

The Rental Purchase Agreements Law

Title 8 COMMERCIAL LAW AND CONSUMER PROTECTION.

Chapter 25 RENTAL-PURCHASE AGREEMENTS.

Section 8-25-1

Definitions.

As used in this chapter, the following words and phrases shall have the following meanings ascribed to them, unless the context clearly indicates otherwise:

- (1) ADVERTISEMENT. A commercial message in any medium that directly or indirectly promotes or assists a rental-purchase agreement, except for instore merchandising aids.
- (2) CONSUMER. An individual who leases personal property under a rental-purchase agreement.
- (3) MERCHANDISE. The personal property that is the subject of a rental-purchase agreement.
- (4) MERCHANT. A person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of merchandise under a rental-purchase agreement, and includes a person who is assigned an interest in a rental-purchase agreement.
- (5) RENTAL-PURCHASE AGREEMENT. An agreement for the use of merchandise by a consumer for personal, family, or household purposes, for an initial period of four months or less that is automatically renewable with each payment after the initial period, and that permits the consumer to become the owner of the merchandise. This term does not include any transaction wherein a consumer sells personal property to a merchant and then leases the same personal property back with or without a right to repurchase the property. Any rental-purchase agreement in compliance with this chapter shall not be construed to be, nor governed by the laws relating to:
 - a. A "credit sale" as that term is defined in subdivision (4) of Section 5-19-1; or
 - b. A "security interest" as that term is defined in subdivision (37) of Section 7-1-201 of the Uniform Commercial Code.

(Acts 1986, No. 86-497, p. 945, §1; Acts 1991, No. 91-654, p. 1232, §1; Acts 1993, No. 93-614, §1(3).)

Section 8-25-2

Disclosures by merchant to consumer; inaccuracy due to acts, etc., after delivery; form of disclosure.

- (a) The merchant shall disclose to the consumer the information required by this title. In a transaction involving more than one consumer, the merchant need disclose to only one of the

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consumers who are primarily obligated. In a transaction involving more than one merchant, only one merchant need make the disclosures.

(b) The disclosures shall be made clearly and conspicuously in writing in a form that the consumer may keep. The required disclosure may be made a part of the rental-purchase agreement or provided on a separate form.

(c) If a disclosure becomes inaccurate as the result of any act, occurrence, or agreement after delivery of the required disclosure, the resulting inaccuracy is not a violation of this title.

(d) For each rental-purchase agreement, the lessor shall disclose the following items, as applicable:

(1) Whether the merchandise is new or has been previously rented;

(2) The amount and timing of periodic payments;

(3) A brief explanation of other charges besides rental payments for which the consumer may be liable;

(4) The total number of rental payments required and the total amount to be paid to acquire ownership of the merchandise;

(5) That the consumer does not acquire ownership rights unless the consumer has complied with the ownership terms of the agreement; and

(6) A statement explaining who is liable for loss of or damage to the merchandise.

(e) The following form is an example of the form which may be used to satisfy the disclosure requirements of this section:

Rental-Purchase Disclosures

1. Condition of property: new/previously rented

2. This agreement is for _____ week(s) or _____ month(s).

Weekly rental is _____.

Monthly rental is _____.

3. Other charges (specify):

4. Ownership:

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If you renew this agreement for _____ weeks/months in a row, you will pay a total of \$ _____ to own the property.

5. You do not own the property. You will not own the property unless you comply fully with the ownership terms of this agreement.

6. Explanation of liability for loss of or damage to property

(Acts 1986, No. 86-497, p. 945, §2.)

Section 8-25-3

Prohibited provisions.

A rental-purchase agreement shall not contain a provision:

- (1) Requiring a confession of judgment;
- (2) Authorizing a merchant or agent of the merchant to commit a breach of the peace while repossessing merchandise;
- (3) Waiving a defense, counterclaim, or right the consumer may have against the merchant or an agent of the merchant; or
- (4) Requiring the purchase of insurance or waiver of liability from the merchant to cover the merchandise; provided, however, that the lessor may offer to the lessee any such insurance or waiver of liability if it is clearly and conspicuously disclosed on the face of the insurance or waiver of liability agreement, in print not less than eight-point bold face type, that the purchase of any such insurance or waiver of liability by the lessee from the lessor is optional. The charge for any insurance or waiver of liability shall not exceed 15 percent of the rental payment.

(Acts 1986, No. 86-497, p. 945, §3; Acts 1991, No. 91-654, p. 1232, §1.)

Section 8-25-4

Reinstatement of agreement after failure to make timely payment.

A consumer who fails to make a timely rental payment may reinstate an agreement without losing any rights or options previously acquired, by taking the required action within five days if the consumer pays monthly or within two days if the consumer pays more frequently than monthly. Nothing in this section shall prevent the accrual of any late charges or reinstatement fees charged by the merchant. Nothing in this section shall prevent the merchant from attempting repossession of the merchandise during the reinstatement period, and the consumer's right to reinstate an agreement shall not expire because of such a repossession.

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A consumer must pay all rental and other charges due or return the merchandise to the merchant if the merchant so requests during the reinstatement period. If the merchandise is returned during the applicable reinstatement period other than through judicial process, the right to reinstate shall be extended for a period of not less than 30 days after the date of the return of the merchandise.

No consumer shall have the right to reinstate more than three times during the term of any one rental-purchase agreement.

On reinstatement, the merchant shall provide the consumer with the same merchandise or substitute merchandise of comparable quality and condition; however, the merchant shall not be required to provide new disclosures upon reinstatement.

(Acts 1986, No. 86-497, p. 945, §4.)

Section 8-25-5

Required provisions in advertisements.

An advertisement for a rental-purchase agreement that states the amount of a payment or the right to acquire ownership of any one particular item under the agreement must clearly and conspicuously state:

- (1) That the transaction advertised is a rental-purchase agreement and
- (2) The total amount and the number of payments necessary to acquire ownership.

(Acts 1986, No. 86-497, p. 945, §5.)

Section 8-25-6

Damages and fees recoverable for violations of chapter; nonliability where merchant discovers error, gives notice, and makes adjustments.

(a) A consumer damaged by a violation of this chapter by a merchant is entitled to recover from the merchant:

- (1) Actual damages;
- (2) Twenty-five percent of an amount equal to the total amount of payments required to obtain ownership of the merchandise involved, except that the amount recovered under this subdivision may not be less than \$100 nor more than \$1,000; and
- (3) Reasonable attorney's fees not to exceed 15 percent of the consumer's allowable recovery and court costs.

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(b) A merchant is not liable under this section for a violation of this chapter caused by the merchant's error if before the sixty-first day after the date the merchant discovers the error, and before an action under this section is filed or written notice of the error is received by the merchant from the consumer, the merchant gives the consumer written notice of the error and makes adjustments in the consumer's account as necessary to assure that the agreement complies with this chapter.

(Acts 1986, No. 86-497, p. 945, §6.)