

[First Reprint]
ASSEMBLY, No. 2700

STATE OF NEW JERSEY

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By Assemblymen GREGG, GARRETT 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 ¹"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.¹

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

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:

¹ Assembly ACP committee amendments adopted February 10, 1997.

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

5
6 3. a. A rental-purchase agreement that complies with the
7 provisions of this act shall not be construed as, nor be governed by,
8 the laws relating to:

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

11 (2) a retail charge account as defined in subsection (r) of section
12 1 of P.L.1960, c.40 (C.17:16C-1);

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

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

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

19 (1) rental-purchase agreements primarily for business, commercial
20 or agricultural purposes, or those made with governmental agencies,
21 instrumentalities or organizations;

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

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

26 (4) a rental or lease of an automobile.
27

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

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

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

42 d. If a disclosure becomes inaccurate as the result of any act,
43 occurrence or agreement by the consumer after delivery of the
44 required disclosures, the resulting inaccuracy is not a violation of this
45 act.

- 1 5. a. For each rental-purchase agreement, the merchant shall
2 disclose in the agreement the following items, as applicable:
- 3 (1) the total number, total dollar amount and timing of all payments
4 necessary to acquire ownership of the property;
- 5 (2) a statement that the consumer will not own the property until
6 the consumer has made the total dollar amount of payments necessary
7 to acquire ownership;
- 8 (3) a statement that the consumer is responsible for the fair market
9 value of the property ¹, according to the early buy-out formula,¹ if,
10 and as of the time, it is stolen, damaged or destroyed;
- 11 (4) a brief description of the rented property, sufficient to identify
12 the property to the consumer and the merchant, including an
13 identification number, if applicable, and a statement indicating whether
14 the property is new or used, but a statement that indicates new
15 property is used is not a violation of this act;
- 16 (5) the cash price of the property;
- 17 (6) the total of initial payments paid or required at or before
18 consummation of the rental-purchase agreement or delivery of the
19 property, whichever is later;
- 20 (7) a statement that the total dollar amount of payments does not
21 include other charges that a consumer may incur, such as late payment,
22 default, pickup and reinstatement fees, which charges shall be
23 separately ¹and individually¹ disclosed ¹by dollar amount¹ in the
24 rental-purchase agreement;
- 25 (8) a statement clearly summarizing the terms of the consumer's
26 option to purchase, including a statement that the consumer has the
27 right to exercise an early purchase option and the price, formula or
28 method for determining the price at which the property may be so
29 purchased;
- 30 (9) a statement identifying the party responsible for maintaining or
31 servicing the property while it is being rented, together with a
32 description of that responsibility, and a statement that if any part of a
33 manufacturer's express warranty covers the rental property at the time
34 the consumer acquires ownership of the property, it shall be
35 transferred to the consumer, if allowed by the terms of the warranty;
- 36 (10) the date of the consummation of the agreement and the
37 identities of the merchant and the consumer;
- 38 (11) a statement that the consumer may terminate the agreement
39 without penalty by voluntarily surrendering or returning the property
40 in good repair upon expiration of any rental term along with any past
41 due rental payments; and
- 42 (12) notice of the right to reinstate a rental-purchase agreement
43 pursuant to section 7 of this act, which notice shall include the
44 provisions of section 7 of this act.
- 45 b. With respect to matters specifically governed by the federal
46 Consumer Credit Protection Act (15 U.S.C. §1601 et seq.),

1 compliance with that act shall be deemed to satisfy the disclosure
2 requirements of this section.

3

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

5 a. Requiring a confession of judgment;

6 b. Requiring a garnishment of wages;

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

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

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

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

18 g. Requiring purchase of insurance from the merchant to cover the
19 property.

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

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

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

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

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

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42 8. a. No merchant shall offer a rental-purchase agreement in
43 which 50 percent of all rental payments necessary to acquire
44 ownership of the rented property exceeds the ¹posted¹ cash price of
45 the rented property. When 50 percent of all rental payments made by
46 a consumer equals the ¹posted¹ cash price of the property disclosed to

1 the consumer pursuant to paragraph (5) of subsection a. of section 5
2 of this act, the consumer shall acquire ownership of the rented
3 property and the rental-purchase agreement shall terminate.

4 b. At any time after tendering an initial rental payment, a
5 consumer may acquire ownership of the property that is the subject of
6 the rental-purchase agreement by tendering the amount by which the
7 posted cash price of the rented property exceeds 50 percent of all
8 rental payments previously made by the consumer.

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10 9. A merchant shall provide the consumer a written receipt for
11 each payment made by cash or money order, upon request by the
12 consumer.

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

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

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

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

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

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

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

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

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

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

40 b. Any personal property displayed or offered under a
41 rental-purchase agreement shall bear a tag which clearly and
42 conspicuously states:

43 (1) the cash price of the property;

44 (2) the dollar amount of the periodic payment;

45 (3) the total dollar amount that must be paid in order to acquire
46 ownership of the property under a rental-purchase agreement; and

1 (4) that the property is new or used.

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

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

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

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

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

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

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

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

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

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39 Provides for regulation of certain rental-purchase agreements.