

Union Calendar No. 396

107TH CONGRESS
2^D SESSION

H. R. 1701

[Report No. 107-590, Parts I and II]

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

JULY 18, 2002

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than September 9, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(K), rule X

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 9, 2002

Additional sponsors: Mr. SHOWS, Mr. TURNER, Mr. HILLEARY, Mr. NETHERCUTT, Mr. CLEMENT, Mr. SIMPSON, Mr. HOLDEN, Mr. DUNCAN, Mr. HUTCHINSON, Mr. BEREUTER, Ms. PRYCE of Ohio, Mr. SKELTON, Mr. RYUN of Kansas, Mr. COSTELLO, Mr. BARTLETT of Maryland, Mr. COOKSEY, Mrs. EMERSON, Mr. POMBO, Mr. DICKS, Ms. HOOLEY of Oregon, Mr. BRYANT, Mr. SPRATT, Mr. TIAHRT, Mr. MORAN of Kansas, Mr. OSBORNE, Mr. HULSHOF, Mr. CLYBURN, Mr. SHERMAN, Mr. REYES, Mr. SHAYS, Mr. MEEKS of New York, Mr. NEY, Mr. CARSON of Oklahoma, Mr. GOODLATTE, Mr. GILLMOR, Mr. JOHN, Mr. LUCAS of Kentucky, Mrs. KELLY, Mr. LARSON of Connecticut, Mr. ROYCE, Mr. SHIMKUS, Mr. SWEENEY, Mr. MCINTYRE, Mr. MCCRERY, Mr. ENGLISH,

Mr. PHELPS, Mr. TERRY, Mr. LINDER, Mr. HALL of Texas, Mr. PORTMAN, Ms. JACKSON-LEE of Texas, Mr. KINGSTON, Mr. THORNBERRY, Mr. LATOURETTE, Mr. BALLENGER, Mr. OTTER, Mr. DEAL of Georgia, Mr. GOODE, Mr. VITTER, Mr. BARTON of Texas, Mr. LATHAM, Mr. BONILLA, Ms. HART, Mrs. JO ANN DAVIS of Virginia, Mr. TIBERI, Mr. LAMPSON, Mr. KIRK, Mr. WILSON of South Carolina, Mr. TOWNS, and Mr. JENKINS

SEPTEMBER 9, 2002

Reported from the Committee on the Judiciary with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through in italic and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on May 3, 2001]

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,*

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 serv-*
 9 *ice that meets and satisfies the demands of many con-*
 10 *sumers.*

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

5 (3) *Competition among the various firms en-*
 6 *gaged in the extension of rental-purchase transactions*
 7 *would be strengthened by informed use of rental-pur-*
 8 *chase transactions.*

9 (4) *The informed use of rental-purchase trans-*
 10 *actions results from an awareness of the cost thereof*
 11 *by consumers.*

12 (b) *PURPOSE.*—*The purpose of this title is to assure*
 13 *the availability of rental-purchase transactions and to as-*
 14 *sure simple, meaningful, and consistent disclosure of rental-*
 15 *purchase terms so that consumers will be able to more read-*
 16 *ily compare the available rental-purchase terms and avoid*
 17 *uninformed use of rental-purchase transactions, and to pro-*
 18 *tect consumers against unfair rental-purchase practices.*

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

20 *The Consumer Credit Protection Act is amended by*
 21 *adding at the end the following new title:*

22 **“TITLE X—RENTAL-PURCHASE**
 23 **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.*

1 **“SEC. 1001. DEFINITIONS.**

2 *“For purposes of this title, the following definitions*
 3 *shall apply:*

4 *“(1) ADVERTISEMENT.—The term ‘advertis-*
 5 *ment’ means a commercial message in any medium*
 6 *that promotes, directly or indirectly, a rental-pur-*
 7 *chase agreement but does not include price tags, win-*
 8 *dow signs, or other in-store merchandising aids.*

9 *“(2) AGRICULTURAL PURPOSE.—The term ‘agri-*
 10 *cultural purpose’ includes—*

11 *“(A) the production, harvest, exhibition,*
 12 *marketing, transformation, processing, or manu-*
 13 *facture of agricultural products by a natural*
 14 *person who cultivates plants or propagates or*
 15 *nurtures agricultural products; and*

16 *“(B) the acquisition of farmlands, real*
 17 *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’ means*
6 *the price at which a merchant, in the ordinary course*
7 *of business, offers to sell for cash the property that is*
8 *the subject of the rental-purchase transaction.*

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

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

16 “(7) *INITIAL PAYMENT.*—*The term ‘initial pay-*
17 *ment’ means the amount to be paid before or at the*
18 *consummation of the agreement or the delivery of the*
19 *property if delivery occurs after consummation, in-*
20 *cluding the rental payment; service, processing, or ad-*
21 *ministrative charges; delivery fee; refundable security*
22 *deposit; taxes; mandatory fees or charges; and any op-*
23 *tional fees or charges agreed to by the consumer.*

24 “(8) *MERCHANT.*—*The term ‘merchant’ means a*
25 *person who provides the use of property through a*

1 *rental-purchase agreement in the ordinary course of*
2 *business and to whom a consumer's initial payment*
3 *under the agreement is payable.*

4 “(9) *PAYMENT SCHEDULE.*—*The term ‘payment*
5 *schedule’ means the amount and timing of the peri-*
6 *odic payments and the total number of all periodic*
7 *payments that the consumer will make if the con-*
8 *sumer acquires ownership of the property by making*
9 *all periodic payments.*

10 “(10) *PERIODIC PAYMENT.*—*The term ‘periodic*
11 *payment’ means the total payment a consumer will*
12 *make for a specific rental period after the initial pay-*
13 *ment, including the rental payment, taxes, manda-*
14 *tory fees or charges, and any optional fees or charges*
15 *agreed to by the consumer.*

16 “(11) *PROPERTY.*—*The term ‘property’ means*
17 *property that is not real property under the laws of*
18 *the State where the property is located when it is*
19 *made available under a rental-purchase agreement.*

20 “(12) *RENTAL PAYMENT.*—*The term ‘rental pay-*
21 *ment’ means rent required to be paid by a consumer*
22 *for the possession and use of property for a specific*
23 *rental period, but does not include taxes or any fees*
24 *or charges.*

1 “(13) *RENTAL PERIOD.*—The term ‘rental pe-
2 riod’ means a week, month, or other specific period of
3 time, during which the consumer has a right to pos-
4 sess and use property that is the subject of a rental-
5 purchase agreement after paying the rental payment
6 and any applicable taxes for such period.

7 “(14) *RENTAL-PURCHASE AGREEMENT.*—

8 “(A) *IN GENERAL.*—The term ‘rental-pur-
9 chase agreement’ means a contract in the form of
10 a bailment or lease for the use of property by a
11 consumer for an initial period of 4 months or
12 less, that is renewable with each payment by the
13 consumer, and that permits but does not obligate
14 the consumer to become the owner of the prop-
15 erty.

16 “(B) *EXCLUSIONS.*—The term ‘rental-pur-
17 chase agreement’ does not include—

18 “(i) a credit sale (as defined in section
19 103(g) of the Truth in Lending Act);

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

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

25 “(15) *RENTAL-PURCHASE COST.*—

1 “(16) *STATE*.—The term ‘State’ means any
2 *State of the United States, the District of Columbia,*
3 *any territory of the United States, Puerto Rico,*
4 *Guam, American Samoa, the Trust Territory of the*
5 *Pacific Islands, the Virgin Islands, and the Northern*
6 *Mariana Islands.*

7 “(17) *TOTAL COST*.—The term ‘total cost’ means
8 *the sum of the initial payment and all periodic pay-*
9 *ments in the payment schedule to be paid by the con-*
10 *sumer to acquire ownership of the property that is the*
11 *subject of the rental-purchase agreement.*

12 **“SEC. 1002. EXEMPTED TRANSACTIONS.**

13 *“This title shall not apply to rental-purchase agree-*
14 *ments primarily for business, commercial, or agricultural*
15 *purposes, or those made with Government agencies or in-*
16 *strumentalities.*

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

18 “(a) *RECIPIENT OF DISCLOSURE*.—A merchant shall
19 *disclose to any person who will be a signatory to a rental-*
20 *purchase agreement the information required by sections*
21 *1004 and 1005.*

22 “(b) *TIMING OF DISCLOSURE*.—The disclosures re-
23 *quired under sections 1004 and 1005 shall be made before*
24 *the consummation of the rental-purchase agreement and*

1 *clearly and conspicuously in writing as part of the rental-*
2 *purchase agreement to be signed by the consumer.*

3 “(c) *CLEARLY AND CONSPICUOUSLY.*—*As used in this*
4 *section, the term ‘clearly and conspicuously’ means that in-*
5 *formation required to be disclosed to the consumer shall be*
6 *worded plainly and simply, and appear in a type size,*
7 *prominence, and location as to be readily noticeable, read-*
8 *able, and comprehensible to an ordinary consumer.*

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

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

13 “(1) *The date of the consummation of the rental-*
14 *purchase transaction and the identities of the mer-*
15 *chant and the consumer.*

16 “(2) *A brief description of the rental property,*
17 *which shall be sufficient to identify the property to*
18 *the consumer, including an identification or serial*
19 *number, if applicable, and a statement indicating*
20 *whether the property is new or used.*

21 “(3) *A description of any fee, charge or penalty,*
22 *in addition to the periodic payment, that the con-*
23 *sumer may be required to pay under the agreement,*
24 *which shall be separately identified by type and*
25 *amount.*

1 “(4) A clear and conspicuous statement that the
2 transaction is a rental-purchase agreement and that
3 the consumer will not obtain ownership of the prop-
4 erty until the consumer has paid the total dollar
5 amount necessary to acquire ownership.

6 “(5) The amount of any initial payment, which
7 includes the first periodic payment, and the total
8 amount of any fees, taxes, or other charges, required
9 to be paid by the consumer.

10 “(6) The amount of the cash price of the prop-
11 erty that is the subject of the rental-purchase agree-
12 ment, and, if the agreement involves the rental of 2
13 or more items as a set (as may be defined by the
14 Board in regulation) a statement of the aggregate
15 cash price of all items shall satisfy this requirement.

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

20 “(8) The total cost, using that term, and a brief
21 description, such as ‘This is the amount you will pay
22 the merchant if you make all periodic payments to
23 acquire ownership of the property.’

24 “(9) A statement of the consumer’s right to ter-
25 minate the agreement without paying any fee or

1 charge not previously due under the agreement by vol-
2 untarily surrendering or returning the property in
3 good repair upon expiration of any lease term.

4 “(10) Substantially the following statement:
5 **‘OTHER IMPORTANT TERMS:** See your rent-
6 al-purchase agreement for additional important infor-
7 mation on early termination procedures, purchase op-
8 tion rights, responsibilities for loss, damage or de-
9 struction of the property, warranties, maintenance re-
10 sponsibilities, and other charges or penalties you may
11 incur.’.

12 “(b) *FORM OF DISCLOSURE.*—The disclosures required
13 by paragraphs (4) through (10) of subsection (a) shall be
14 segregated from other information at the beginning of the
15 rental-purchase agreement and shall contain only directly
16 related information, and shall be identified in boldface,
17 upper-case letters as follows: **‘IMPORTANT RENTAL-**
18 **PURCHASE DISCLOSURES’.**

19 “(c) *DISCLOSURE REQUIREMENTS RELATING TO IN-*
20 *SURANCE PREMIUMS AND LIABILITY WAIVERS.*—

21 “(1) *IN GENERAL.*—A merchant shall clearly and
22 conspicuously disclose in writing to the consumer be-
23 fore the consummation of a rental-purchase agreement
24 that the purchase of leased property insurance or li-

1 *ability waiver coverage is not required as a condition*
2 *for entering into the rental-purchase agreement.*

3 “(2) *AFFIRMATIVE WRITTEN REQUEST AFTER*
4 *COST DISCLOSURE.—A merchant may provide insur-*
5 *ance or liability waiver coverage, directly or indi-*
6 *rectly, in connection with a rental-purchase trans-*
7 *action only if—*

8 “(A) *the merchant clearly and conspicu-*
9 *ously discloses to the consumer the cost of each*
10 *component of such coverage before the con-*
11 *summation of the rental-purchase agreement;*
12 *and*

13 “(B) *the consumer signs an affirmative*
14 *written request for such coverage after receiving*
15 *the disclosures required under subparagraph*
16 *paragraph (A) of this paragraph and paragraph*
17 *(1).*

18 “(d) *ACCURACY OF DISCLOSURE.—*

19 “(1) *IN GENERAL.—The disclosures required to*
20 *be made under subsection (a) shall be accurate as of*
21 *the date the disclosures are made, based on the infor-*
22 *mation available to the merchant.*

23 “(2) *INFORMATION SUBSEQUENTLY RENDERED*
24 *INACCURATE.—If information required to be disclosed*
25 *under subsection (a) is subsequently rendered inac-*

1 *curate as a result of any agreement between the mer-*
2 *chant and the consumer subsequent to the delivery of*
3 *the required disclosures, the resulting inaccuracy shall*
4 *not constitute a violation of this title.*

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

6 *“(a) IN GENERAL.—Each rental-purchase agreement*
7 *shall—*

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

11 *“(2) provide a statement specifying whether the*
12 *merchant or the consumer is responsible for main-*
13 *taining or servicing the property, together with a*
14 *brief description of the responsibility;*

15 *“(3) provide that the consumer may terminate*
16 *the agreement without paying any charges not pre-*
17 *viously due under the agreement by voluntarily sur-*
18 *rendering or returning the property that is the subject*
19 *of the agreement upon expiration of any rental pe-*
20 *riod;*

21 *“(4) contain a provision for reinstatement of the*
22 *agreement, which at a minimum—*

23 *“(A) permits a consumer who fails to make*
24 *a timely rental payment to reinstate the agree-*
25 *ment, without losing any rights or options which*

1 *exist under the agreement, by the payment of all*
2 *past due rental payments and any other charges*
3 *then due under the agreement and a payment for*
4 *the next rental period within 7 business days*
5 *after failing to make a timely rental payment if*
6 *the consumer pays monthly, or within 3 business*
7 *days after failing to make a timely rental pay-*
8 *ment if the consumer pays more frequently than*
9 *monthly;*

10 *“(B) if the consumer returns or voluntarily*
11 *surrenders the property covered by the agree-*
12 *ment, other than through judicial process, during*
13 *the applicable reinstatement period set forth in*
14 *subparagraph (A), permits the consumer to rein-*
15 *state the agreement during a period of at least*
16 *60 days after the date of the return or surrender*
17 *of the property by the payment of all amounts*
18 *previously due under the agreement, any appli-*
19 *cable fees, and a payment for the next rental pe-*
20 *riod;*

21 *“(C) if the consumer has paid 50 percent or*
22 *more of the total cost necessary to acquire owner-*
23 *ship and returns or voluntarily surrenders the*
24 *property, other than through judicial process,*
25 *during the applicable reinstatement period set*

1 *forth in subparagraph (A), permits the consumer*
2 *to reinstate the agreement during a period of at*
3 *least 120 days after the date of the return of the*
4 *property by the payment of all amounts pre-*
5 *viously due under the agreement, any applicable*
6 *fees, and a payment for the next rental period;*
7 *and*

8 *“(D) permits the consumer, upon reinstatement*
9 *of the agreement to receive the same prop-*
10 *erty, if available, that was the subject of the rent-*
11 *al-purchase agreement, or if the same property is*
12 *not available, a substitute item of comparable*
13 *quality and condition may be provided to the*
14 *consumer; except that, the Board may, by regula-*
15 *tion or order, exempt any independent small*
16 *business (as defined by the Board by regulation)*
17 *from the requirement of providing the same or*
18 *comparable product during the extended rein-*
19 *statement period provided in subparagraph (C),*
20 *if the Board determines, taking into account*
21 *such standards as the Board determines to be ap-*
22 *propriate, that the reinstatement right provided*
23 *in such subparagraph would provide excessive*
24 *hardship for such independent small business.*

1 “(5) provide a statement specifying the terms
2 under which the consumer shall acquire ownership of
3 the property that is the subject of the rental-purchase
4 agreement either by payment of the total cost to ac-
5 quire ownership, as provided in section 1006, or by
6 exercise of any early purchase option provided in the
7 rental-purchase agreement;

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

14 “(7) provide, to the extent applicable, a descrip-
15 tion of any grace period for making any periodic
16 payment, the amount of any security deposit, if any,
17 to be paid by the consumer upon initiation of the
18 rental-purchase agreement, and the terms for refund
19 of such security deposit to the consumer upon return,
20 surrender or purchase of the property.

21 “(b) *REPOSSESSION DURING REINSTATEMENT PE-*
22 *RIOD.*—Subsection (a)(4) shall not be construed so as to
23 prevent a merchant from attempting to repossess property
24 during the reinstatement period pursuant to subsection

1 (a)(4)(A), but such a repossession does not affect the con-
2 sumer's right to reinstate.

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

4 “(a) *IN GENERAL.*—The consumer shall acquire own-
5 ership of the property that is the subject of the rental-pur-
6 chase agreement, and the rental-purchase agreement shall
7 terminate, upon compliance by the consumer with the re-
8 quirements of subsection (b) or any early payment option
9 provided in the rental purchase agreement, and upon pay-
10 ment of any past due payments and fees, as permitted in
11 regulation by the Board.

12 “(b) *PAYMENT OF TOTAL COST.*—The consumer shall
13 acquire ownership of the rental property upon payment of
14 the total cost of the rental-purchase agreement, as such term
15 is defined in section 1001(17), and as disclosed to the con-
16 sumer in the rental-purchase agreement pursuant to section
17 1004(a).

18 “(c) *ADDITIONAL FEES PROHIBITED.*—A merchant
19 shall not require the consumer to pay, as a condition for
20 acquiring ownership of the property that is the subject of
21 the rental-purchase agreement, any fee or charge in addi-
22 tion to, or in excess of, the regular periodic payments re-
23 quired by subsection (b), or any early purchase option
24 amount provided in the rental-purchase agreement, as ap-
25 plicable. A requirement that the consumer pay an unpaid

1 *late charge or other fee or charge which the merchant has*
 2 *previously billed to the consumer shall not constitute an ad-*
 3 *ditional fee or charge for purposes of this subsection.*

4 “(d) *TRANSFER OF OWNERSHIP RIGHTS.*—Upon pay-
 5 *ment by the consumer of all payments necessary to acquire*
 6 *ownership under subsection (b) or any early purchase op-*
 7 *tion amount provided in the rental-purchase agreement, as*
 8 *appropriate, the merchant shall—*

9 “(1) *deliver, or mail to the consumer’s last*
 10 *known address, such documents or other instruments,*
 11 *which the Board has determined by regulation, are*
 12 *necessary to acknowledge full ownership by the con-*
 13 *sumer of the property acquired pursuant to the rent-*
 14 *al-purchase agreement; and*

15 “(2) *transfer to the consumer the unexpired por-*
 16 *tion of any warranties provided by the manufacturer,*
 17 *distributor, or seller of the property, which shall*
 18 *apply as if the consumer were the original purchaser*
 19 *of the property, except where such transfer is prohib-*
 20 *ited by the terms of the warranty.*

21 **“SEC. 1007. PROHIBITED PROVISIONS.**

22 “*A rental-purchase agreement may not contain—*

23 “(1) *a confession of judgment;*

24 “(2) *a negotiable instrument;*

1 “(3) a security interest or any other claim of a
2 property interest in any goods, except those goods the
3 use of which is provided by the merchant pursuant to
4 the agreement;

5 “(4) a wage assignment;

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

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

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

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

17 “(C) the actual cost of repair, as appro-
18 priate;

19 “(7) a provision authorizing the merchant, or a
20 person acting on behalf of the merchant, to enter the
21 consumer’s dwelling or other premises without obtain-
22 ing the consumer’s consent or to commit any breach
23 of the peace in connection with the repossession of the
24 rental property or the collection of any obligation or

1 *alleged obligation of the consumer arising out of the*
2 *rental-purchase agreement;*

3 *“(8) a provision requiring the purchase of insur-*
4 *ance or liability damage waiver to cover the property*
5 *that is the subject of the rental-purchase agreement,*
6 *except as permitted by the Board in regulation;*

7 *“(9) a provision requiring the consumer to pay*
8 *more than 1 late fee or charge for an unpaid or delin-*
9 *quent periodic payment, regardless of the period in*
10 *which the payment remains unpaid or delinquent, or*
11 *to pay a late fee or charge for any periodic payment*
12 *because a previously assessed late fee has not been*
13 *paid in full.*

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

15 *“Upon request of a consumer, a merchant shall provide*
16 *a statement of the consumer’s account. If a consumer re-*
17 *quests a statement for an individual account more than 4*
18 *times in any 12-month period, the merchant may charge*
19 *a reasonable fee for the additional statements.*

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

21 *“(a) RENEGOTIATIONS.—A renegotiation occurs when*
22 *a rental-purchase agreement is satisfied and replaced by a*
23 *new agreement undertaken by the same consumer. A renego-*
24 *tiation requires new disclosures, except as provided in sub-*
25 *section (c).*

1 “(b) *EXTENSIONS.*—An extension is an agreement by
2 the consumer and the merchant, to continue an existing
3 rental-purchase agreement beyond the original end of the
4 payment schedule, but does not include a continuation that
5 is the result of a renegotiation.

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

9 “(1) A reduction in payments.

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

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

13 “(4) The substitution of property with property
14 that has a substantially equivalent or greater eco-
15 nomic value provided the rental-purchase cost does
16 not increase.

17 “(5) The deletion of property in a multiple-item
18 agreement.

19 “(6) A change in rental period provided the rent-
20 al-purchase cost does not increase.

21 “(7) An agreement resulting from a court pro-
22 ceeding.

23 “(8) Any other event described in regulations
24 prescribed by the Board.

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

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

7 “(1) *A brief description of the property.*

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

9 “(3) *The cash price of the property.*

10 “(4) *The amount of each rental payment.*

11 “(5) *The total number of rental payments nec-*
12 *essary to acquire ownership of the property.*

13 “(6) *The rental-purchase cost.*

14 “(b) *FORM OF DISCLOSURE.*—

15 “(1) *IN GENERAL.*—A merchant may make the
16 disclosure required by subsection (a) in the form of a
17 list or catalog which is readily available to the con-
18 sumer at the point of rental if the merchandise is not
19 displayed in the merchant’s showroom or if dis-
20 playing a card, tag, or label would be impractical due
21 to the size of the merchandise.

22 “(2) *CLEARLY AND CONSPICUOUSLY.*—As used in
23 this section, the term ‘clearly and conspicuously’
24 means that information required to be disclosed to the
25 consumer shall appear in a type size, prominence,

1 *and location as to be noticeable, readable, and com-*
2 *prehensible to an ordinary consumer.*

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

4 *“(a) IN GENERAL.—If an advertisement for a rental-*
5 *purchase transaction refers to or states the amount of any*
6 *payment for any specific item or set of items, the merchant*
7 *making the advertisement shall also clearly and conspicu-*
8 *ously state in the advertisement the following for the item,*
9 *or set of items, advertised:*

10 *“(1) The transaction advertised is a rental-pur-*
11 *chase agreement.*

12 *“(2) The amount, timing, and total number of*
13 *rental payments necessary to acquire ownership*
14 *under the rental-purchase agreement.*

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

16 *“(4) To acquire ownership of the property the*
17 *consumer must pay the rental-purchase cost plus ap-*
18 *plicable taxes.*

19 *“(5) Whether the stated payment amount and*
20 *advertised rental-purchase cost is for new or used*
21 *property.*

22 *“(b) PROHIBITION.—An advertisement for a rental-*
23 *purchase agreement shall not state or imply that a specific*
24 *item, or set of items, is available at specific amounts or*
25 *terms unless the merchant usually and customarily offers,*

1 *or will offer, the item or set of items at the stated amounts*
2 *or terms.*

3 “(c) *CLEARLY AND CONSPICUOUSLY.*—

4 “(1) *IN GENERAL.*—*For purposes of this section,*
5 *the term ‘clearly and conspicuously’ means that re-*
6 *quired disclosures shall be presented in a type, size,*
7 *shade, contrast, prominence, location, and manner, as*
8 *applicable to different mediums for advertising, so as*
9 *to be readily noticeable and comprehensible to the or-*
10 *inary consumer.*

11 “(2) *REGULATORY GUIDANCE.*—*The Board shall*
12 *prescribe regulations on principles and factors to*
13 *meet the clear and conspicuous standard as appro-*
14 *priate to print, video, audio, and computerized adver-*
15 *tising, reflecting the principles and factors typically*
16 *applied in each medium by the Federal Trade Com-*
17 *mission.*

18 “(3) *LIMITATION.*—*Nothing contrary to, incon-*
19 *sistent with, or in mitigation of, the required disclo-*
20 *sures shall be used in any advertisement in any me-*
21 *dium, and no audio, video, or print technique shall*
22 *be used that is likely to obscure or detract signifi-*
23 *cantly from the communication of the disclosures.*

1 **“SEC. 1012. CIVIL LIABILITY.**

2 “(a) *IN GENERAL.*—*Except as otherwise provided in*
3 *section 1013, any merchant who fails to comply with any*
4 *requirement of this title with respect to any consumer is*
5 *liable to such consumer as provided for leases in section*
6 *130. For purposes of this section, the term ‘creditor’ as used*
7 *in section 130 shall include a ‘merchant’, as defined in sec-*
8 *tion 1001.*

9 “(b) *JURISDICTION OF COURTS; LIMITATION ON AC-*
10 *TIONS.*—

11 “(1) *IN GENERAL.*—*Notwithstanding section*
12 *130(e), any action under this section may be brought*
13 *in any United States district court, or in any other*
14 *court of competent jurisdiction, before the end of the*
15 *1-year period beginning on the date the last payment*
16 *was made by the consumer under the rental-purchase*
17 *agreement.*

18 “(2) *RECOUPMENT OR SET-OFF.*—*This subsection*
19 *shall not bar a consumer from asserting a violation*
20 *of this title in an action to collect an obligation aris-*
21 *ing from a rental-purchase agreement, which was*
22 *brought after the end of the 1-year period described in*
23 *paragraph (1) as a matter of defense by recoupment*
24 *or set-off in such action, except as otherwise provided*
25 *by State law.*

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

2 “(a) *INDIVIDUAL CASES WITH ACTUAL DAMAGES.*—

3 *Any merchant who fails to comply with any requirements*
4 *imposed under section 1010 or 1011 with respect to any*
5 *consumer who suffers actual damage from the violation*
6 *shall be liable to such consumer as provided in section 130.*

7 “(b) *PATTERN OR PRACTICE OF VIOLATIONS.*—*If a*
8 *merchant engages in a pattern or practice of violating any*
9 *requirement imposed under section 1010 or 1011, the Fed-*
10 *eral Trade Commission or an appropriate State attorney*
11 *general, in accordance with section 1016, may initiate an*
12 *action to enforce sanctions against the merchant,*
13 *including—*

14 “(1) *an order to cease and desist from such prac-*
15 *tices; and*

16 “(2) *a civil money penalty of such amount as the*
17 *court may impose, based on such factors as the court*
18 *may determine to be appropriate.*

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

20 “(a) *ASSIGNEES INCLUDED.*—*For purposes of section*
21 *1013, and this section, the term ‘merchant’ includes an as-*
22 *signee of a merchant.*

23 “(b) *LIABILITIES OF ASSIGNEES.*—

24 “(1) *APPARENT VIOLATION.*—*An action under*
25 *section 1012 or 1013 for a violation of this title may*
26 *be brought against an assignee only if the violation*

1 *is apparent on the face of the rental-purchase agree-*
2 *ment to which it relates.*

3 “(2) *APPARENT VIOLATION DEFINED.*—*For pur-*
4 *poses of this subsection, a violation that is apparent*
5 *on the face of a rental-purchase agreement ~~includes~~*
6 **includes, but is not limited to,** *a disclosure*
7 *that can be determined to be incomplete or inaccurate*
8 *from the face of the agreement.*

9 “(3) *INVOLUNTARY ASSIGNMENT.*—*An assignee*
10 *has no liability in a case in which the assignment is*
11 *involuntary.*

12 “(4) *RULE OF CONSTRUCTION.*—*No provision of*
13 *this section shall be construed as limiting or altering*
14 *the liability under section 1012 or 1013 of a mer-*
15 *chant assigning a rental-purchase agreement.*

16 “(b) *PROOF OF DISCLOSURE.*—*In an action by or*
17 *against an assignee, the consumer’s written acknowledg-*
18 *ment of receipt of a disclosure, made as part of the rental-*
19 *purchase agreement, shall be conclusive proof that the dis-*
20 *closure was made, if the assignee had no knowledge that*
21 *the disclosure had not been made when the assignee acquired*
22 *the rental-purchase agreement to which it relates.*

23 **“SEC. 1015. REGULATIONS.**

24 “(a) *IN GENERAL.*—*The Board shall prescribe regula-*
25 *tions as necessary to carry out the purposes of this title,*

1 *to prevent its circumvention, and to facilitate compliance*
2 *with its requirements.*

3 “(b) *MODEL DISCLOSURE FORMS.—The Board may*
4 *publish model disclosure forms and clauses for common*
5 *rental-purchase agreements to facilitate compliance with*
6 *the disclosure requirements of this title and to aid the con-*
7 *sumer in understanding the transaction by utilizing readily*
8 *understandable language to simplify the technical nature*
9 *of the disclosures. In devising such forms, the Board shall*
10 *consider the use by merchants of data processing or similar*
11 *automated equipment. Nothing in this title may be con-*
12 *strued to require a merchant to use any such model form*
13 *or clause prescribed by the Board under this section. A mer-*
14 *chant shall be deemed to be in compliance with the require-*
15 *ment to provide disclosure under section 1003(a) if the*
16 *merchant—*

17 “(1) *uses any appropriate model form or clause*
18 *as published by the Board; or*

19 “(2) *uses any such model form or clause and*
20 *changes it by—*

21 “(A) *deleting any information which is not*
22 *required by this title; or*

23 “(B) *rearranging the format, if in making*
24 *such deletion or rearranging the format, the mer-*

1 *chant does not affect the substance, clarity, or*
2 *meaningful sequence of the disclosure.*

3 “(c) *EFFECTIVE DATE OF REGULATIONS.*—*Any regu-*
4 *lation prescribed by the Board, or any amendment or inter-*
5 *pretation thereof, shall not be effective before the October*
6 *1 that follows the date of publication of the regulation in*
7 *final form by at least 6 months. The Board may at its dis-*
8 *cretion lengthen that period of time to permit merchants*
9 *to adjust to accommodate new requirements. The Board*
10 *may also shorten that period of time, notwithstanding the*
11 *first sentence, if it makes a specific finding that such action*
12 *is necessary to comply with the findings of a court or to*
13 *prevent unfair or deceptive practices. In any case, mer-*
14 *chants may comply with any newly prescribed disclosure*
15 *requirement prior to its effective date.*

16 **“SEC. 1016. ENFORCEMENT.**

17 “(a) *FEDERAL ENFORCEMENT.*—*Compliance with the*
18 *requirements imposed under this title shall be enforced*
19 *under the Federal Trade Commission Act (15 U.S.C. 41 et*
20 *seq.), and a violation of any requirements imposed under*
21 *this title shall be deemed a violation of a requirement im-*
22 *posed under that Act. All of the functions and powers of*
23 *the Federal Trade Commission under the Federal Trade*
24 *Commission Act are available to the Commission to enforce*
25 *compliance by any person with the requirements of this*

1 *title, irrespective of whether that person is engaged in com-*
2 *merce or meets any other jurisdictional test in the Federal*
3 *Trade Commission Act.*

4 “(b) *STATE ENFORCEMENT.*—

5 “(1) *IN GENERAL.*—*An action to enforce the re-*
6 *quirements imposed by this title may also be brought*
7 *by the appropriate State attorney general in any ap-*
8 *propriate United States district court, or any other*
9 *court of competent jurisdiction.*

10 “(2) *PRIOR WRITTEN NOTICE.*—

11 “(A) *IN GENERAL.*—*The State attorney gen-*
12 *eral shall provide prior written notice of any*
13 *such civil action to the Federal Trade Commis-*
14 *sion and shall provide the Commission with a*
15 *copy of the complaint.*

16 “(B) *EMERGENCY ACTION.*—*If prior notice*
17 *is not feasible, the State attorney general shall*
18 *provide notice to the Commission immediately*
19 *upon instituting the action.*

20 “(3) *FTC INTERVENTION.*—*The Commission*
21 *may—*

22 “(A) *intervene in the action;*

23 “(B) *upon intervening—*

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

4 “(ii) be heard on all matters arising in
5 the action; and

6 “(C) file a petition for appeal.

7 **“SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOW-**
8 **ING VIOLATION.**

9 “Whoever willfully and knowingly gives false or inac-
10 curate information or fails to provide information which
11 he is required to disclose under the provisions of this title
12 or any regulation issued thereunder shall be subject to the
13 penalty provisions as provided in section 112.

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

15 “(a) *RELATION TO STATE LAW.*—

16 “(1) *NO EFFECT ON CONSISTENT STATE LAWS.*—
17 *Except as otherwise provided in subsection (b), this*
18 *title does not annul, alter, or affect in any manner*
19 *the meaning, scope or applicability of the laws of any*
20 *State relating to rental-purchase agreements, except to*
21 *the extent those laws are inconsistent with any provi-*
22 *sion of this title, and then only to the extent of the*
23 *inconsistency.*

24 “(2) *DETERMINATION OF INCONSISTENCY.*—

25 *Upon its own motion or upon the request of an inter-*

1 *ested party, which is submitted in accordance with*
2 *procedures prescribed in regulations of the Board, the*
3 *Board shall determine whether any such inconsistency*
4 *exists. If the Board determines that a term or provi-*
5 *sion of a State law is inconsistent, merchants located*
6 *in that State need not follow such term or provision*
7 *and shall incur no liability under the law of that*
8 *State for failure to follow such term or provision, not-*
9 *withstanding that such determination is subsequently*
10 *amended, rescinded, or determined by judicial or*
11 *other authority to be invalid for any reason.*

12 *“(3) GREATER PROTECTION UNDER STATE*
13 *LAW.—Except as provided in subsection (b), for pur-*
14 *poses of this section, a term or provision of a State*
15 *law is not inconsistent with the provisions of this title*
16 *if the term or provision affords greater protection and*
17 *benefit to the consumer than the protection and ben-*
18 *efit provided under this title as determined by the*
19 *Board, on its own motion or upon the petition of any*
20 *interested party.*

21 *“(b) STATE LAWS RELATING TO CHARACTERIZATION*
22 *OF TRANSACTION.—Notwithstanding the provisions of sub-*
23 *section (a), this title shall supersede any State law to the*
24 *extent that such law—*

1 “(1) regulates a rental-purchase agreement as a
2 security interest, credit sale, retail installment sale,
3 conditional sale or any other form of consumer credit,
4 or that imputes to a rental-purchase agreement the
5 creation of a debt or extension of credit, or

6 “(2) requires the disclosure of a percentage rate
7 calculation, including a time-price differential, an
8 annual percentage rate, or an effective annual per-
9 centage rate.

10 “(c) *RELATION TO FEDERAL TRADE COMMISSION*
11 *ACT.*—No provision of this title shall be construed as lim-
12 iting, superseding, or otherwise affecting the applicability
13 of the Federal Trade Commission Act to any merchant or
14 rental-purchase transaction.

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

16 “*No civil liability or criminal penalty under this title*
17 *may be imposed on the United States or any of its depart-*
18 *ments or agencies, any State or political subdivision, or*
19 *any agency of a State or political subdivision.*

20 **“SEC. 1020. COMPLIANCE DATE.**

21 “*Compliance with this title shall not be required until*
22 *6 months after the date of the enactment of the Consumer*
23 *Rental Purchase Agreement Act. In any case, merchants*
24 *may comply with this title at any time after such date of*
25 *enactment.”.*

Union Calendar No. 396

107TH CONGRESS
2^D SESSION

H. R. 1701

[Report No. 107-590, Parts I and II]

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.

SEPTEMBER 9, 2002

Reported from the Committee on the Judiciary with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed