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**ASSEMBLY, No. 2700**

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**STATE OF NEW JERSEY**

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INTRODUCED FEBRUARY 3, 1997

**By Assemblymen GREGG and STANLEY**

1 AN ACT concerning rental-purchase agreements and supplementing  
2 Title 17 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7 1. This act shall be known and may be cited as the "New Jersey  
8 Rental-Purchase Consumer Protection Act."

9

10 2. As used in this act:

11 "Advertisement" means a commercial message in any medium that  
12 aids, promotes or assists, directly or indirectly, in the consummation  
13 of a rental-purchase agreement.

14 "Cash price" means the price at which the merchant would have  
15 sold the property to the consumer for cash on the date of the  
16 rental-purchase agreement.

17 "Consumer" means a natural person who rents personal property  
18 under a rental-purchase agreement to be used primarily for personal,  
19 family or household purposes.

20 "Consummation" means the time a consumer becomes contractually  
21 obligated on a rental-purchase agreement.

22 <sup>1</sup>"Early buy-out formula" means the cash price of the rented  
23 property less 50 percent of the rental payments made by the  
24 consumer.<sup>1</sup>

25 "Rental-purchase agreement" means an agreement for the use of  
26 personal property by a consumer primarily for personal, family or  
27 household purposes, for an initial period of four months or less, that  
28 is automatically renewable with each payment after the initial period,

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly ACP committee amendments adopted February 10, 1997.

1 but does not obligate or require the consumer to continue renting or  
2 using the property beyond the initial period, and that permits the renter  
3 to become the owner of the property.

4 "Merchant" means a person who regularly provides the use of  
5 property through rental-purchase agreements and to whom rental  
6 payments are initially payable on the face of the rental-purchase  
7 agreement.

8

9 3. a. A rental-purchase agreement that complies with the  
10 provisions of this act shall not be construed as, nor be governed by,  
11 the laws relating to:

12 (1) a retail installment contract as defined in subsection (b) of  
13 section 1 of P.L.1960, c.40 (C.17:16C-1);

14 (2) a retail charge account as defined in subsection (r) of section  
15 1 of P.L.1960, c.40 (C.17:16C-1);

16 (3) a retail installment sale of goods or retail installment contract  
17 for the sale of goods pursuant to P.L.1968, c.223 (C.17:16C-61.1 et  
18 seq.); or

19 (4) a security interest as defined in subsection (37) of  
20 N.J.S.12A:1-201.

21 b. The provisions of this act shall not apply to:

22 (1) rental-purchase agreements primarily for business, commercial  
23 or agricultural purposes, or those made with governmental agencies,  
24 instrumentalities or organizations;

25 (2) a rental or lease of a safe deposit box;

26 (3) a rental or lease or bailment of personal property which is  
27 incidental to the lease of real property, and which provides that the  
28 consumer has no option to purchase the rented or leased property; or

29 (4) a rental or lease of an automobile.

30

31 4. a. A merchant shall disclose to a consumer the information  
32 required by section 5 of this act. In a transaction involving more than  
33 one merchant, only one merchant shall make the disclosures required  
34 by section 5 of this act, but all merchants involved in a rental-purchase  
35 agreement with a consumer shall be bound by those disclosures.

36 b. The disclosures shall be made at or before consummation of the  
37 rental-purchase agreement. Agreements shall be written in plain  
38 English, and in any other language used by a merchant in  
39 advertisements for rental-purchase agreements.

40 c. The disclosures shall be made clearly and conspicuously in  
41 writing and a copy of the rental-purchase agreement shall be provided  
42 to the consumer at the time the agreement is consummated. The  
43 disclosures required pursuant to section 5 of this act shall be made on  
44 the face of the contract above the line for the consumer's signature.

45 d. If a disclosure becomes inaccurate as the result of any act,  
46 occurrence or agreement by the consumer after delivery of the

1 required disclosures, the resulting inaccuracy is not a violation of this  
2 act.

3

4 5. a. For each rental-purchase agreement, the merchant shall  
5 disclose in the agreement the following items, as applicable:

6 (1) the total number, total dollar amount and timing of all payments  
7 necessary to acquire ownership of the property;

8 (2) a statement that the consumer will not own the property until  
9 the consumer has made the total dollar amount of payments necessary  
10 to acquire ownership;

11 (3) a statement that the consumer is responsible for the fair market  
12 value of the property <sup>1</sup>, according to the early buy-out formula,<sup>1</sup> if,  
13 and as of the time, it is stolen, damaged or destroyed;

14 (4) a brief description of the rented property, sufficient to identify  
15 the property to the consumer and the merchant, including an  
16 identification number, if applicable, and a statement indicating whether  
17 the property is new or used, but a statement that indicates new  
18 property is used is not a violation of this act;

19 (5) the cash price of the property;

20 (6) the total of initial payments paid or required at or before  
21 consummation of the rental-purchase agreement or delivery of the  
22 property, whichever is later;

23 (7) a statement that the total dollar amount of payments does not  
24 include other charges that a consumer may incur, such as late payment,  
25 default, pickup and reinstatement fees, which charges shall be  
26 separately <sup>1</sup>and individually<sup>1</sup> disclosed <sup>1</sup>by dollar amount<sup>1</sup> in the  
27 rental-purchase agreement;

28 (8) a statement clearly summarizing the terms of the consumer's  
29 option to purchase, including a statement that the consumer has the  
30 right to exercise an early purchase option and the price, formula or  
31 method for determining the price at which the property may be so  
32 purchased;

33 (9) a statement identifying the party responsible for maintaining or  
34 servicing the property while it is being rented, together with a  
35 description of that responsibility, and a statement that if any part of a  
36 manufacturer's express warranty covers the rental property at the time  
37 the consumer acquires ownership of the property, it shall be  
38 transferred to the consumer, if allowed by the terms of the warranty;

39 (10) the date of the consummation of the agreement and the  
40 identities of the merchant and the consumer;

41 (11) a statement that the consumer may terminate the agreement  
42 without penalty by voluntarily surrendering or returning the property  
43 in good repair upon expiration of any rental term along with any past  
44 due rental payments; and

45 (12) notice of the right to reinstate a rental-purchase agreement  
46 pursuant to section 7 of this act, which notice shall include the

1 provisions of section 7 of this act.

2 b. With respect to matters specifically governed by the federal  
3 Consumer Credit Protection Act (15 U.S.C. §1601 et seq.),  
4 compliance with that act shall be deemed to satisfy the disclosure  
5 requirements of this section.

6

7 6. A rental-purchase agreement may not contain a provision:

8 a. Requiring a confession of judgment;

9 b. Requiring a garnishment of wages;

10 c. Permitting the merchant a security interest in or other claim to  
11 a property interest in any property except property delivered by the  
12 merchant pursuant to the rental-purchase agreement;

13 d. Authorizing a merchant or an agent of the merchant to commit  
14 a breach of the peace during repossession of the property;

15 e. Waiving a defense, counterclaim, or right the renter may have  
16 against the merchant or an agent of the merchant;

17 f. Requiring a balloon payment in addition to regular rental  
18 payments in order to acquire ownership of the property, or requiring  
19 rental payments totaling more than the cost to acquire ownership, as  
20 disclosed in the rental-purchase agreement; or

21 g. Requiring purchase of insurance from the merchant to cover the  
22 property.

23

24 7. a. A consumer who fails to make a timely rental payment may  
25 reinstate a rental-purchase agreement without losing any rights or  
26 options which exist under the agreement, if the following apply:

27 (1) subsequent to having failed to make a timely rental payment,  
28 the consumer promptly returns or surrenders the property upon the  
29 merchant's request; and

30 (2) not more than 60 days have passed since the property was  
31 returned to the merchant; except that if the consumer has paid 60  
32 percent or more of the total of payments necessary to acquire  
33 ownership of the property, then the reinstatement period shall be  
34 extended to 180 days.

35 b. As a condition of reinstatement under this section, the merchant  
36 may require the payment of all past due rental charges, any applicable  
37 late fee, plus a reinstatement fee not to exceed \$5.

38 c. Nothing in this section shall prevent a merchant from  
39 attempting to repossess property during the reinstatement period, but  
40 that repossession shall not affect the consumer's rights to reinstate.  
41 Upon reinstatement, the merchant shall provide the consumer with the  
42 same property or substitute property of comparable quality and  
43 condition.

44

45 8. a. No merchant shall offer a rental-purchase agreement in  
46 which 50 percent of all rental payments necessary to acquire

1 ownership of the rented property exceeds the <sup>1</sup>posted<sup>1</sup> cash price of  
2 the rented property. When 50 percent of all rental payments made by  
3 a consumer equals the <sup>1</sup>posted<sup>1</sup> cash price of the property disclosed to  
4 the consumer pursuant to paragraph (5) of subsection a. of section 5  
5 of this act, the consumer shall acquire ownership of the rented  
6 property and the rental-purchase agreement shall terminate.

7 b. At any time after tendering an initial rental payment, a  
8 consumer may acquire ownership of the property that is the subject of  
9 the rental-purchase agreement by tendering the amount by which the  
10 <sup>1</sup>posted<sup>1</sup> cash price of the rented property exceeds 50 percent of all  
11 rental payments previously made by the consumer.

12

13 9. A merchant shall provide the consumer a written receipt for  
14 each payment made by cash or money order, upon request by the  
15 consumer.

16

17 10. a. A renegotiation shall occur when an existing rental-purchase  
18 agreement is satisfied and replaced by a new agreement undertaken by  
19 the same merchant and consumer. A renegotiation shall be considered  
20 a new agreement requiring new disclosures pursuant to this act.  
21 However, events such as the following shall not be treated as  
22 renegotiation:

23 (1) the addition or return of property in a multiple-item agreement  
24 or the substitution of the rental property, if in either case the average  
25 payment allocable to a payment period is not changed by more than 25  
26 percent;

27 (2) a deferral or extension of one or more periodic payments, or  
28 portions of a periodic payment;

29 (3) a reduction in charges in the agreement; and

30 (4) an agreement involved in a court proceeding.

31 b. No new disclosures are required for any extension of a  
32 rental-purchase agreement.

33

34 11. a. If an advertisement for a rental-purchase agreement refers  
35 to or states the dollar amount of any payment and right to acquire  
36 ownership for any one specific item, the advertisement shall also  
37 clearly and conspicuously state the following items, as applicable:

38 (1) that the transaction advertised is a rental-purchase agreement;

39 (2) the total number and total dollar amount of payments necessary  
40 to acquire ownership; and

41 (3) that the consumer does not acquire ownership rights if the total  
42 dollar amount of payments necessary to acquire ownership is not paid.

43 b. Any personal property displayed or offered under a  
44 rental-purchase agreement shall bear a tag which clearly and  
45 conspicuously states:

46 (1) the cash price of the property;

- 1 (2) the dollar amount of the periodic payment;
- 2 (3) the total dollar amount that must be paid in order to acquire
- 3 ownership of the property under a rental-purchase agreement; and
- 4 (4) that the property is new or used.

5 c. An owner or agent of the medium in which an advertisement  
6 for a rental-purchase agreement appears or through which it is  
7 disseminated shall not be liable pursuant to this section.

8 d. The provisions of subsection a. of this section shall not apply  
9 to an advertisement which does not refer to or state the amount of any  
10 payment, or which is published in the yellow pages of a telephone  
11 directory or in any similar directory of business.

12

13 12. a. Notwithstanding any provision of subsection b. of this  
14 section to the contrary, a merchant who fails to comply with the  
15 requirements of this act shall be liable to the consumer in an amount  
16 equal to the greater of:

17 (1) the actual damages sustained by the consumer as a result of the  
18 merchant's failure to comply with this act; or

19 (2) twenty-five percent of the total of payments necessary to  
20 acquire ownership, but not less than \$100 nor more than \$1,000.

21 That merchant shall also be liable to the consumer for the costs of  
22 the action and reasonable attorneys' fees, as determined by the court.

23 b. No consumer shall offset any amount for which a merchant is  
24 potentially liable under subsection a. of this section against any amount  
25 owed by the consumer, unless the amount of the merchant's liability  
26 has been determined by judgment of a court of competent jurisdiction  
27 in an action in which the merchant was a party. This subsection b.  
28 does not bar a consumer then in default on an obligation from  
29 asserting a violation of this act as an original action, or as a defense or  
30 counterclaim to an action brought by a merchant against the consumer.

31 c. No action under this section shall be brought in any court of  
32 competent jurisdiction more than two years after the date the  
33 consumer made his last rental payment, or more than two years after  
34 the date of the occurrence of a violation that is the subject of the suit,  
35 whichever is later.

36

37 13. This act shall take effect on the 180th day after enactment.

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41

42 Provides for regulation of certain rental-purchase agreements.