

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1701

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2002

Received; read twice and referred to the Committee on Banking, Housing, and  
Urban Affairs

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## AN ACT

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,*

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

11           (2) Each year, approximately 2,300,000 United  
12 States households enter into rental-purchase trans-  
13 actions and over a 5-year period approximately  
14 4,900,000 United States households will do so.

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

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

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

1 readily compare the available rental-purchase terms and  
 2 avoid uninformed use of rental-purchase transactions, and  
 3 to protect consumers against unfair rental-purchase prac-  
 4 tices.

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

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

8 **“TITLE X—RENTAL-PURCHASE**  
 9 **TRANSACTIONS**

- “Sec. 1001. Definitions.
- “Sec. 1002. Exempted transactions.
- “Sec. 1003. General disclosure requirements.
- “Sec. 1004. Rental-purchase disclosures.
- “Sec. 1005. Other agreement provisions.
- “Sec. 1006. Right to acquire ownership.
- “Sec. 1007. Prohibited provisions.
- “Sec. 1008. Statement of accounts.
- “Sec. 1009. Renegotiations and extensions.
- “Sec. 1010. Point-of-rental disclosures.
- “Sec. 1011. Rental-purchase advertising.
- “Sec. 1012. Civil liability.
- “Sec. 1013. Additional grounds for civil liability.
- “Sec. 1014. Liability of assignees.
- “Sec. 1015. Regulations.
- “Sec. 1016. Enforcement.
- “Sec. 1017. Criminal liability for willful and knowing violation.
- “Sec. 1018. Relation to other laws.
- “Sec. 1019. Effect on government agencies.
- “Sec. 1020. Compliance date.

10 **“SEC. 1001. DEFINITIONS.**

11 “For purposes of this title, the following definitions  
 12 shall apply:

13 “(1) **ADVERTISEMENT.**—The term ‘advertis-  
 14 ment’ means a commercial message in any medium  
 15 that promotes, directly or indirectly, a rental-pur-

1 chase agreement but does not include price tags,  
2 window signs, or other in-store merchandising aids.

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

5 “(A) the production, harvest, exhibition,  
6 marketing, transformation, processing, or man-  
7 ufacture of agricultural products by a natural  
8 person who cultivates plants or propagates or  
9 nurtures agricultural products; and

10 “(B) the acquisition of farmlands, real  
11 property with a farm residence, or personal  
12 property and services used primarily in farm-  
13 ing.

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

16 “(4) CASH PRICE.—The term ‘cash price’  
17 means the price at which a merchant, in the ordi-  
18 nary course of business, offers to sell for cash the  
19 property that is the subject of the rental-purchase  
20 transaction.

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

24 “(6) DATE OF CONSUMMATION.—The term  
25 ‘date of consummation’ means the date on which a

1 consumer becomes contractually obligated under a  
2 rental-purchase agreement.

3 “(7) INITIAL PAYMENT.—The term ‘initial pay-  
4 ment’ means the amount to be paid before or at the  
5 consummation of the agreement or the delivery of  
6 the property if delivery occurs after consummation,  
7 including the rental payment; service, processing, or  
8 administrative charges; delivery fee; refundable secu-  
9 rity deposit; taxes; mandatory fees or charges; and  
10 any optional fees or charges agreed to by the con-  
11 sumer.

12 “(8) MERCHANT.—The term ‘merchant’ means  
13 a person who provides the use of property through  
14 a rental-purchase agreement in the ordinary course  
15 of business and to whom a consumer’s initial pay-  
16 ment under the agreement is payable.

17 “(9) PAYMENT SCHEDULE.—The term ‘pay-  
18 ment schedule’ means the amount and timing of the  
19 periodic payments and the total number of all peri-  
20 odic payments that the consumer will make if the  
21 consumer acquires ownership of the property by  
22 making all periodic payments.

23 “(10) PERIODIC PAYMENT.—The term ‘periodic  
24 payment’ means the total payment a consumer will  
25 make for a specific rental period after the initial

1 payment, including the rental payment, taxes, man-  
2 datory fees or charges, and any optional fees or  
3 charges agreed to by the consumer.

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

8 “(12) RENTAL PAYMENT.—The term ‘rental  
9 payment’ means rent required to be paid by a con-  
10 sumer for the possession and use of property for a  
11 specific rental period, but does not include taxes or  
12 any fees or charges.

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

19 “(14) RENTAL-PURCHASE AGREEMENT.—

20 “(A) IN GENERAL.—The term ‘rental-pur-  
21 chase agreement’ means a contract in the form  
22 of a bailment or lease for the use of property  
23 by a consumer for an initial period of 4 months  
24 or less, that is renewable with each payment by  
25 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 “(15) RENTAL-PURCHASE COST.—

13 “(A) IN GENERAL.—For purposes of sec-  
14 tions 1010 and 1011, the term ‘rental-purchase  
15 cost’ means the sum of all rental payments and  
16 mandatory fees or charges imposed by the mer-  
17 chant as a condition of entering into a rental-  
18 purchase agreement or acquiring ownership of  
19 property under a rental-purchase agreement,  
20 such as the following:

21 “(i) Service, processing, or adminis-  
22 trative charge.

23 “(ii) Fee for an investigation or credit  
24 report.

1                   “(iii) Charge for delivery required by  
2                   the merchant.

3                   “(B) EXCLUDED ITEMS.—The following  
4                   fees or charges shall not be taken into account  
5                   in determining the rental-purchase cost with re-  
6                   spect to a rental-purchase transaction:

7                   “(i) Fees and charges prescribed by  
8                   law, which actually are or will be paid to  
9                   public officials or government entities, such  
10                  as sales tax.

11                  “(ii) Fees and charges for optional  
12                  products and services offered in connection  
13                  with a rental-purchase agreement.

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

20                  “(17) TOTAL COST.—The term ‘total cost’  
21                  means the sum of the initial payment and all peri-  
22                  odic payments in the payment schedule to be paid by  
23                  the consumer to acquire ownership of the property  
24                  that is the subject of the rental-purchase agreement.

1 **“SEC. 1002. EXEMPTED TRANSACTIONS.**

2 “This title shall not apply to rental-purchase agree-  
3 ments primarily for business, commercial, or agricultural  
4 purposes, or those made with Government agencies or in-  
5 strumentalities.

6 **“SEC. 1003. GENERAL DISCLOSURE REQUIREMENTS.**

7 “(a) **RECIPIENT OF DISCLOSURE.**—A merchant shall  
8 disclose to any person who will be a signatory to a rental-  
9 purchase agreement the information required by sections  
10 1004 and 1005.

11 “(b) **TIMING OF DISCLOSURE.**—The disclosures re-  
12 quired under sections 1004 and 1005 shall be made before  
13 the consummation of the rental-purchase agreement and  
14 clearly and conspicuously in writing as part of the rental-  
15 purchase agreement to be signed by the consumer.

16 “(c) **CLEARLY AND CONSPICUOUSLY.**—As used in  
17 this section, the term ‘clearly and conspicuously’ means  
18 that information required to be disclosed to the consumer  
19 shall be worded plainly and simply, and appear in a type  
20 size, prominence, and location as to be readily noticeable,  
21 readable, and comprehensible to an ordinary consumer.

22 **“SEC. 1004. RENTAL-PURCHASE DISCLOSURES.**

23 “(a) **IN GENERAL.**—For each rental-purchase agree-  
24 ment, the merchant shall disclose to the consumer the fol-  
25 lowing, to the extent applicable:

1           “(1) The date of the consummation of the rent-  
2           al-purchase transaction and the identities of the  
3           merchant and the consumer.

4           “(2) A brief description of the rental property,  
5           which shall be sufficient to identify the property to  
6           the consumer, including an identification or serial  
7           number, if applicable, and a statement indicating  
8           whether the property is new or used.

9           “(3) A description of any fee, charge or penalty,  
10          in addition to the periodic payment, that the con-  
11          sumer may be required to pay under the agreement,  
12          which shall be separately identified by type and  
13          amount.

14          “(4) A clear and conspicuous statement that  
15          the transaction is a rental-purchase agreement and  
16          that the consumer will not obtain ownership of the  
17          property until the consumer has paid the total dollar  
18          amount necessary to acquire ownership.

19          “(5) The amount of any initial payment, which  
20          includes the first periodic payment, and the total  
21          amount of any fees, taxes, or other charges, required  
22          to be paid by the consumer.

23          “(6) The amount of the cash price of the prop-  
24          erty that is the subject of the rental-purchase agree-  
25          ment, and, if the agreement involves the rental of 2

1 or more items as a set (as may be defined by the  
2 Board in regulation) a statement of the aggregate  
3 cash price of all items shall satisfy this requirement.

4 “(7) The amount and timing of periodic pay-  
5 ments, and the total number of periodic payments  
6 necessary to acquire ownership of the property  
7 under the rental-purchase agreement.

8 “(8) The total cost, using that term, and a  
9 brief description, such as ‘This is the amount you  
10 will pay the merchant if you make all periodic pay-  
11 ments to acquire ownership of the property.’.

12 “(9) A statement of the consumer’s right to ter-  
13 minate the agreement without paying any fee or  
14 charge not previously due under the agreement by  
15 voluntarily surrendering or returning the property in  
16 good repair upon expiration of any lease term.

17 “(10) Substantially the following statement:  
18 **‘OTHER IMPORTANT TERMS:** See your  
19 rental-purchase agreement for additional important  
20 information on early termination procedures, pur-  
21 chase option rights, responsibilities for loss, damage  
22 or destruction of the property, warranties, mainte-  
23 nance responsibilities, and other charges or penalties  
24 you may incur.’.

1       “(b) FORM OF DISCLOSURE.—The disclosures re-  
2       quired by paragraphs (4) through (10) of subsection (a)  
3       shall be segregated from other information at the begin-  
4       ning of the rental-purchase agreement and shall contain  
5       only directly related information, and shall be identified  
6       in boldface, upper-case letters as follows: **“IMPOR-  
7       TANT RENTAL-PURCHASE DISCLOSURES’**.”

8       “(c) DISCLOSURE REQUIREMENTS RELATING TO IN-  
9       SURANCE PREMIUMS AND LIABILITY WAIVERS.—

10           “(1) IN GENERAL.—A merchant shall clearly  
11           and conspicuously disclose in writing to the con-  
12           sumer before the consummation of a rental-purchase  
13           agreement that the purchase of leased property in-  
14           surance or liability waiver coverage is not required  
15           as a condition for entering into the rental-purchase  
16           agreement.

17           “(2) AFFIRMATIVE WRITTEN REQUEST AFTER  
18           COST DISCLOSURE.—A merchant may provide insur-  
19           ance or liability waiver coverage, directly or indi-  
20           rectly, in connection with a rental-purchase trans-  
21           action only if—

22                   “(A) the merchant clearly and conspicu-  
23                   ously discloses to the consumer the cost of each  
24                   component of such coverage before the con-

1 summation of the rental-purchase agreement;  
2 and

3 “(B) the consumer signs an affirmative  
4 written request for such coverage after receiving  
5 the disclosures required under subparagraph  
6 paragraph (A) of this paragraph and paragraph  
7 (1).

8 “(d) ACCURACY OF DISCLOSURE.—

9 “(1) IN GENERAL.—The disclosures required to  
10 be made under subsection (a) shall be accurate as of  
11 the date the disclosures are made, based on the in-  
12 formation available to the merchant.

13 “(2) INFORMATION SUBSEQUENTLY RENDERED  
14 INACCURATE.—If information required to be dis-  
15 closed under subsection (a) is subsequently rendered  
16 inaccurate as a result of any agreement between the  
17 merchant and the consumer subsequent to the deliv-  
18 ery of the required disclosures, the resulting inaccu-  
19 racy shall not constitute a violation of this title.

20 **“SEC. 1005. OTHER AGREEMENT PROVISIONS.**

21 “(a) IN GENERAL.—Each rental-purchase agreement  
22 shall—

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

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

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

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

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

1           “(B) if the consumer returns or voluntarily  
2           surrenders the property covered by the agree-  
3           ment, other than through judicial process, dur-  
4           ing the applicable reinstatement period set forth  
5           in subparagraph (A), permits the consumer to  
6           reinstate the agreement during a period of at  
7           least 60 days after the date of the return or  
8           surrender of the property by the payment of all  
9           amounts previously due under the agreement,  
10          any applicable fees, and a payment for the next  
11          rental period;

12          “(C) if the consumer has paid 50 percent  
13          or more of the total cost necessary to acquire  
14          ownership and returns or voluntarily surrenders  
15          the property, other than through judicial proc-  
16          ess, during the applicable reinstatement period  
17          set forth in subparagraph (A), permits the con-  
18          sumer to reinstate the agreement during a pe-  
19          riod of at least 120 days after the date of the  
20          return of the property by the payment of all  
21          amounts previously due under the agreement,  
22          any applicable fees, and a payment for the next  
23          rental period; and

24          “(D) permits the consumer, upon rein-  
25          statement of the agreement to receive the same

1 property, if available, that was the subject of  
2 the rental-purchase agreement, or if the same  
3 property is not available, a substitute item of  
4 comparable quality and condition may be pro-  
5 vided to the consumer; except that, the Board  
6 may, by regulation or order, exempt any inde-  
7 pendent small business (as defined by the  
8 Board by regulation) from the requirement of  
9 providing the same or comparable product dur-  
10 ing the extended reinstatement period provided  
11 in subparagraph (C), if the Board determines,  
12 taking into account such standards as the  
13 Board determines to be appropriate, that the  
14 reinstatement right provided in such subpara-  
15 graph would provide excessive hardship for such  
16 independent small business.

17 “(5) provide a statement specifying the terms  
18 under which the consumer shall acquire ownership of  
19 the property that is the subject of the rental-pur-  
20 chase agreement either by payment of the total cost  
21 to acquire ownership, as provided in section 1006, or  
22 by exercise of any early purchase option provided in  
23 the rental-purchase agreement;

24 “(6) provide a statement disclosing that if any  
25 part of a manufacturer’s express warranty covers

1 the property at the time the consumer acquires own-  
2 ership of the property, the warranty will be trans-  
3 ferred to the consumer if allowed by the terms of the  
4 warranty; and

5 “(7) provide, to the extent applicable, a descrip-  
6 tion of any grace period for making any periodic  
7 payment, the amount of any security deposit, if any,  
8 to be paid by the consumer upon initiation of the  
9 rental-purchase agreement, and the terms for refund  
10 of such security deposit to the consumer upon re-  
11 turn, surrender or purchase of the property.

12 “(b) REPOSSESSION DURING REINSTATEMENT PE-  
13 RIOD.—Subsection (a)(4) shall not be construed so as to  
14 prevent a merchant from attempting to repossess property  
15 during the reinstatement period pursuant to subsection  
16 (a)(4)(A), but such a repossession does not affect the con-  
17 sumer’s right to reinstate.

18 **“SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.**

19 “(a) IN GENERAL.—The consumer shall acquire own-  
20 ership of the property that is the subject of the rental-  
21 purchase agreement, and the rental-purchase agreement  
22 shall terminate, upon compliance by the consumer with the  
23 requirements of subsection (b) or any early payment op-  
24 tion provided in the rental purchase agreement, and upon

1 payment of any past due payments and fees, as permitted  
2 in regulation by the Board.

3 “(b) PAYMENT OF TOTAL COST.—The consumer  
4 shall acquire ownership of the rental property upon pay-  
5 ment of the total cost of the rental-purchase agreement,  
6 as such term is defined in section 1001(17), and as dis-  
7 closed to the consumer in the rental-purchase agreement  
8 pursuant to section 1004(a).

9 “(c) ADDITIONAL FEES PROHIBITED.—A merchant  
10 shall not require the consumer to pay, as a condition for  
11 acquiring ownership of the property that is the subject of  
12 the rental-purchase agreement, any fee or charge in addi-  
13 tion to, or in excess of, the regular periodic payments re-  
14 quired by subsection (b), or any early purchase option  
15 amount provided in the rental-purchase agreement, as ap-  
16 plicable. A requirement that the consumer pay an unpaid  
17 late charge or other fee or charge which the merchant has  
18 previously billed to the consumer shall not constitute an  
19 additional fee or charge for purposes of this subsection.

20 “(d) TRANSFER OF OWNERSHIP RIGHTS.—Upon  
21 payment by the consumer of all payments necessary to ac-  
22 quire ownership under subsection (b) or any early pur-  
23 chase option amount provided in the rental-purchase  
24 agreement, as appropriate, the merchant shall—

1           “(1) deliver, or mail to the consumer’s last  
2           known address, such documents or other instru-  
3           ments, which the Board has determined by regula-  
4           tion, are necessary to acknowledge full ownership by  
5           the consumer of the property acquired pursuant to  
6           the rental-purchase agreement; and

7           “(2) transfer to the consumer the unexpired  
8           portion of any warranties provided by the manufac-  
9           turer, distributor, or seller of the property, which  
10          shall apply as if the consumer were the original pur-  
11          chaser of the property, except where such transfer is  
12          prohibited by the terms of the warranty.

13   **“SEC. 1007. PROHIBITED PROVISIONS.**

14          “A rental-purchase agreement may not contain—

15               “(1) a confession of judgment;

16               “(2) a negotiable instrument;

17               “(3) a security interest or any other claim of a  
18               property interest in any goods, except those goods  
19               the use of which is provided by the merchant pursu-  
20               ant to the agreement;

21               “(4) a wage assignment;

22               “(5) a provision requiring the waiver of any  
23               legal claim or remedy created by this title or other  
24               provision of Federal or State law;

1           “(6) a provision requiring the consumer, in the  
2 event the property subject to the rental-purchase  
3 agreement is lost, stolen, damaged, or destroyed, to  
4 pay an amount in excess of the least of—

5                   “(A) the fair market value of the property,  
6 as determined by the Board in regulation;

7                   “(B) any early purchase option amount  
8 provided in the rental-purchase agreement; or

9                   “(C) the actual cost of repair, as appro-  
10 priate;

11           “(7) a provision authorizing the merchant, or a  
12 person acting on behalf of the merchant, to enter the  
13 consumer’s dwelling or other premises without ob-  
14 taining the consumer’s consent or to commit any  
15 breach of the peace in connection with the reposses-  
16 sion of the rental property or the collection of any  
17 obligation or alleged obligation of the consumer aris-  
18 ing out of the rental-purchase agreement;

19           “(8) a provision requiring the purchase of in-  
20 surance or liability damage waiver to cover the prop-  
21 erty that is the subject of the rental-purchase agree-  
22 ment, except as permitted by the Board in regula-  
23 tion;

24           “(9) a provision requiring the consumer to pay  
25 more than 1 late fee or charge for an unpaid or de-

1       linquent periodic payment, regardless of the period  
2       in which the payment remains unpaid or delinquent,  
3       or to pay a late fee or charge for any periodic pay-  
4       ment because a previously assessed late fee has not  
5       been paid in full.

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

7       “Upon request of a consumer, a merchant shall pro-  
8       vide a statement of the consumer’s account. If a consumer  
9       requests a statement for an individual account more than  
10      4 times in any 12-month period, the merchant may charge  
11      a reasonable fee for the additional statements.

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

13      “(a) RENEGOTIATIONS.—A renegotiation occurs  
14      when a rental-purchase agreement is satisfied and re-  
15      placed by a new agreement undertaken by the same con-  
16      sumer. A renegotiation requires new disclosures, except as  
17      provided in subsection (c).

18      “(b) EXTENSIONS.—An extension is an agreement by  
19      the consumer and the merchant, to continue an existing  
20      rental-purchase agreement beyond the original end of the  
21      payment schedule, but does not include a continuation  
22      that is the result of a renegotiation.

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

1           “(1) A reduction in payments.

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

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

5           “(4) The substitution of property with property  
6           that has a substantially equivalent or greater eco-  
7           nomic value provided the rental-purchase cost does  
8           not increase.

9           “(5) The deletion of property in a multiple-item  
10          agreement.

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

13          “(7) An agreement resulting from a court pro-  
14          ceeding.

15          “(8) Any other event described in regulations  
16          prescribed by the Board.

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

18          “(a) IN GENERAL.—For any item of property or set  
19          of items displayed or offered for rental-purchase, the mer-  
20          chant shall display on or next to the item or set of items  
21          a card, tag, or label that clearly and conspicuously dis-  
22          closes the following:

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

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

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

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

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

4           “(6) The rental-purchase cost.

5           “(b) FORM OF DISCLOSURE.—

6           “(1) IN GENERAL.—A merchant may make the  
7           disclosure required by subsection (a) in the form of  
8           a list or catalog which is readily available to the con-  
9           sumer at the point of rental if the merchandise is  
10          not displayed in the merchant’s showroom or if dis-  
11          playing a card, tag, or label would be impractical  
12          due to the size of the merchandise.

13          “(2) CLEARLY AND CONSPICUOUSLY.—As used  
14          in this section, the term ‘clearly and conspicuously’  
15          means that information required to be disclosed to  
16          the consumer shall appear in a type size, promi-  
17          nence, and location as to be noticeable, readable,  
18          and comprehensible to an ordinary consumer.

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

20          “(a) IN GENERAL.—If an advertisement for a rental-  
21          purchase transaction refers to or states the amount of any  
22          payment for any specific item or set of items, the mer-  
23          chant making the advertisement shall also clearly and con-  
24          spicuously state in the advertisement the following for the  
25          item, or set of items, advertised:

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

3           “(2) The amount, timing, and total number of  
4           rental payments necessary to acquire ownership  
5           under the rental-purchase agreement.

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

7           “(4) To acquire ownership of the property the  
8           consumer must pay the rental-purchase cost plus ap-  
9           plicable taxes.

10           “(5) Whether the stated payment amount and  
11           advertised rental-purchase cost is for new or used  
12           property.

13           “(b) PROHIBITION.—An advertisement for a rental-  
14           purchase agreement shall not state or imply that a specific  
15           item, or set of items, is available at specific amounts or  
16           terms unless the merchant usually and customarily offers,  
17           or will offer, the item or set of items at the stated amounts  
18           or terms.

19           “(c) CLEARLY AND CONSPICUOUSLY.—

20           “(1) IN GENERAL.—For purposes of this sec-  
21           tion, the term ‘clearly and conspicuously’ means that  
22           required disclosures shall be presented in a type,  
23           size, shade, contrast, prominence, location, and man-  
24           ner, as applicable to different mediums for adver-

1       tising, so as to be readily noticeable and comprehen-  
2       sible to the ordinary consumer.

3           “(2) REGULATORY GUIDANCE.—The Board  
4       shall prescribe regulations on principles and factors  
5       to meet the clear and conspicuous standard as ap-  
6       propriate to print, video, audio, and computerized  
7       advertising, reflecting the principles and factors typi-  
8       cally applied in each medium by the Federal Trade  
9       Commission.

10          “(3) LIMITATION.—Nothing contrary to, incon-  
11       sistent with, or in mitigation of, the required disclo-  
12       sures shall be used in any advertisement in any me-  
13       dium, and no audio, video, or print technique shall  
14       be used that is likely to obscure or detract signifi-  
15       cantly from the communication of the disclosures.

16 **“SEC. 1012. CIVIL LIABILITY.**

17          “(a) IN GENERAL.—Except as otherwise provided in  
18       section 1013, any merchant who fails to comply with any  
19       requirement of this title with respect to any consumer is  
20       liable to such consumer as provided for leases in section  
21       130. For purposes of this section, the term ‘creditor’ as  
22       used in section 130 shall include a ‘merchant’, as defined  
23       in section 1001.

24          “(b) JURISDICTION OF COURTS; LIMITATION ON AC-  
25       TIONS.—

1           “(1) IN GENERAL.—Notwithstanding section  
2           130(e), any action under this section may be  
3           brought in any United States district court, or in  
4           any other court of competent jurisdiction, before the  
5           end of the 1-year period beginning on the date the  
6           last payment was made by the consumer under the  
7           rental-purchase agreement.

8           “(2) RECOUPMENT OR SET-OFF.—This sub-  
9           section shall not bar a consumer from asserting a  
10          violation of this title in an action to collect an obli-  
11          gation arising from a rental-purchase agreement,  
12          which was brought after the end of the 1-year period  
13          described in paragraph (1) as a matter of defense by  
14          recoupment or set-off in such action, except as oth-  
15          erwise provided by State law.

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

17          “(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—  
18          Any merchant who fails to comply with any requirements  
19          imposed under section 1010 or 1011 with respect to any  
20          consumer who suffers actual damage from the violation  
21          shall be liable to such consumer as provided in section  
22          130.

23          “(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a  
24          merchant engages in a pattern or practice of violating any  
25          requirement imposed under section 1010 or 1011, the

1 Federal Trade Commission or an appropriate State attor-  
2 ney general, in accordance with section 1016, may initiate  
3 an action to enforce sanctions against the merchant, in-  
4 cluding—

5 “(1) an order to cease and desist from such  
6 practices; and

7 “(2) a civil money penalty of such amount as  
8 the court may impose, based on such factors as the  
9 court may determine to be appropriate.

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

11 “(a) ASSIGNEES INCLUDED.—For purposes of sec-  
12 tion 1013, and this section, the term ‘merchant’ includes  
13 an assignee of a merchant.

14 “(b) LIABILITIES OF ASSIGNEES.—

15 “(1) APPARENT VIOLATION.—An action under  
16 section 1012 or 1013 for a violation of this title may  
17 be brought against an assignee only if the violation  
18 is apparent on the face of the rental-purchase agree-  
19 ment to which it relates.

20 “(2) APPARENT VIOLATION DEFINED.—For  
21 purposes of this subsection, a violation that is appar-  
22 ent on the face of a rental-purchase agreement in-  
23 cludes, but is not limited to, a disclosure that can  
24 be determined to be incomplete or inaccurate from  
25 the face of the agreement.

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 or 1013 of a  
7           merchant 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, made as part of the rental-  
11          purchase agreement, shall be conclusive proof that the dis-  
12          closure was made, if the assignee had no knowledge that  
13          the disclosure had not been made when the assignee ac-  
14          quired the rental-purchase agreement to which it relates.

15        **“SEC. 1015. REGULATIONS.**

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

20          “(b) MODEL DISCLOSURE FORMS.—The Board may  
21          publish model disclosure forms and clauses for common  
22          rental-purchase agreements to facilitate compliance with  
23          the disclosure requirements of this title and to aid the con-  
24          sumer in understanding the transaction by utilizing read-  
25          ily understandable language to simplify the technical na-

1 ture of the disclosures. In devising such forms, the Board  
2 shall consider the use by merchants of data processing or  
3 similar automated equipment. Nothing in this title may  
4 be construed to require a merchant to use any such model  
5 form or clause prescribed by the Board under this section.  
6 A merchant shall be deemed to be in compliance with the  
7 requirement to provide disclosure under section 1003(a)  
8 if the merchant—

9           “(1) uses any appropriate model form or clause  
10       as published by the Board; or

11           “(2) uses any such model form or clause and  
12       changes it by—

13               “(A) deleting any information which is not  
14       required by this title; or

15               “(B) rearranging the format, if in making  
16       such deletion or rearranging the format, the  
17       merchant does not affect the substance, clarity,  
18       or meaningful sequence of the disclosure.

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

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

7 **“SEC. 1016. ENFORCEMENT.**

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

20       “(b) STATE ENFORCEMENT.—

21               “(1) IN GENERAL.—An action to enforce the re-  
22 quirements imposed by this title may also be  
23 brought by the appropriate State attorney general in  
24 any appropriate United States district court, or any  
25 other court of competent jurisdiction.

1 “(2) PRIOR WRITTEN NOTICE.—

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

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

11 “(3) FTC INTERVENTION.—The Commission  
12 may—

13 “(A) intervene in the action;

14 “(B) upon intervening—

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

18 “(ii) be heard on all matters arising in  
19 the action; and

20 “(C) file a petition for appeal.

21 **“SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOW-**  
22 **ING VIOLATION.**

23 “Whoever willfully and knowingly gives false or inac-  
24 curate information or fails to provide information which  
25 he is required to disclose under the provisions of this title

1 or any regulation issued thereunder shall be subject to the  
2 penalty provisions as provided in section 112.

3 **“SEC. 1018. RELATION TO OTHER LAWS.**

4 “(a) RELATION TO STATE LAW.—

5 “(1) NO EFFECT ON CONSISTENT STATE  
6 LAWS.—Except as otherwise provided in subsection  
7 (b), this title does not annul, alter, or affect in any  
8 manner the meaning, scope or applicability of the  
9 laws of any State relating to rental-purchase agree-  
10 ments, except to the extent those laws are incon-  
11 sistent with any provision of this title, and then only  
12 to the extent of the inconsistency.

13 “(2) DETERMINATION OF INCONSISTENCY.—

14 Upon its own motion or upon the request of an in-  
15 terested party, which is submitted in accordance  
16 with procedures prescribed in regulations of the  
17 Board, the Board shall determine whether any such  
18 inconsistency exists. If the Board determines that a  
19 term or provision of a State law is inconsistent, mer-  
20 chants located in that State need not follow such  
21 term or provision and shall incur no liability under  
22 the law of that State for failure to follow such term  
23 or provision, notwithstanding that such determina-  
24 tion is subsequently amended, rescinded, or deter-

1       mined by judicial or other authority to be invalid for  
2       any reason.

3           “(3) GREATER PROTECTION UNDER STATE  
4       LAW.—Except as provided in subsection (b), for pur-  
5       poses of this section, a term or provision of a State  
6       law is not inconsistent with the provisions of this  
7       title if the term or provision affords greater protec-  
8       tion and benefit to the consumer than the protection  
9       and benefit provided under this title as determined  
10      by the Board, on its own motion or upon the peti-  
11      tion of any interested party.

12          “(b) STATE LAWS RELATING TO CHARACTERIZATION  
13      OF TRANSACTION.—Notwithstanding the provisions of  
14      subsection (a), this title shall supersede any State law to  
15      the extent that such law—

16           “(1) regulates a rental-purchase agreement as a  
17      security interest, credit sale, retail installment sale,  
18      conditional sale or any other form of consumer cred-  
19      it, or that imputes to a rental-purchase agreement  
20      the creation of a debt or extension of credit, or

21           “(2) requires the disclosure of a percentage rate  
22      calculation, including a time-price differential, an  
23      annual percentage rate, or an effective annual per-  
24      centage rate.

1       “(c) RELATION TO FEDERAL TRADE COMMISSION  
2 ACT.—No provision of this title shall be construed as lim-  
3 iting, superseding, or otherwise affecting the applicability  
4 of the Federal Trade Commission Act to any merchant  
5 or 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.”.

Passed the House of Representatives September 18,  
2002.

Attest:

JEFF TRANDAHL,

*Clerk.*