

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2247 Session of
2010

INTRODUCED BY BRENNAN, BELFANTI, BEYER, CALTAGIRONE, CASORIO,
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K. SMITH, SOLOBAY, THOMAS, WATERS, WHITE AND YOUNGBLOOD,
FEBRUARY 9, 2010

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 9, 2010

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 definitions, for required disclosures in connection with
4 rental-purchase agreement, for prohibited provisions of
5 agreement, for lessee's right to acquire ownership, for
6 lessee's right to reinstate agreement after termination, for
7 rent reduction, for advertising and display of property and
8 for lessor's liability for noncompliance.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Sections 6902, 6903, 6904, 6905, 6906, 6907, 6908
12 and 6909 of Title 42 of the Pennsylvania Consolidated Statutes
13 are amended to read:

14 § 6902. Definitions.

15 The following words and phrases when used in this chapter
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Advertisement." A written, visual or oral communication
19 made to a lessee or prospective lessee by means of personal

1 representation, newspaper, magazine, circular, billboard, direct
2 mailing, sign, radio, television, telephone or other means of
3 communication that aids, promotes or assists, directly or
4 indirectly, a rental-purchase agreement. The term does not
5 include price tags, window signs or other in-store merchandising
6 aids.

7 "Cash price." The price at which the lessor would offer to
8 sell in the ordinary course of business the same or similar
9 property for cash on the day the lessee enters into a rental-
10 purchase agreement.

11 "Date of consummation." The date on which a lessee becomes
12 contractually obligated under a rental-purchase agreement.

13 "Department." The Department of State of the Commonwealth.

14 "Initial payment." The amount to be paid before or at the
15 consummation of the agreement or at the delivery of the property
16 if the delivery occurs after consummation.

17 "Lessee." A person who rents personal property pursuant to a
18 rental-purchase agreement.

19 "Lessor." A person who, in the ordinary course of business,
20 regularly offers to rent or arranges for personal property to be
21 rented pursuant to a rental-purchase agreement. A lessor is a
22 creditor as defined in 37 Pa. Code § 303.2 (relating to
23 definitions) when owed or alleged to be owed a debt and is
24 subject to 37 Pa. Code Ch. 303 (relating to debt collection
25 trade practices).

26 "Payment schedule." The amount and timing of the periodic
27 payments and the total number of all periodic payments that the
28 consumer will make if the consumer acquires ownership of the
29 property by making all periodic payments.

30 "Periodic payment." The total payment a lessee will make for

1 a specific rental period after the initial payment, including
2 the rental payment, taxes, mandatory fees or charges and any
3 optional fees or charges agreed to by the lessee.

4 "Personal property." Any property that is not real property
5 under the laws of the state where it is located when it is
6 offered or made available for a rental-purchase agreement.

7 "Reinstatement period." The time when a lessee may either
8 pay delinquent rent or return the property and thereby retain
9 the right to have the rental-purchase agreement reinstated.

10 "Rental-purchase agreement." An agreement for the use of
11 personal property by an individual primarily for personal,
12 family or household purposes for an initial period of four
13 months or less that is automatically renewable with each rental
14 payment after the initial period and that permits, but does not
15 require, the lessee to acquire ownership of the property. The
16 term shall not be construed to be, nor is it subject to laws
17 governing, any of the following:

18 (1) A lease for agricultural, business or commercial
19 purposes.

20 (2) A lease made to an organization.

21 (3) A lease of money or intangible personal property.

22 (4) A lease of a motor vehicle, motor home, mobile home
23 or manufactured housing.

24 (5) A home solicitation sale under section 7 of the act
25 of December 17, 1968 (P.L.1224, No.387), known as the Unfair
26 Trade Practices and Consumer Protection Law.

27 (6) A retail installment sale, retail installment
28 contract or retail installment account as defined in the act
29 of October 28, 1966 (1st Sp.Sess., P.L.55, No.7), known as
30 the Goods and Services Installment Sales Act.

(7) A security interest as defined in 13 Pa.C.S. § 1201 (relating to general definitions).

(8) A lease made with government agencies or instrumentalities.

(9) A credit sale.

(10) A consumer lease.

(11) A transaction giving rise to a debt incurred in connection with the business of lending money or a thing of value.

§ 6903. Required disclosures in connection with rental-purchase agreement.

(a) General rule.--A lessor shall disclose all of the following in a clear and conspicuous manner segregated from other information at the beginning of the agreement and shall be identified in boldface, uppercase letters to any person who is a signatory to a rental-purchase agreement under this chapter:

(1) A brief description of the rented property sufficient to identify it to the lessee and lessor and a statement as to whether the property is new, used or previously rented. If a rental is for multiple items of property, a description of each item may be provided in a separate statement incorporated by reference in the rental-purchase agreement or primary disclosure statement.

(2) The total amount of any initial payment, including any advance payment, delivery charge or any trade-in allowance, to be paid by the lessee at or before consummation of the rental-purchase agreement.

(3) The amount and timing of rental payments.

(4) The amount of all other charges, individually itemized, payable by the lessee to the lessor that are not

1 included in the rental payments.

2 (5) The party who is liable for loss, theft, damage in
3 excess of normal wear and tear or destruction of the rented
4 property.

5 (6) The right of the lessee to reinstate under section
6 6906 (relating to lessee's right to reinstate agreement after
7 termination) and the amount of or method of determining the
8 amount of the delinquency charges, reinstatement fee or
9 delivery charge for reinstatement.

10 (7) The party responsible for maintaining or servicing
11 the rental property and a brief description of the
12 responsibility.

13 (8) The conditions upon which the lessee or lessor may
14 terminate the rental agreement prior to the expiration of the
15 rental term.

16 (9) The total of all initial payments, all rental
17 payments and all other charges necessary to acquire ownership
18 of the rented property.

19 (10) That the lessee has the option to, but is not
20 required to, purchase the rented property at any time and at
21 what price or by what formula or method the purchase price
22 will be determined.

23 (11) The cash price of the personal property that is the
24 subject of the rental-purchase agreement. If the agreement
25 involves the rental of two or more items as a set, a
26 statement of the aggregate cash price of all items shall
27 satisfy this requirement.

28 (12) The cost of lease services, which is the difference
29 between the total of payments disclosed under paragraph (9)
30 and the cash price of the property disclosed under paragraph

1 (11) .

2 (13) That if any part of a manufacturer's warranty
3 exists on the leased property when a lessee acquires
4 ownership of the property, the warranty will be transferred
5 to the lessee if permitted by the terms of the warranty.

6 (14) That the lessee is not required to purchase
7 insurance or liability damage waiver for the property that is
8 the subject of the rental agreement from the lessor or from
9 any vendor owned or controlled by the lessor.

10 (15) The date of the consummation of the rental-purchase
11 transaction and the identities of the lessee and lessor.

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

17 (17) That upon request of the lessee, a lessor shall
18 provide a statement of the lessee's account. The merchant may
19 charge a reasonable fee when there have been more than four
20 requests within a 12-month period.

21 (18) Statements that indicate the following:

22 (i) The terms under which the lessee shall acquire
23 ownership of the property either by payment of the total
24 cost to acquire ownership or by exercise of an early
25 purchase option.

26 (ii) The transfer or nontransfer of any
27 manufacturer's express warranty that covers the property
28 at the time of the transfer of ownership to the lessee.

29 (iii) A description of, if applicable, a grace
30 period for making any period payment, the amount of any

security deposit and the terms for refunds of the
security deposit upon return, surrender or purchase by
the lessee.

(b) Notice required.--Every primary disclosure statement shall include a notice in a prominent place in at least ten-point type in substantially the following form:

NOTICE

You are renting this property. You will not own it until you make all of the regularly scheduled payments or you use the early purchase option. You do not have the right to keep the property if you do not make required payments or do not use the early purchase option. Subject to your grace periods and reinstatement rights, the lessor may repossess the property if you fail to make rental payments as scheduled. Your rights and responsibilities are fully explained in this rental-purchase agreement.

(c) Time of disclosure.--Every rental-purchase agreement shall be in writing. The information required by this section shall be disclosed by the lessor prior to the signing of the rental-purchase agreement by the lessee and shall be disclosed either in the rental-purchase agreement or on a dated, separate piece of paper that identifies the rental-purchase agreement and the parties to it.

(d) Manner of disclosure.--The disclosures required by subsection (a) (2), (3), (9), (11) and (12) shall be printed or typed in at least ten-point boldface type and grouped together. All other disclosures required by this section shall be printed or typed in at least eight-point type. All numerical amounts and percentages shall be stated in figures. All information required by this section shall be written, organized and designed so that

1 it is easy to read and understand. The information shall be
2 appropriately divided and captioned by its sections.

3 (e) Disclosure of additional information.--A lessor may
4 disclose information that is not required by this section if the
5 additional information is not stated, used or placed in a manner
6 that will contradict, obscure or distract attention from the
7 required information.

8 (f) Compliance with Federal law.--With respect to matters
9 specifically governed by the Consumer Credit Protection Act
10 (Public Law 90-321, 15 U.S.C. § 1601 et seq.), compliance with
11 that act satisfies the requirements of this section.

12 (g) Accuracy of information.--The disclosures made under
13 this act shall be accurate as of the date the disclosure is made
14 based on the information available at the time. If the
15 information is subsequently rendered inaccurate as the result of
16 any agreement between the lessor and lessee, the resulting
17 inaccuracy shall not constitute a violation of this act.

18 § 6904. Prohibited provisions of agreement.

19 A rental-purchase agreement or any document that the lessor
20 requests the lessee to sign shall not contain any provision by
21 which:

22 (1) A power of attorney is given to confess judgment in
23 this Commonwealth or to appoint the lessor, its agents or its
24 successors in interest as the lessee's agent in the
25 collection of payments or the repossession of the rental
26 property.

27 (2) The lessee authorizes the lessor or its agent to
28 commit any breach of the peace in repossessing the rental
29 property or to enter the lessee's dwelling or other premises
30 without obtaining the lessee's consent at the time of entry.

1 (3) The lessor mandates that the lessee purchase
2 insurance or liability waiver against loss or damage to the
3 rental property from the lessor. This paragraph shall not,
4 however, be construed to prohibit a lessor from offering
5 insurance or a liability waiver to a lessee provided it is
6 clearly disclosed that acceptance of the offer of insurance
7 or a liability waiver is optional. A merchant may provide
8 coverage only if the merchant clearly and conspicuously
9 discloses to the consumer the cost of each component of
10 coverage before the consummation of the rental-purchase
11 agreement and the consumer signs an affirmative written
12 request for coverage after the required disclosures under
13 this paragraph.

14 (4) The lessee waives or agrees to waive any defense,
15 counterclaim or right the lessee may have against the lessor,
16 its agent or its successor in interest.

17 (5) The lessee is required to pay a late fee unless the
18 rental payment is five days or more late under a rental-
19 purchase agreement with payments made monthly or two days or
20 more late under a rental-purchase agreement with payments
21 made more frequently than monthly. There may only be one late
22 fee or charge for an unpaid or delinquent periodic payment
23 regardless of the period in which the payment remains unpaid
24 or delinquent or a late fee or charge for any periodic
25 payment because a previously assessed late fee has not been
26 paid in full.

27 (6) A lessee is required to pay a late fee exceeding the
28 greater of \$5 or 10% of the amount of the past due payment,
29 regardless of how long the payment remains unpaid.

30 (7) The lessee is required to pay a fee in connection

1 with retrieval of the property or the termination or
2 rescission of the rental-purchase agreement.

3 (8) The lessee is charged a fee for in-home collection
4 of a rental payment unless the amount of the fee is disclosed
5 and the lessee expressly has agreed to pay the fee.

6 (9) A negotiable instrument is created.

7 (10) A claim or security interest is created in any
8 goods other than those goods provided in the rental-purchase
9 agreement.

10 (11) A wage assignment is created.

11 (12) A provision requiring the waiver of a legal claim
12 or remedy created by Federal or State law.

13 (13) A provision requiring the lessee to pay greater
14 than the fair market value, the actual cost of repair or the
15 early purchase option amount provided in the rental-purchase
16 agreement, in the event the item is lost, damaged, destroyed
17 or stolen.

18 § 6905. Lessee's right to acquire ownership.

19 (a) Limitation on cost of lease services.--The total amount
20 charged by the lessor for the cost of lease services in a
21 rental-purchase transaction shall not exceed the cash price of
22 the property.

23 (b) Acquisition of ownership.--[At any time after tendering
24 an initial rental payment, a lessee may acquire ownership of the
25 property that is the subject of the rental-purchase agreement by
26 tendering an amount equal at a maximum to the amount by which
27 the cash price of the leased property exceeds 50% of all rental
28 payments made by the lessee.] The consumer shall acquire
29 ownership of the rental property upon payment of the total cost
30 of the rental purchase agreement, as disclosed in the rental-

1 purchase agreement. A lessor shall not require the consumer to
2 pay, as a condition for acquiring ownership of the property, a
3 fee or charge in addition to or in excess of the regular
4 periodic payments or early purchase option amount provided in
5 the agreement. Unpaid late charges or fees for which the lessor
6 has previously billed the lessee for shall not constitute an
7 additional fee or charge for purposes of this subsection.

8 (c) Transfer.--Upon payment of all fees, charges and amounts
9 due under the rental-purchase agreement, the lessor shall
10 deliver or mail to the last known address of the lessee
11 documents and instruments that are necessary to acknowledge
12 ownership in the property acquired under the rental-purchase
13 agreement. All warranties shall transfer from the manufacturer,
14 distributor or seller to the lessee except when transfer is
15 prohibited by the terms of the warranty.

16 § 6906. Lessee's right to reinstate agreement after
17 termination.

18 (a) General rule.--A lessee who fails to make a timely
19 rental payment may reinstate the agreement without losing any
20 rights or options which exist under the agreement by the payment
21 of all of the following within seven days of the renewal date if
22 the lessee paid on a monthly basis or three days if the lessee
23 paid more frequently than monthly:

24 (1) All past due rental charges.

25 (2) The reasonable costs of retrieval and redelivery, if
26 the property has been retrieved.

27 (3) Any applicable late fee.

28 (b) Extended reinstatement after return of property.--

29 (1) In the case of a lessee who has paid less than [two-
30 thirds] one-half of the total payments necessary to acquire

1 ownership and where the lessee has returned or voluntarily
2 surrendered the property, other than through judicial
3 process, during the applicable reinstatement period set forth
4 in subsection (a), the lessee may reinstate the agreement
5 during a period of not less than [90] 60 days after the date
6 of the return of the property.

7 (2) In the case of a lessee who has paid [two-thirds]
8 one-half or more of the total of payments necessary to
9 acquire ownership and where the lessee has returned or
10 voluntarily surrendered the property, other than through
11 judicial process, during the applicable period set forth in
12 subsection (a), the lessee may reinstate the agreement during
13 a period of not less than 120 days after the date of the
14 return of the property.

15 (3) The lessee has the right to receive the same
16 property returned. If the property is not available, the
17 lessor shall substitute an item of comparable quality and
18 condition, except that the department may, by regulation or
19 order, exempt an independent small business, as defined by
20 the department by regulation, from the requirement of
21 providing the same or comparable item during the
22 reinstatement period. If the department determines, taking
23 into account standards as the department determines, that the
24 reinstatement right would provide an excessive hardship for
25 the independent small business.

26 (c) Right to reinstate following repossession.--Nothing in
27 this section shall prevent a lessor from attempting to repossess
28 property during the reinstatement period, but a repossession
29 during the reinstatement period shall not affect the lessee's
30 right to reinstate. Upon reinstatement, the lessor shall provide

1 the lessee with the same property or substitute property of
2 comparable quality and condition.

3 (d) Repossession.--A lessor shall have the right to
4 repossess property during the reinstatement period, however,
5 repossession shall not affect the lessee's right to
6 reinstatement.

7 § 6907. Rent reduction.

8 (a) General rule.--If any lessee who has signed a rental-
9 purchase agreement experiences an interruption or reduction of
10 25% or more of income due to involuntary job loss, involuntary
11 reduced employment, illness, pregnancy or disability after two-
12 thirds or more of the total amount of the rental payments
13 necessary to acquire ownership under the agreement has been
14 paid, the lessor shall reduce the amount of each rental payment
15 by:

16 (1) the percentage of the reduction in the lessee's
17 income; or

18 (2) fifty percent, whichever is less, for the period
19 during which the lessee's income is interrupted or reduced.

20 (b) Number of payments.--If payments are reduced, the total
21 dollar amount of payments necessary to acquire ownership shall
22 not be increased, but the number of payments necessary to
23 acquire ownership shall be increased accordingly and the rights
24 and duties of the lessor and the lessee shall not otherwise be
25 affected.

26 (c) Income restored.--When the lessee's income is restored,
27 the lessor may increase the amount of rental payments, but in no
28 event shall rental payments exceed the originally disclosed
29 amount of rental payments.

30 (d) Voluntary renegotiations and extensions.--New

disclosures shall be required with all renegotiations and extensions except in the following situations:

(1) A reduction in payments.

(2) A deferment of one or more payments.

(3) The extension of a rental-purchase agreement.

(4) The substitution of property that has a substantially equivalent or greater economic value as long as the rental-purchase cost does not increase.

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

(6) A change in the rental period as long as the rental-purchase cost does not increase.

(7) An agreement resulting from a court proceeding.

(8) Any other event described in regulations by the department.

§ 6908. Advertising and display of property.

(a) Advertisements.--

(1) An advertisement for a rental-purchase agreement shall not state that a rental of any specific property is available at a specific amount or on specific terms unless the lessor will rent the property at the amount or on the terms specified.

(2) An advertisement shall not state that a payment or a rental payment is due upon origination of a rental without disclosing all of the following:

(i) The payment due upon origination of the rental.

(ii) The rental payment.

(iii) The total number of rental payments necessary to obtain ownership of the property that is the subject of the rental-purchase agreement.

1 (iv) That the item is offered under a rental-
2 purchase agreement and the amount, timing and taxes the
3 lessee must pay.

4 (v) Whether the item is new or used.

5 (b) Information on displays or offers.--All property
6 displayed or offered under a rental-purchase agreement shall
7 have stamped on or affixed to the property and clearly and
8 conspicuously indicated in Arabic numerals that are readable and
9 understandable by visual inspection all of the following:

10 (1) The amount and timing of the rental payment.

11 (2) The cash price of the property.

12 (3) The total number and amount of rental payments
13 necessary to acquire ownership of the property that is the
14 subject of the rental-purchase agreement.

15 (4) The cost of lease services.

16 (5) That the transaction advertised is a rental-purchase
17 agreement.

18 (6) Whether the property is new or used.

19 (c) Compliance with Federal law.--With respect to matters
20 specifically governed by the Consumer Credit Protection Act
21 (Public Law 90-321, 15 U.S.C. § 1601 et seq.), compliance with
22 that act satisfies the requirements of this section.

23 § 6909. Lessor's liability for noncompliance.

24 (a) Violation of other law.--

25 (1) A violation of this chapter shall constitute a
26 violation of the act of December 17, 1968 (P.L.1224, No.387),
27 known as the Unfair Trade Practices and Consumer Protection
28 Law, and shall be subject to the enforcement provisions and
29 private rights of action contained in that act, except as
30 limited in this section.

1 (2) A lessor who knowingly fails to provide information
2 that the lessor is required to disclose to a lessee or to the
3 department under this chapter commits a class C misdemeanor.

4 (b) Recovery in class action limited.--Notwithstanding any
5 other provision of this section or the Unfair Trade Practices
6 and Consumer Protection Law, in any class action brought for
7 violation of this chapter, the total recovery arising out of the
8 same failure to comply shall not be more than the lesser of
9 \$500,000 or an amount equal to 1% of the net worth of the
10 lessor.

11 (c) Recovery of damages.--If a particular rental-purchase
12 agreement has more than one lessee, only one recovery of damages
13 is allowed for a violation of this chapter. Multiple violations
14 in connection with a single rental-purchase agreement entitle
15 the lessee or multiple lessees to only one recovery under this
16 chapter.

17 (d) Commencement of class action.--A class action alleging a
18 violation of this chapter may not be brought more than two years
19 after the occurrence of the violation that is the subject of the
20 suit or more than two years after the lessee made the last
21 rental payment, whichever is later. This subsection does not bar
22 a lessee from asserting a violation of this chapter as a matter
23 of defense by recoupment or setoff in an action brought by a
24 lessor more than two years after the date of the occurrence of
25 the violation on an obligation arising from the rental-purchase
26 agreement.

27 (e) Counteraction or defense.--A lessee may not take any
28 action to offset any amount for which a lessor is potentially
29 liable under the Unfair Trade Practices and Consumer Protection
30 Law against any amount owed by the lessee unless the amount of

1 the liability of the lessor has been determined by a judgment of
2 a court of competent jurisdiction in an action in which the
3 lessor was a party. This subsection does not bar a lessee in
4 default on an obligation arising from the rental-purchase
5 agreement from asserting a violation of this chapter in an
6 original action or as a defense or counterclaim to an action
7 brought by the lessor to collect amounts owed by the lessee
8 under the rental-purchase agreement.

9 (f) Liability of assignees.--An action for a violation of
10 this chapter may only be brought against an assignee if the
11 violation is apparent of the face of the rental-purchase
12 agreement to which it relates. An assignee shall have no
13 liability if the assignment is involuntary. Nothing in this
14 section shall limit or alter the liability of a lessor assigning
15 a rental-purchase agreement.

16 (g) Usury limits.--The legal rate of interest is 6% for
17 loans worth less than \$50,000, except for loans with liens on
18 nonresidential real estate, loans to corporations and loans that
19 have no collateral and are above \$35,000. It is criminal usury
20 to charge more than 25%.

21 Section 2. This act shall apply to all transactions entered
22 into six months after the effective date of this act.

23 Section 3. This act shall take effect in 60 days.