PROTECTION ACT.**

4 The Consumer Credit Protection Act is amended by
5 adding at the end the following new title:

6 **“TITLE X—RENTAL-PURCHASE**
7 **TRANSACTIONS**

8 **“SEC. 1001. DEFINITIONS.**

9 “For purposes of this title, the following definitions
10 shall apply:

11 “(1) ADVERTISEMENT.—The term ‘advertise-
12 ment’ means a commercial message in any medium
13 that promotes, directly or indirectly, a rental-pur-
14 chase agreement but does not include price tags,
15 window signs, or other in-store merchandising aids.

16 “(2) AGRICULTURAL PURPOSE.—The term ‘ag-
17 ricultural purpose’ includes—

18 “(A) the production, harvest, exhibition,
19 marketing, transformation, processing, or man-
20 ufacture of agricultural products by a natural
21 person who cultivates plants or propagates or
22 nurtures agricultural products; and

23 “(B) the acquisition of farmlands, real
24 property with a farm residence, or personal

1 property and services used primarily in farm-
2 ing.

3 “(3) BOARD.—The term ‘Board’ means the
4 Board of Governors of the Federal Reserve System.

5 “(4) CASH PRICE.—The term ‘cash price’
6 means the price at which a merchant, in the ordi-
7 nary course of business, offers to sell for cash the
8 property that is the subject of the rental-purchase
9 transaction.

10 “(5) CONSUMER.—The term ‘consumer’ means
11 a natural person who is offered or enters into a rent-
12 al-purchase agreement.

13 “(6) DATE OF CONSUMMATION.—The term
14 ‘date of consummation’ means the date on which a
15 consumer becomes contractually obligated under a
16 rental-purchase agreement.

17 “(7) MERCHANT.—The term ‘merchant’ means
18 a person who provides the use of property through
19 a rental-purchase agreement in the ordinary course
20 of business and to whom a consumer’s initial pay-
21 ment under the agreement is payable.

22 “(8) PERIODIC PAYMENT.—The term ‘periodic
23 payment’ means the total payment a consumer will
24 make for a specific rental period, including the rent-

1 al payment, taxes, and fees or charges that may be
2 excluded from the rental-purchase cost.

3 “(9) PROPERTY.—The term ‘property’ means
4 property that is not real property under the laws of
5 the State where the property is located when it is
6 made available under a rental-purchase agreement.

7 “(10) RENTAL PAYMENT.—The term ‘rental
8 payment’ means a payment required to be made by
9 a consumer for the possession and use of property
10 for a specific rental period, but does not include
11 taxes that may be imposed on such payment.

12 “(11) RENTAL PERIOD.—The term ‘rental pe-
13 riod’ means a week, month, or other specific period
14 of time, during which the consumer has a right to
15 possess and use property that is the subject of a
16 rental-purchase agreement after paying the rental
17 payment and any applicable taxes for such period.

18 “(12) RENTAL-PURCHASE AGREEMENT.—

19 “(A) IN GENERAL.—The term ‘rental-pur-
20 chase agreement’ means a contract in the form
21 of a bailment or lease for the use of property
22 by a consumer for an initial period of 4 months
23 or less, that is renewable with each payment by
24 the consumer, and that permits but does not

1 obligate the consumer to become the owner of
 2 the property.

3 “(B) EXCLUSIONS.—The term ‘rental-pur-
 4 chase agreement’ does not include—

5 “(i) a credit sale (as defined in section
 6 103(g) of the Truth in Lending Act);

7 “(ii) a consumer lease (as defined in
 8 section 181(1) of such Act); or

9 “(iii) a transaction giving rise to a
 10 debt incurred in connection with the busi-
 11 ness of lending money or a thing of value.

12 “(13) STATE.—The term ‘State’ means any
 13 State of the United States, the District of Columbia,
 14 any territory of the United States, Puerto Rico,
 15 Guam, American Samoa, the Trust Territory of the
 16 Pacific Islands, the Virgin Islands, and the Northern
 17 Mariana Islands.

18 **“SEC. 1002. DETERMINATION OF RENTAL-PURCHASE COST.**

19 “(a) IN GENERAL.—

20 “(1) BASIS FOR DETERMINATION.—Except as
 21 otherwise provided in this section, the amount of the
 22 rental-purchase cost in connection with a rental-pur-
 23 chase transaction shall be determined as the sum of
 24 all charges that are payable directly or indirectly by
 25 the person to whom the rental-purchase transaction

1 is extended, and are imposed directly or indirectly by
2 the merchant as a condition of entering into a rental-purchase agreement or acquiring ownership of
3 property under a rental-purchase agreement.
4

5 “(2) TAXES AND OTHER COSTS NOT INCLUDED.—The amount of any charge, cost, or fee of
6 a type that is imposed on or otherwise payable by,
7 a consumer in a cash transaction for comparable
8 property shall not be taken into account for purposes of the determination under paragraph (1) with
9 respect to any rental-purchase transaction.
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11

12 “(3) EXAMPLES OF CHARGES, COSTS, AND FEES TAKEN INTO ACCOUNT.—The following are examples of charges, costs, and fees that shall be
13 taken into account in determining in the rental-purchase cost with respect to any rental-purchase transaction:
14
15
16
17

18 “(A) Rental payment.

19 “(B) Service, processing, or administrative
20 charge.

21 “(C) Fee for an investigation or credit report.
22

23 “(D) Charge for delivery required by the
24 merchant.

1 “(E) Charge for waiver of the consumer’s
2 liability in the event of loss, damage, or de-
3 struction of the property.

4 “(F) Premium or other charge for insur-
5 ance.

6 “(b) INSURANCE PREMIUMS AND CHARGES FOR LI-
7 ABILITY WAIVER.—

8 “(1) INCLUSION IN RENTAL-PURCHASE COST.—
9 Charges or premiums for insurance or liability waiv-
10 er written in connection with any rental-purchase
11 agreement shall be included in determining the rent-
12 al-purchase cost with respect to any rental-purchase
13 transaction unless—

14 “(A) coverage of the consumer by the in-
15 surance or liability waiver is not a factor in the
16 merchant’s approval of the rental-purchase
17 transaction, and this fact is clearly disclosed in
18 writing to the consumer at or before con-
19 summation of the rental-purchase transaction;
20 and

21 “(B) before obtaining the insurance or li-
22 ability waiver, the consumer has initialed or
23 signed an affirmative written request for the in-
24 surance or liability waiver after receiving a writ-
25 ten disclosure of the cost thereof.

1 “(2) MANNER OF DISCLOSURE.—The disclo-
2 sures required under paragraph (1) with respect to
3 rental-purchase transaction may be included in the
4 rental-purchase agreement or made on a separate
5 form that the consumer may keep.

6 “(c) RESTATEMENT OF CERTAIN EXCLUDED
7 ITEMS.—The following fees or charges shall not be taken
8 into account in determining the rental-purchase cost with
9 respect to a rental-purchase transaction:

10 “(1) Fees and charges prescribed by law, which
11 actually are or will be paid to public officials or gov-
12 ernment entities need not be included in the com-
13 putation of the rental-purchase cost, such as sales
14 tax.

15 “(2) Fees and charges for optional products
16 and services made available in connection with a
17 rental-purchase agreement.

18 **“SEC. 1003. EXEMPTED TRANSACTIONS.**

19 “‘This title shall not apply to rental-purchase agree-
20 ments primarily for business, commercial, or agricultural
21 purposes, or those made with Government agencies or in-
22 strumentalities.

23 **“SEC. 1004. GENERAL DISCLOSURE REQUIREMENTS.**

24 “(a) RECIPIENT OF DISCLOSURE.—A merchant shall
25 disclose to the person who will be obligated on a rental-

1 purchase agreement the information required by sections
2 1005 and 1006. In a transaction involving more than 1
3 person who will be obligated on a rental-purchase agree-
4 ment, a merchant need not disclose to more than 1 of such
5 persons.

6 “(b) TIMING OF DISCLOSURE.—The disclosures re-
7 quired under sections 1005 and 1006 shall be made at
8 or before the date of consummation of the rental-purchase
9 agreement and clearly and conspicuously in writing and
10 in a form that the consumer may keep.

11 “(c) INFORMATION SUBSEQUENTLY RENDERED IN-
12 ACCURATE.—If information disclosed in accordance with
13 this title is subsequently rendered inaccurate as a result
14 of any act, occurrence, or agreement subsequent to the
15 delivery of the required disclosures, the resulting inaccu-
16 racy does not constitute a violation of this title.

17 **“SEC. 1005. RENTAL-PURCHASE DISCLOSURES.**

18 “(a) IN GENERAL.—For each rental-purchase agree-
19 ment, the merchant shall disclose to the consumer the fol-
20 lowing, to the extent applicable:

21 “(1) The date of consummation of the trans-
22 action and the identities of the merchant and con-
23 sumer.

24 “(2) A description of the property and a state-
25 ment indicating whether the property is new or used,

1 except a statement indicating that new property is
2 used property is not a violation of this title.

3 “(3) A statement of the rental payment for
4 each item of property and the total rental payment
5 if multiple items are rented. If 2 or more items are
6 rented as a set, a statement of the aggregate rental
7 payment of all items satisfies this requirement.

8 “(4) A statement of the cash price of each item
9 of property and the total cash price if multiple items
10 are rented. If 2 or more items are rented as a set,
11 a statement of the aggregate cash price of all items
12 satisfies this requirement.

13 “(5) The amount to be paid before or at the
14 consummation of the agreement or the delivery of
15 the property, using the phrase ‘initial payment’. The
16 merchant shall itemize each component of the initial
17 payment by type and amount, including any service,
18 processing, or administrative charge, delivery fee, re-
19 fundable security deposit, rental payment, and fees
20 or charges that may be excluded from the rental-
21 purchase cost.

22 “(6) A statement of the amount of the periodic
23 payment including an itemization of each component
24 of the periodic payment by type and amount, using
25 the phrase ‘periodic payment’. If the final periodic

1 payment is less than the regular periodic payments,
2 the components of the final periodic payment need
3 not be itemized. A merchant may disclose alternative
4 periodic payments based on different rental periods.

5 “(7) The ‘rental-purchase cost’, using that
6 term, and a brief description such as ‘The amount
7 you will pay the merchant to acquire ownership of
8 the property. This amount excludes taxes and other
9 charges not imposed by the merchant as a condition
10 of acquiring ownership.’

11 “(8) The difference between the cash price and
12 the rental-purchase cost, using the term ‘cost of
13 rental services’, and a brief description such as ‘the
14 difference between the cash price and the rental-pur-
15 chase cost’.

16 “(9) Substantially the following statement in
17 boldface, uppercase letters: ‘YOU ARE RENTING
18 THE PROPERTY. TO ACQUIRE OWNERSHIP
19 OF THE PROPERTY YOU MUST MAKE ALL
20 PAYMENTS NECESSARY TO ACQUIRE OWN-
21 ERSHIP.’

22 “(10) Substantially the following statement:
23 ‘Other Important Terms. See your rental-purchase
24 agreement for additional important information on
25 termination, purchase option rights, reinstatement

1 rights, warranties, maintenance responsibilities, your
2 liability for loss, theft, damage, or destruction of the
3 property, and other charges and fees you may incur.’

4 “(11) Using the term ‘payment schedule’, the
5 amount, number, and timing of all periodic pay-
6 ments the consumer will make if the consumer ac-
7 quires ownership of the property by making all peri-
8 odic payments, the total of the initial payment and
9 all periodic payments, and a brief description such
10 as ‘This is the amount you will have paid, including
11 the rental-purchase cost, taxes, and charges for
12 other products or services you may have elected to
13 purchase, if you make all Periodic Payments as
14 scheduled.’ A merchant may disclose alternative pay-
15 ment schedules based on different rental periods.

16 “(b) FORM OF DISCLOSURE.—The disclosures re-
17 quired by paragraphs (5) through (11) of subsection (a)
18 shall be segregated from other information and shall con-
19 tain only directly related information, and shall be identi-
20 fied in boldface, uppercase letters as ‘RENTAL-PUR-
21 CHASE DISCLOSURES’.

22 **“SEC. 1006. OTHER AGREEMENT PROVISIONS.**

23 “(a) IN GENERAL.—Each rental-purchase agreement
24 shall—

1 “(1) provide a statement specifying whether the
2 merchant or the consumer is responsible for loss,
3 theft, damage, or destruction of the property;

4 “(2) provide a statement specifying whether the
5 merchant or the consumer is responsible for main-
6 taining or servicing the property, together with a
7 brief description of the responsibility;

8 “(3) provide that the consumer may terminate
9 the agreement without paying any charges not pre-
10 viously due under the agreement by voluntarily sur-
11 rendering or returning the property that is the sub-
12 ject of the agreement upon expiration of any rental
13 period;

14 “(4) contain a provision for reinstatement of
15 the agreement, which at a minimum—

16 “(A) permits a consumer who fails to make
17 a timely rental payment to reinstate the agree-
18 ment, without losing any rights or options
19 which exist under the agreement, by the pay-
20 ment of all past due rental payments and any
21 other charges then due under the agreement
22 and a payment for the next rental period within
23 7 business days after failing to make a timely
24 rental payment if the consumer pays monthly,
25 or within 3 business days after failing to make

1 a timely rental payment if the consumer pays
2 more frequently than monthly;

3 “(B) if the consumer returns or voluntarily
4 surrenders the property covered by the agree-
5 ment, other than through judicial process, dur-
6 ing the applicable reinstatement period set forth
7 in subparagraph (A), permits the consumer to
8 reinstate the agreement during a period of at
9 least 30 days after the date of the return or
10 surrender of the property by the payment of all
11 amounts previously due under the agreement,
12 any applicable fees, and a payment for the next
13 rental period; and

14 “(C) if the consumer has paid 60 percent
15 or more of the rental-purchase cost and returns
16 or voluntarily surrenders the property, other
17 than through judicial process, during the appli-
18 cable reinstatement period set forth in subpara-
19 graph (A), permits the consumer to reinstate
20 the agreement during a period of at least 90
21 days after the date of the return of the property
22 by the payment of all amounts previously due
23 under the agreement, any applicable fees, and a
24 payment for the next rental period;

1 “(5) if the merchant offers a purchase option,
2 provide a statement of the consumer’s purchase op-
3 tion rights under the agreement, including the meth-
4 od of determining the purchase price at any point in
5 time if the property is acquired through the exercise
6 of the purchase option;

7 “(6) provide a statement disclosing that if any
8 part of a manufacturer’s express warranty covers
9 the property at the time the consumer acquires own-
10 ership of the property, the warranty will be trans-
11 ferred to the consumer if allowed by the terms of the
12 warranty; and

13 “(7) provide, to the extent applicable, a state-
14 ment of any payment grace period, the amount of
15 any late payment fee, any additional fees or require-
16 ments for reinstatement, and the amount of any
17 other charges and fees the consumer may incur.

18 “(b) REPOSSESSION DURING REINSTATEMENT PE-
19 RIOD.—Subsection (a)(4) shall not be construed so as to
20 prevent a merchant from attempting to repossess property
21 during the reinstatement period pursuant to subsection
22 (a)(4)(A), but such a repossession does not affect the con-
23 sumer’s right to reinstate. Upon reinstatement, the mer-
24 chant shall provide the consumer with the same property,

1 if available; if it is not available, the merchant shall sub-
2 stitute property of comparable quality and condition.

3 **“SEC. 1007. PROHIBITED PROVISIONS.**

4 “A rental-purchase agreement may not contain—

5 “(1) a confession of judgment;

6 “(2) a negotiable instrument;

7 “(3) a security interest or any other claim of a
8 property interest in any goods, except those goods
9 the use of which is provided by the merchant pursu-
10 ant to the agreement;

11 “(4) a wage assignment;

12 “(5) a waiver by the consumer of a claim or de-
13 fense; or

14 “(6) a provision requiring the consumer to pay
15 in excess of the lesser of the fair market value, any
16 purchase option amount, remaining rent, or cost of
17 repair if the property is lost, stolen, damaged, or de-
18 stroyed.

19 **“SEC. 1008. STATEMENT OF ACCOUNTS.**

20 “Upon request of a consumer, a merchant shall pro-
21 vide a statement of the consumer’s account. If a consumer
22 requests a statement for an individual account more than
23 4 times in any 12-month period, the merchant may charge
24 a reasonable fee for the additional statements.

1 **“SEC. 1009. RENEGOTIATIONS AND EXTENSIONS.**

2 “(a) RENEGOTIATIONS.—A renegotiation occurs
3 when a rental-purchase agreement is satisfied and re-
4 placed by a new agreement undertaken by the same con-
5 sumer. A renegotiation requires new disclosures, except as
6 provided in subsection (c).

7 “(b) EXTENSIONS.—An extension is an agreement by
8 the consumer and the merchant, to continue an existing
9 rental-purchase agreement beyond the original end of the
10 payment schedule, but does not include a continuation
11 that is the result of a renegotiation.

12 “(c) EXCEPTIONS.—New disclosures are not required
13 for the following, even if they meet the definition of a re-
14 negotiation or an extension:

15 “(1) A reduction in payments.

16 “(2) A deferment of 1 or more payments.

17 “(3) The extension of a rental-purchase agree-
18 ment.

19 “(4) The substitution of property with property
20 that has a substantially equivalent or greater eco-
21 nomic value provided the rental-purchase cost does
22 not increase.

23 “(5) The deletion of property in a multiple-item
24 agreement.

25 “(6) A change in rental period provided the
26 rental-purchase cost does not increase.

1 “(7) An agreement resulting from a court pro-
2 ceeding.

3 “(8) Any other event described in regulations
4 prescribed by the Board.

5 **“SEC. 1010. POINT-OF-RENTAL DISCLOSURES.**

6 “(a) IN GENERAL.—For any item of property or set
7 of items displayed or offered for rental-purchase, the mer-
8 chant shall display on or next to the item or set of items
9 a card, tag, or label that clearly and conspicuously discloses
10 the following:

11 “(1) A brief description of the property.

12 “(2) Whether the property is new or used.

13 “(3) The cash price of the property.

14 “(4) The amount of each rental payment.

15 “(5) The total number of rental payments nec-
16 essary to acquire ownership of the property.

17 “(6) The rental-purchase cost.

18 “(b) FORM OF DISCLOSURE.—A merchant may make
19 the disclosure required by subsection (a) in the form of
20 a list or catalog which is readily available to the consumer
21 at the point of rental if the merchandise is not displayed
22 in the merchant’s showroom or if displaying a card, tag,
23 or label would be impractical due to the size of the mer-
24 chandise.

1 **“SEC. 1011. RENTAL-PURCHASE ADVERTISING.**

2 “(a) IN GENERAL.—If an advertisement refers to or
3 states the amount of any payment for any specific item
4 or set of items, the merchant making the advertisement
5 shall also clearly and conspicuously state in the advertise-
6 ment the following:

7 “(1) The transaction advertised is a rental-pur-
8 chase agreement.

9 “(2) The amount, timing, and total number of
10 rental payments necessary to acquire ownership.

11 “(3) The amount of the rental-purchase cost.

12 “(4) To acquire ownership of the property the
13 consumer must pay the rental-purchase cost plus ap-
14 plicable taxes.

15 “(5) Whether the advertised rental-purchase
16 cost is for new or used property.

17 **“(b) RADIO AND TELEVISION ADVERTISING.—**

18 (1) IN GENERAL.—An advertisement made
19 through television or radio, which states the amount
20 of any payment for any specific item or set of items,
21 complies with this section if the advertisement lists
22 a toll-free telephone number along with a reference
23 that such number may be used by consumers to ob-
24 tain the additional information required by sub-
25 section (a).

1 “(2) AVAILABILITY OF NUMBER.—The toll-free
2 telephone number required under subsection what
3 shall be available beginning on the date of the
4 broadcast and continue until the earlier of—

5 “(A) the end of the 10-day period begin-
6 ning on the day of the last broadcast; or

7 “(B) if the offer expires before the end of
8 such 10-day period and the advertisement dis-
9 closes that the offer expires before the end of
10 such period, the date the offer expires.

11 **“SEC. 1012. CIVIL LIABILITY.**

12 “(a) INDIVIDUAL OR CLASS ACTION FOR DAMAGES;
13 AMOUNT OF AWARD; FACTORS DETERMINING AMOUNT
14 OF AWARD.—Except as otherwise provided in this section,
15 any merchant who fails to comply with any requirement
16 imposed by section 1004, 1005, 1006, 1007, or 1008, with
17 respect to any consumer is liable to such consumer in an
18 amount equal to the sum of—

19 “(1) any actual damage sustained by such con-
20 sumer as a result of the failure;

21 “(2)(A) in the case of an individual action, 25
22 percent of the rental-purchase cost under the rental-
23 purchase agreement, except that the liability under
24 this subparagraph shall not be less than \$100 nor
25 greater than \$1,000;

1 “(B) in the case of a class action, such amount
2 as the court may allow, except that as to each mem-
3 ber of the class no minimum recovery shall be appli-
4 cable, and the total recovery under this subpara-
5 graph in any class action or series of class actions
6 arising out of the same failure to comply by the
7 same merchant shall not be more than the lesser of
8 \$500,000 or 1 percent of the net worth of the mer-
9 chant; and

10 “(3) in the case of any successful action to en-
11 force the foregoing liability, the costs of the action,
12 together with a reasonable attorney’s fee as deter-
13 mined by the court.

14 “(b) FACTORS TO BE CONSIDERED IN CLASS AC-
15 TIONS.—In determining the amount of award in any class
16 action, the court shall consider, among other relevant fac-
17 tors, the amount of any actual damages awarded, the fre-
18 quency and persistence of failures of compliance by the
19 merchant, the resources of the merchant, the number of
20 persons adversely affected, and the extent to which the
21 merchant’s failure of compliance was intentional. With re-
22 spect to any failure to make disclosures required under
23 this title, liability shall be imposed only upon the merchant
24 required to make disclosure, except as provided in section
25 1014.

1 “(c) CORRECTION OF ERRORS.—A merchant or as-
2 signee has no liability under this section or section 1016
3 or 1017 for any failure to comply with any requirement
4 imposed under this title, if within 60 days after discov-
5 ering an error, and prior to the institution of an action
6 under this section or the receipt of written notice of the
7 error from the consumer, the merchant or assignee notifies
8 the consumer concerned of the error and makes whatever
9 adjustments in the appropriate account are necessary to
10 assure that the person will not be required to pay an
11 amount in excess of the charge actually disclosed.

12 “(d) UNINTENTIONAL VIOLATIONS; BONA FIDE ER-
13 RORS.—

14 “(1) IN GENERAL.—A merchant or assignee
15 may not be held liable in any action brought under
16 this title for a violation of this title if the merchant
17 or assignee shows by a preponderance of evidence
18 that the violation was not intentional and resulted
19 from a bona fide error notwithstanding the mainte-
20 nance of procedures reasonably adapted to avoid any
21 such error.

22 “(2) EXAMPLES OF BONA FIDE ERRORS.—Ex-
23 amples of a bona fide error include clerical, calcula-
24 tion, computer malfunction and programming, and
25 printing errors, except that an error of legal judg-

1 ment with respect to a person's obligations under
2 this title is not a bona fide error.

3 “(e) LIABILITY IN TRANSACTIONS INVOLVING MUL-
4 TIPLE CONSUMERS.—When there are multiple consumers
5 in a single rental-purchase agreement there shall be no
6 more than 1 recovery of damages under subsection (a)(2)
7 of this section for a violation of this title.

8 “(f) JURISDICTION OF COURTS; LIMITATION OF AC-
9 TIONS.—Any action under this section may be brought in
10 any United States district court, or in any other court of
11 competent jurisdiction, within 1 year from the date of the
12 occurrence of the violation. This subsection shall not bar
13 a consumer from asserting a violation of this title in an
14 action to collect an obligation arising from a rental-pur-
15 chase agreement, which was brought more than 1 year
16 from the date of the occurrence of the violation as a mat-
17 ter of defense by recoupment or set-off in such action, ex-
18 cept as otherwise provided by State law.

19 “(g) GOOD FAITH COMPLIANCE WITH RULE, REGU-
20 LATION, OR INTERPRETATION OF BOARD.—No provision
21 of this section or section 1016 or 1017 imposing any liabil-
22 ity shall apply to any act done or omitted in good faith
23 in conformity with any rule, regulation, or interpretation
24 thereof by the Board or in conformity with any interpreta-
25 tion or approval by an official or employee of the Board

1 duly authorized by the Board to issue such interpretations
2 or approvals under such procedures as the Board may pre-
3 scribe therefor, notwithstanding that after such act or
4 omission has occurred, such rule, regulation, interpreta-
5 tion, or approval is amended, rescinded, or determined by
6 judicial or other authority to be invalid for any reason.

7 “(h) RECOVERY FOR MULTIPLE FAILURES TO DIS-
8 CLOSE.—The multiple failure to disclose to any person any
9 information required under this title in connection with
10 a single rental-purchase transaction shall entitle the per-
11 son to a single recovery under this section but continued
12 failure to disclose after a recovery has been granted shall
13 give rise to rights to additional recoveries.

14 “(i) OFFSET FROM AMOUNT OWED TO MERCHANT
15 OR ASSIGNEE; RIGHTS OF CONSUMER.—A person may not
16 take any action to offset any amount for which a merchant
17 or assignee is potentially liable to such person under sub-
18 section (a)(2) of this section against any amount owed by
19 such person, unless the amount of the merchant’s or as-
20 signee’s liability under this section has been determined
21 by judgment of a court of competent jurisdiction in an
22 action of which such person was a party. This subsection
23 does not bar a consumer from asserting a violation of this
24 title as an original action, or as a defense or counterclaim

1 to an action to collect amounts owed by the consumer
 2 brought by a person liable under this section.

3 **“SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.**

4 “Any merchant who fails to comply with any require-
 5 ments imposed under section 1010 or 1011 with respect
 6 to any consumer who suffers actual damage from the vio-
 7 lation is liable to such consumer as provided in section
 8 1012.

9 **“SEC. 1014. LIABILITY OF ASSIGNEES.**

10 “(a) ASSIGNEES INCLUDED.—For purposes of sec-
 11 tion 1012, and this section, the term ‘merchant’ includes
 12 an assignee of a merchant.

13 “(b) LIABILITIES OF ASSIGNEES.—

14 “(1) APPARENT VIOLATION.—An action under
 15 section 1012 for a violation of this title may be
 16 brought against an assignee only if the violation is
 17 apparent on the face of the rental-purchase agree-
 18 ment to which it relates.

19 “(2) APPARENT VIOLATION DEFINED.—For
 20 purposes of this subsection, a violation that is appar-
 21 ent on the face of a rental-purchase agreement in-
 22 cludes a disclosure that can be determined to be in-
 23 complete or inaccurate from the face of the agree-
 24 ment.

1 “(3) INVOLUNTARY ASSIGNMENT.—An assignee
2 has no liability in a case in which the assignment is
3 involuntary.

4 “(4) RULE OF CONSTRUCTION.—No provision
5 of this section shall be construed as limiting or alter-
6 ing the liability under section 1012 of a merchant
7 assigning a rental-purchase agreement.

8 “(b) PROOF OF DISCLOSURE.—In an action by or
9 against an assignee, the consumer’s written acknowledg-
10 ment of receipt of a disclosure shall be conclusive proof
11 that the disclosure was made, if the assignee had no
12 knowledge that the disclosure had not been made when
13 the assignee acquired the rental-purchase agreement to
14 which it relates.

15 **“SEC. 1015. REGULATIONS.**

16 “(a) IN GENERAL.—The Board may prescribe regu-
17 lations to carry out the purposes of this title, to prevent
18 its circumvention, and to facilitate compliance with its re-
19 quirements.

20 “(b) EFFECTIVE DATE OF REGULATIONS.—Any reg-
21 ulation prescribed by the Board, or any amendment or in-
22 terpretation thereof, shall not be effective before the Octo-
23 ber 1 that follows the date of publication of the regulation
24 in final form by at least 6 months. The Board may at
25 its discretion lengthen that period of time to permit mer-

1 chants to adjust to accommodate new requirements. The
2 Board may also shorten that period of time, notwith-
3 standing the first sentence, if it makes a specific finding
4 that such action is necessary to comply with the findings
5 of a court or to prevent unfair or deceptive practices. In
6 any case, merchants may comply with any newly pre-
7 scribed disclosure requirement prior to its effective date.

8 **“SEC. 1016. ENFORCEMENT.**

9 “(a) FEDERAL ENFORCEMENT.—Compliance with
10 the requirements imposed under this title shall be enforced
11 under the Federal Trade Commission Act (15 U.S.C. 41
12 et seq.), and a violation of any requirements imposed
13 under this title shall be deemed a violation of a require-
14 ment imposed under that Act. All of the functions and
15 powers of the Federal Trade Commission under the Fed-
16 eral Trade Commission Act are available to the Commis-
17 sion to enforce compliance by any person with the require-
18 ments of this title, irrespective of whether that person is
19 engaged in commerce or meets any other jurisdictional
20 test in the Federal Trade Commission Act.

21 “(b) STATE ENFORCEMENT.—

22 “(1) IN GENERAL.—An action to enforce the re-
23 quirements imposed by this title may also be
24 brought by the appropriate State attorney general in

1 any appropriate United States district court, or any
2 other court of competent jurisdiction.

3 “(2) PRIOR WRITTEN NOTICE.—

4 “(A) IN GENERAL.—The State attorney
5 general shall provide prior written notice of any
6 such civil action to the Federal Trade Commis-
7 sion and shall provide the Commission with a
8 copy of the complaint.

9 “(B) EMERGENCY ACTION.—If prior notice
10 is not feasible, the State attorney general shall
11 provide notice to the Commission immediately
12 upon instituting the action.

13 “(3) FTC INTERVENTION.—The Commission
14 may—

15 “(A) intervene in the action;

16 “(B) upon intervening—

17 “(i) remove the action to the appro-
18 priate United States district court, if it
19 was not originally brought there; and

20 “(ii) be heard on all matters arising in
21 the action; and

22 “(C) file a petition for appeal.

1 **“SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOW-**
2 **ING VIOLATION.**

3 “Whoever willfully and knowingly gives false or inac-
4 curate information or fails to provide information which
5 he is required to disclose under the provisions of this title
6 or any regulation issued thereunder shall be fined not
7 more than \$5,000 or imprisoned not more than one year,
8 or both.

9 **“SEC. 1018. RELATION TO STATE LAW.**

10 “(a) Except as provided in subsection (b), this title
11 shall not be construed as annulling, altering, or affecting
12 in any manner the meaning, scope, or applicability of the
13 laws of any State relating to rental-purchase agreements,
14 except to the extent that those laws are inconsistent with
15 any provision of this title, and then only to the extent of
16 the inconsistency. The Board is authorized to determine
17 whether such inconsistencies exist. Any State law that reg-
18 ulates a rental-purchase agreement as a security interest,
19 credit sale, retail installment sale, conditional sale, or
20 other form of credit or imputes to such agreements the
21 creation of a debt or extension of credit, or requires the
22 disclosure of a time-price differential, an annual percent-
23 age rate, an effective annual percentage rate or a percent-
24 age rate of any kind, or similar disclosure that might sug-
25 gest the existence of a debt, an extension of credit, or the
26 payment of interest, is inconsistent with this title.

1 “(b) CERTAIN DISCLOSURE REQUIREMENTS SUPER-
2 SEDED.—The disclosures required by paragraphs (5), (6),
3 (7), (8), and (11) of subsection (a) of section 1005 shall
4 supersede any provisions of any State law relating to dis-
5 closure of the cost of a rental-purchase transaction.

6 **“SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.**

7 “No civil liability or criminal penalty under this title
8 may be imposed on the United States or any of its depart-
9 ments or agencies, any State or political subdivision, or
10 any agency of a State or political subdivision.

11 **“SEC. 1020. COMPLIANCE DATE.**

12 “Compliance with this title shall not be required until
13 6 months after the date of the enactment of the Consumer
14 Rental Purchase Agreement Act. In any case, merchants
15 may comply with this title at any time after such date
16 of enactment.”.

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