

107TH CONGRESS
2^D SESSION

H. R. 1701

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2002

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

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
9 service that meets and satisfies the demands of
10 many consumers.

11 (2) Each year, approximately 2,300,000 United
12 States households enter into rental-purchase trans-
13 actions and over a 5-year period approximately
14 4,900,000 United States households will do so.

15 (3) Competition among the various firms en-
16 gaged in the extension of rental-purchase trans-
17 actions would be strengthened by informed use of
18 rental-purchase transactions.

19 (4) The informed use of rental-purchase trans-
20 actions results from an awareness of the cost thereof
21 by consumers.

22 (b) PURPOSE.—The purpose of this title is to assure
23 the availability of rental-purchase transactions and to as-
24 sure simple, meaningful, and consistent disclosure of rent-
25 al-purchase terms so that consumers will be able to more

1 readily compare the available rental-purchase terms and
 2 avoid uninformed use of rental-purchase transactions, and
 3 to protect consumers against unfair rental-purchase prac-
 4 tices.

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

6 The Consumer Credit Protection Act is amended by
 7 adding at the end the following new title:

8 **“TITLE X—RENTAL-PURCHASE**
 9 **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.

10 **“SEC. 1001. DEFINITIONS.**

11 “For purposes of this title, the following definitions
 12 shall apply:

13 “(1) **ADVERTISEMENT.**—The term ‘advertis-
 14 ment’ means a commercial message in any medium
 15 that promotes, directly or indirectly, a rental-pur-

1 chase agreement but does not include price tags,
2 window signs, or other in-store merchandising aids.

3 “(2) AGRICULTURAL PURPOSE.—The term ‘ag-
4 ricultural purpose’ includes—

5 “(A) the production, harvest, exhibition,
6 marketing, transformation, processing, or man-
7 ufacture of agricultural products by a natural
8 person who cultivates plants or propagates or
9 nurtures agricultural products; and

10 “(B) the acquisition of farmlands, real
11 property with a farm residence, or personal
12 property and services used primarily in farm-
13 ing.

14 “(3) BOARD.—The term ‘Board’ means the
15 Board of Governors of the Federal Reserve System.

16 “(4) CASH PRICE.—The term ‘cash price’
17 means the price at which a merchant, in the ordi-
18 nary course of business, offers to sell for cash the
19 property that is the subject of the rental-purchase
20 transaction.

21 “(5) CONSUMER.—The term ‘consumer’ means
22 a natural person who is offered or enters into a rent-
23 al-purchase agreement.

24 “(6) DATE OF CONSUMMATION.—The term
25 ‘date of consummation’ means the date on which a

1 consumer becomes contractually obligated under a
2 rental-purchase agreement.

3 “(7) INITIAL PAYMENT.—The term ‘initial pay-
4 ment’ means the amount to be paid before or at the
5 consummation of the agreement or the delivery of
6 the property if delivery occurs after consummation,
7 including the rental payment; service, processing, or
8 administrative charges; delivery fee; refundable secu-
9 rity deposit; taxes; mandatory fees or charges; and
10 any optional fees or charges agreed to by the con-
11 sumer.

12 “(8) MERCHANT.—The term ‘merchant’ means
13 a person who provides the use of property through
14 a rental-purchase agreement in the ordinary course
15 of business and to whom a consumer’s initial pay-
16 ment under the agreement is payable.

17 “(9) PAYMENT SCHEDULE.—The term ‘pay-
18 ment schedule’ means the amount and timing of the
19 periodic payments and the total number of all peri-
20 odic payments that the consumer will make if the
21 consumer acquires ownership of the property by
22 making all periodic payments.

23 “(10) PERIODIC PAYMENT.—The term ‘periodic
24 payment’ means the total payment a consumer will
25 make for a specific rental period after the initial

1 payment, including the rental payment, taxes, man-
2 datory fees or charges, and any optional fees or
3 charges agreed to by the consumer.

4 “(11) PROPERTY.—The term ‘property’ means
5 property that is not real property under the laws of
6 the State where the property is located when it is
7 made available under a rental-purchase agreement.

8 “(12) RENTAL PAYMENT.—The term ‘rental
9 payment’ means rent required to be paid by a con-
10 sumer for the possession and use of property for a
11 specific rental period, but does not include taxes or
12 any fees or charges.

13 “(13) RENTAL PERIOD.—The term ‘rental pe-
14 riod’ means a week, month, or other specific period
15 of time, during which the consumer has a right to
16 possess and use property that is the subject of a
17 rental-purchase agreement after paying the rental
18 payment and any applicable taxes for such period.

19 “(14) RENTAL-PURCHASE AGREEMENT.—

20 “(A) IN GENERAL.—The term ‘rental-pur-
21 chase agreement’ means a contract in the form
22 of a bailment or lease for the use of property
23 by a consumer for an initial period of 4 months
24 or less, that is renewable with each payment by
25 the consumer, and that permits but does not

1 obligate the consumer to become the owner of
2 the property.

3 “(B) EXCLUSIONS.—The term ‘rental-pur-
4 chase agreement’ does not include—

5 “(i) a credit sale (as defined in section
6 103(g) of the Truth in Lending Act);

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

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

12 “(15) RENTAL-PURCHASE COST.—

13 “(A) IN GENERAL.—For purposes of sec-
14 tions 1010 and 1011, the term ‘rental-purchase
15 cost’ means the sum of all rental payments and
16 mandatory fees or charges imposed by the mer-
17 chant as a condition of entering into a rental-
18 purchase agreement or acquiring ownership of
19 property under a rental-purchase agreement,
20 such as the following:

21 “(i) Service, processing, or adminis-
22 trative charge.

23 “(ii) Fee for an investigation or credit
24 report.

1 “(iii) Charge for delivery required by
2 the merchant.

3 “(B) EXCLUDED ITEMS.—The following
4 fees or charges shall not be taken into account
5 in determining the rental-purchase cost with re-
6 spect to a rental-purchase transaction:

7 “(i) Fees and charges prescribed by
8 law, which actually are or will be paid to
9 public officials or government entities, such
10 as sales tax.

11 “(ii) Fees and charges for optional
12 products and services offered in connection
13 with a rental-purchase agreement.

14 “(16) STATE.—The term ‘State’ means any
15 State of the United States, the District of Columbia,
16 any territory of the United States, Puerto Rico,
17 Guam, American Samoa, the Trust Territory of the
18 Pacific Islands, the Virgin Islands, and the Northern
19 Mariana Islands.

20 “(17) TOTAL COST.—The term ‘total cost’
21 means the sum of the initial payment and all peri-
22 odic payments in the payment schedule to be paid by
23 the consumer to acquire ownership of the property
24 that is the subject of the rental-purchase agreement.

1 **“SEC. 1002. EXEMPTED TRANSACTIONS.**

2 “This title shall not apply to rental-purchase agree-
3 ments primarily for business, commercial, or agricultural
4 purposes, or those made with Government agencies or in-
5 strumentalities.

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

7 “(a) RECIPIENT OF DISCLOSURE.—A merchant shall
8 disclose to any person who will be a signatory to a rental-
9 purchase agreement the information required by sections
10 1004 and 1005.

11 “(b) TIMING OF DISCLOSURE.—The disclosures re-
12 quired under sections 1004 and 1005 shall be made before
13 the consummation of the rental-purchase agreement and
14 clearly and conspicuously in writing as part of the rental-
15 purchase agreement to be signed by the consumer.

16 “(c) CLEARLY AND CONSPICUOUSLY.—As used in
17 this section, the term ‘clearly and conspicuously’ means
18 that information required to be disclosed to the consumer
19 shall be worded plainly and simply, and appear in a type
20 size, prominence, and location as to be readily noticeable,
21 readable, and comprehensible to an ordinary consumer.

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

23 “(a) IN GENERAL.—For each rental-purchase agree-
24 ment, the merchant shall disclose to the consumer the fol-
25 lowing, to the extent applicable:

1 “(1) The date of the consummation of the rent-
2 al-purchase transaction and the identities of the
3 merchant and the consumer.

4 “(2) A brief description of the rental property,
5 which shall be sufficient to identify the property to
6 the consumer, including an identification or serial
7 number, if applicable, and a statement indicating
8 whether the property is new or used.

9 “(3) A description of any fee, charge or penalty,
10 in addition to the periodic payment, that the con-
11 sumer may be required to pay under the agreement,
12 which shall be separately identified by type and
13 amount.

14 “(4) A clear and conspicuous statement that
15 the transaction is a rental-purchase agreement and
16 that the consumer will not obtain ownership of the
17 property until the consumer has paid the total dollar
18 amount necessary to acquire ownership.

19 “(5) The amount of any initial payment, which
20 includes the first periodic payment, and the total
21 amount of any fees, taxes, or other charges, required
22 to be paid by the consumer.

23 “(6) The amount of the cash price of the prop-
24 erty that is the subject of the rental-purchase agree-
25 ment, and, if the agreement involves the rental of 2

1 or more items as a set (as may be defined by the
2 Board in regulation) a statement of the aggregate
3 cash price of all items shall satisfy this requirement.

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

8 “(8) The total cost, using that term, and a
9 brief description, such as ‘This is the amount you
10 will pay the merchant if you make all periodic pay-
11 ments to acquire ownership of the property.’.

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

17 “(10) Substantially the following statement:
18 **‘OTHER IMPORTANT TERMS:** See your
19 rental-purchase agreement for additional important
20 information on early termination procedures, pur-
21 chase option rights, responsibilities for loss, damage
22 or destruction of the property, warranties, mainte-
23 nance responsibilities, and other charges or penalties
24 you may incur.’.

1 “(b) FORM OF DISCLOSURE.—The disclosures re-
2 quired by paragraphs (4) through (10) of subsection (a)
3 shall be segregated from other information at the begin-
4 ning of the rental-purchase agreement and shall contain
5 only directly related information, and shall be identified
6 in boldface, upper-case letters as follows: **“IMPOR-**
7 **TANT RENTAL-PURCHASE DISCLOSURES’**.”

8 “(c) DISCLOSURE REQUIREMENTS RELATING TO IN-
9 SURANCE PREMIUMS AND LIABILITY WAIVERS.—

10 “(1) IN GENERAL.—A merchant shall clearly
11 and conspicuously disclose in writing to the con-
12 sumer before the consummation of a rental-purchase
13 agreement that the purchase of leased property in-
14 surance or liability waiver coverage is not required
15 as a condition for entering into the rental-purchase
16 agreement.

17 “(2) AFFIRMATIVE WRITTEN REQUEST AFTER
18 COST DISCLOSURE.—A merchant may provide insur-
19 ance or liability waiver coverage, directly or indi-
20 rectly, in connection with a rental-purchase trans-
21 action only if—

22 “(A) the merchant clearly and conspicu-
23 ously discloses to the consumer the cost of each
24 component of such coverage before the con-

1 summation of the rental-purchase agreement;
2 and

3 “(B) the consumer signs an affirmative
4 written request for such coverage after receiving
5 the disclosures required under subparagraph
6 paragraph (A) of this paragraph and paragraph
7 (1).

8 “(d) ACCURACY OF DISCLOSURE.—

9 “(1) IN GENERAL.—The disclosures required to
10 be made under subsection (a) shall be accurate as of
11 the date the disclosures are made, based on the in-
12 formation available to the merchant.

13 “(2) INFORMATION SUBSEQUENTLY RENDERED
14 INACCURATE.—If information required to be dis-
15 closed under subsection (a) is subsequently rendered
16 inaccurate as a result of any agreement between the
17 merchant and the consumer subsequent to the deliv-
18 ery of the required disclosures, the resulting inaccu-
19 racy shall not constitute a violation of this title.

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

21 “(a) IN GENERAL.—Each rental-purchase agreement
22 shall—

23 “(1) provide a statement specifying whether the
24 merchant or the consumer is responsible for loss,
25 theft, damage, or destruction of the property;

1 “(2) provide a statement specifying whether the
2 merchant or the consumer is responsible for main-
3 taining or servicing the property, together with a
4 brief description of the responsibility;

5 “(3) provide that the consumer may terminate
6 the agreement without paying any charges not pre-
7 viously due under the agreement by voluntarily sur-
8 rendering or returning the property that is the sub-
9 ject of the agreement upon expiration of any rental
10 period;

11 “(4) contain a provision for reinstatement of
12 the agreement, which at a minimum—

13 “(A) permits a consumer who fails to make
14 a timely rental payment to reinstate the agree-
15 ment, without losing any rights or options
16 which exist under the agreement, by the pay-
17 ment of all past due rental payments and any
18 other charges then due under the agreement
19 and a payment for the next rental period within
20 7 business days after failing to make a timely
21 rental payment if the consumer pays monthly,
22 or within 3 business days after failing to make
23 a timely rental payment if the consumer pays
24 more frequently than monthly;

1 “(B) if the consumer returns or voluntarily
2 surrenders the property covered by the agree-
3 ment, other than through judicial process, dur-
4 ing the applicable reinstatement period set forth
5 in subparagraph (A), permits the consumer to
6 reinstate the agreement during a period of at
7 least 60 days after the date of the return or
8 surrender of the property by the payment of all
9 amounts previously due under the agreement,
10 any applicable fees, and a payment for the next
11 rental period;

12 “(C) if the consumer has paid 50 percent
13 or more of the total cost necessary to acquire
14 ownership and returns or voluntarily surrenders
15 the property, other than through judicial proc-
16 ess, during the applicable reinstatement period
17 set forth in subparagraph (A), permits the con-
18 sumer to reinstate the agreement during a pe-
19 riod of at least 120 days after the date of the
20 return of the property by the payment of all
21 amounts previously due under the agreement,
22 any applicable fees, and a payment for the next
23 rental period; and

24 “(D) permits the consumer, upon rein-
25 statement of the agreement to receive the same

1 property, if available, that was the subject of
2 the rental-purchase agreement, or if the same
3 property is not available, a substitute item of
4 comparable quality and condition may be pro-
5 vided to the consumer; except that, the Board
6 may, by regulation or order, exempt any inde-
7 pendent small business (as defined by the
8 Board by regulation) from the requirement of
9 providing the same or comparable product dur-
10 ing the extended reinstatement period provided
11 in subparagraph (C), if the Board determines,
12 taking into account such standards as the
13 Board determines to be appropriate, that the
14 reinstatement right provided in such subpara-
15 graph would provide excessive hardship for such
16 independent small business.

17 “(5) provide a statement specifying the terms
18 under which the consumer shall acquire ownership of
19 the property that is the subject of the rental-pur-
20 chase agreement either by payment of the total cost
21 to acquire ownership, as provided in section 1006, or
22 by exercise of any early purchase option provided in
23 the rental-purchase agreement;

24 “(6) provide a statement disclosing that if any
25 part of a manufacturer’s express warranty covers

1 the property at the time the consumer acquires own-
2 ership of the property, the warranty will be trans-
3 ferred to the consumer if allowed by the terms of the
4 warranty; and

5 “(7) provide, to the extent applicable, a descrip-
6 tion of any grace period for making any periodic
7 payment, the amount of any security deposit, if any,
8 to be paid by the consumer upon initiation of the
9 rental-purchase agreement, and the terms for refund
10 of such security deposit to the consumer upon re-
11 turn, surrender or purchase of the property.

12 “(b) REPOSSESSION DURING REINSTATEMENT PE-
13 RIOD.—Subsection (a)(4) shall not be construed so as to
14 prevent a merchant from attempting to repossess property
15 during the reinstatement period pursuant to subsection
16 (a)(4)(A), but such a repossession does not affect the con-
17 sumer’s right to reinstate.

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

19 “(a) IN GENERAL.—The consumer shall acquire own-
20 ership of the property that is the subject of the rental-
21 purchase agreement, and the rental-purchase agreement
22 shall terminate, upon compliance by the consumer with the
23 requirements of subsection (b) or any early payment op-
24 tion provided in the rental purchase agreement, and upon

1 payment of any past due payments and fees, as permitted
2 in regulation by the Board.

3 “(b) PAYMENT OF TOTAL COST.—The consumer
4 shall acquire ownership of the rental property upon pay-
5 ment of the total cost of the rental-purchase agreement,
6 as such term is defined in section 1001(17), and as dis-
7 closed to the consumer in the rental-purchase agreement
8 pursuant to section 1004(a).

9 “(c) ADDITIONAL FEES PROHIBITED.—A merchant
10 shall not require the consumer to pay, as a condition for
11 acquiring ownership of the property that is the subject of
12 the rental-purchase agreement, any fee or charge in addi-
13 tion to, or in excess of, the regular periodic payments re-
14 quired by subsection (b), or any early purchase option
15 amount provided in the rental-purchase agreement, as ap-
16 plicable. A requirement that the consumer pay an unpaid
17 late charge or other fee or charge which the merchant has
18 previously billed to the consumer shall not constitute an
19 additional fee or charge for purposes of this subsection.

20 “(d) TRANSFER OF OWNERSHIP RIGHTS.—Upon
21 payment by the consumer of all payments necessary to ac-
22 quire ownership under subsection (b) or any early pur-
23 chase option amount provided in the rental-purchase
24 agreement, as appropriate, the merchant shall—

1 “(1) deliver, or mail to the consumer’s last
2 known address, such documents or other instru-
3 ments, which the Board has determined by regula-
4 tion, are necessary to acknowledge full ownership by
5 the consumer of the property acquired pursuant to
6 the rental-purchase agreement; and

7 “(2) transfer to the consumer the unexpired
8 portion of any warranties provided by the manufac-
9 turer, distributor, or seller of the property, which
10 shall apply as if the consumer were the original pur-
11 chaser of the property, except where such transfer is
12 prohibited by the terms of the warranty.

13 **“SEC. 1007. PROHIBITED PROVISIONS.**

14 “A rental-purchase agreement may not contain—

15 “(1) a confession of judgment;

16 “(2) a negotiable instrument;

17 “(3) a security interest or any other claim of a
18 property interest in any goods, except those goods
19 the use of which is provided by the merchant pursu-
20 ant to the agreement;

21 “(4) a wage assignment;

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

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

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

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

9 “(C) the actual cost of repair, as appro-
10 priate;

11 “(7) a provision authorizing the merchant, or a
12 person acting on behalf of the merchant, to enter the
13 consumer’s dwelling or other premises without ob-
14 taining the consumer’s consent or to commit any
15 breach of the peace in connection with the reposses-
16 sion of the rental property or the collection of any
17 obligation or alleged obligation of the consumer aris-
18 ing out of the rental-purchase agreement;

19 “(8) a provision requiring the purchase of in-
20 surance or liability damage waiver to cover the prop-
21 erty that is the subject of the rental-purchase agree-
22 ment, except as permitted by the Board in regula-
23 tion;

24 “(9) a provision requiring the consumer to pay
25 more than 1 late fee or charge for an unpaid or de-

1 linquent periodic payment, regardless of the period
2 in which the payment remains unpaid or delinquent,
3 or to pay a late fee or charge for any periodic pay-
4 ment because a previously assessed late fee has not
5 been paid in full.

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

7 “Upon request of a consumer, a merchant shall pro-
8 vide a statement of the consumer’s account. If a consumer
9 requests a statement for an individual account more than
10 4 times in any 12-month period, the merchant may charge
11 a reasonable fee for the additional statements.

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

13 “(a) RENEGOTIATIONS.—A renegotiation occurs
14 when a rental-purchase agreement is satisfied and re-
15 placed by a new agreement undertaken by the same con-
16 sumer. A renegotiation requires new disclosures, except as
17 provided in subsection (c).

18 “(b) EXTENSIONS.—An extension is an agreement by
19 the consumer and the merchant, to continue an existing
20 rental-purchase agreement beyond the original end of the
21 payment schedule, but does not include a continuation
22 that is the result of a renegotiation.

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

1 “(1) A reduction in payments.

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

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

5 “(4) The substitution of property with property
6 that has a substantially equivalent or greater eco-
7 nomic value provided the rental-purchase cost does
8 not increase.

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

11 “(6) A change in rental period provided the
12 rental-purchase cost does not increase.

13 “(7) An agreement resulting from a court pro-
14 ceeding.

15 “(8) Any other event described in regulations
16 prescribed by the Board.

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

18 “(a) IN GENERAL.—For any item of property or set
19 of items displayed or offered for rental-purchase, the mer-
20 chant shall display on or next to the item or set of items
21 a card, tag, or label that clearly and conspicuously dis-
22 closes the following:

23 “(1) A brief description of the property.

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

25 “(3) The cash price of the property.

1 “(4) The amount of each rental payment.

2 “(5) The total number of rental payments nec-
3 essary to acquire ownership of the property.

4 “(6) The rental-purchase cost.

5 “(b) FORM OF DISCLOSURE.—

6 “(1) IN GENERAL.—A merchant may make the
7 disclosure required by subsection (a) in the form of
8 a list or catalog which is readily available to the con-
9 sumer at the point of rental if the merchandise is
10 not displayed in the merchant’s showroom or if dis-
11 playing a card, tag, or label would be impractical
12 due to the size of the merchandise.

13 “(2) CLEARLY AND CONSPICUOUSLY.—As used
14 in this section, the term ‘clearly and conspicuously’
15 means that information required to be disclosed to
16 the consumer shall appear in a type size, promi-
17 nence, and location as to be noticeable, readable,
18 and comprehensible to an ordinary consumer.

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

20 “(a) IN GENERAL.—If an advertisement for a rental-
21 purchase transaction refers to or states the amount of any
22 payment for any specific item or set of items, the mer-
23 chant making the advertisement shall also clearly and con-
24 spicuously state in the advertisement the following for the
25 item, or set of items, advertised:

1 “(1) The transaction advertised is a rental-pur-
2 chase agreement.

3 “(2) The amount, timing, and total number of
4 rental payments necessary to acquire ownership
5 under the rental-purchase agreement.

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

7 “(4) To acquire ownership of the property the
8 consumer must pay the rental-purchase cost plus ap-
9 plicable taxes.

10 “(5) Whether the stated payment amount and
11 advertised rental-purchase cost is for new or used
12 property.

13 “(b) PROHIBITION.—An advertisement for a rental-
14 purchase agreement shall not state or imply that a specific
15 item, or set of items, is available at specific amounts or
16 terms unless the merchant usually and customarily offers,
17 or will offer, the item or set of items at the stated amounts
18 or terms.

19 “(c) CLEARLY AND CONSPICUOUSLY.—

20 “(1) IN GENERAL.—For purposes of this sec-
21 tion, the term ‘clearly and conspicuously’ means that
22 required disclosures shall be presented in a type,
23 size, shade, contrast, prominence, location, and man-
24 ner, as applicable to different mediums for adver-

1 tising, so as to be readily noticeable and comprehen-
2 sible to the ordinary consumer.

3 “(2) REGULATORY GUIDANCE.—The Board
4 shall prescribe regulations on principles and factors
5 to meet the clear and conspicuous standard as ap-
6 propriate to print, video, audio, and computerized
7 advertising, reflecting the principles and factors typi-
8 cally applied in each medium by the Federal Trade
9 Commission.

10 “(3) LIMITATION.—Nothing contrary to, incon-
11 sistent with, or in mitigation of, the required disclo-
12 sures shall be used in any advertisement in any me-
13 dium, and no audio, video, or print technique shall
14 be used that is likely to obscure or detract signifi-
15 cantly from the communication of the disclosures.

16 **“SEC. 1012. CIVIL LIABILITY.**

17 “(a) IN GENERAL.—Except as otherwise provided in
18 section 1013, any merchant who fails to comply with any
19 requirement of this title with respect to any consumer is
20 liable to such consumer as provided for leases in section
21 130. For purposes of this section, the term ‘creditor’ as
22 used in section 130 shall include a ‘merchant’, as defined
23 in section 1001.

24 “(b) JURISDICTION OF COURTS; LIMITATION ON AC-
25 TIONS.—

1 “(1) IN GENERAL.—Notwithstanding section
2 130(e), any action under this section may be
3 brought in any United States district court, or in
4 any other court of competent jurisdiction, before the
5 end of the 1-year period beginning on the date the
6 last payment was made by the consumer under the
7 rental-purchase agreement.

8 “(2) RECOUPMENT OR SET-OFF.—This sub-
9 section shall not bar a consumer from asserting a
10 violation of this title in an action to collect an obli-
11 gation arising from a rental-purchase agreement,
12 which was brought after the end of the 1-year period
13 described in paragraph (1) as a matter of defense by
14 recoupment or set-off in such action, except as oth-
15 erwise provided by State law.

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

17 “(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—
18 Any merchant who fails to comply with any requirements
19 imposed under section 1010 or 1011 with respect to any
20 consumer who suffers actual damage from the violation
21 shall be liable to such consumer as provided in section
22 130.

23 “(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a
24 merchant engages in a pattern or practice of violating any
25 requirement imposed under section 1010 or 1011, the

1 Federal Trade Commission or an appropriate State attor-
2 ney general, in accordance with section 1016, may initiate
3 an action to enforce sanctions against the merchant, in-
4 cluding—

5 “(1) an order to cease and desist from such
6 practices; and

7 “(2) a civil money penalty of such amount as
8 the court may impose, based on such factors as the
9 court may determine to be appropriate.

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

11 “(a) ASSIGNEES INCLUDED.—For purposes of sec-
12 tion 1013, and this section, the term ‘merchant’ includes
13 an assignee of a merchant.

14 “(b) LIABILITIES OF ASSIGNEES.—

15 “(1) APPARENT VIOLATION.—An action under
16 section 1012 or 1013 for a violation of this title may
17 be brought against an assignee only if the violation
18 is apparent on the face of the rental-purchase agree-
19 ment to which it relates.

20 “(2) APPARENT VIOLATION DEFINED.—For
21 purposes of this subsection, a violation that is appar-
22 ent on the face of a rental-purchase agreement in-
23 cludes, but is not limited to, a disclosure that can
24 be determined to be incomplete or inaccurate from
25 the face of the agreement.

1 “(3) INVOLUNTARY ASSIGNMENT.—An assignee
2 has no liability in a case in which the assignment is
3 involuntary.

4 “(4) RULE OF CONSTRUCTION.—No provision
5 of this section shall be construed as limiting or alter-
6 ing the liability under section 1012 or 1013 of a
7 merchant assigning a rental-purchase agreement.

8 “(b) PROOF OF DISCLOSURE.—In an action by or
9 against an assignee, the consumer’s written acknowledg-
10 ment of receipt of a disclosure, made as part of the rental-
11 purchase agreement, shall be conclusive proof that the dis-
12 closure was made, if the assignee had no knowledge that
13 the disclosure had not been made when the assignee ac-
14 quired the rental-purchase agreement to which it relates.

15 **“SEC. 1015. REGULATIONS.**

16 “(a) IN GENERAL.—The Board shall prescribe regu-
17 lations as necessary to carry out the purposes of this title,
18 to prevent its circumvention, and to facilitate compliance
19 with its requirements.

20 “(b) MODEL DISCLOSURE FORMS.—The Board may
21 publish model disclosure forms and clauses for common
22 rental-purchase agreements to facilitate compliance with
23 the disclosure requirements of this title and to aid the con-
24 sumer in understanding the transaction by utilizing read-
25 ily understandable language to simplify the technical na-

1 ture of the disclosures. In devising such forms, the Board
2 shall consider the use by merchants of data processing or
3 similar automated equipment. Nothing in this title may
4 be construed to require a merchant to use any such model
5 form or clause prescribed by the Board under this section.
6 A merchant shall be deemed to be in compliance with the
7 requirement to provide disclosure under section 1003(a)
8 if the merchant—

9 “(1) uses any appropriate model form or clause
10 as published by the Board; or

11 “(2) uses any such model form or clause and
12 changes it by—

13 “(A) deleting any information which is not
14 required by this title; or

15 “(B) rearranging the format, if in making
16 such deletion or rearranging the format, the
17 merchant does not affect the substance, clarity,
18 or meaningful sequence of the disclosure.

19 “(c) EFFECTIVE DATE OF REGULATIONS.—Any reg-
20 ulation prescribed by the Board, or any amendment or in-
21 terpretation thereof, shall not be effective before the Octo-
22 ber 1 that follows the date of publication of the regulation
23 in final form by at least 6 months. The Board may at
24 its discretion lengthen that period of time to permit mer-
25 chants to adjust to accommodate new requirements. The

1 Board may also shorten that period of time, notwith-
2 standing the first sentence, if it makes a specific finding
3 that such action is necessary to comply with the findings
4 of a court or to prevent unfair or deceptive practices. In
5 any case, merchants may comply with any newly pre-
6 scribed disclosure requirement prior to its effective date.

7 **“SEC. 1016. ENFORCEMENT.**

8 “(a) FEDERAL ENFORCEMENT.—Compliance with
9 the requirements imposed under this title shall be enforced
10 under the Federal Trade Commission Act (15 U.S.C. 41
11 et seq.), and a violation of any requirements imposed
12 under this title shall be deemed a violation of a require-
13 ment imposed under that Act. All of the functions and
14 powers of the Federal Trade Commission under the Fed-
15 eral Trade Commission Act are available to the Commis-
16 sion to enforce compliance by any person with the require-
17 ments of this title, irrespective of whether that person is
18 engaged in commerce or meets any other jurisdictional
19 test in the Federal Trade Commission Act.

20 “(b) STATE ENFORCEMENT.—

21 “(1) IN GENERAL.—An action to enforce the re-
22 quirements imposed by this title may also be
23 brought by the appropriate State attorney general in
24 any appropriate United States district court, or any
25 other court of competent jurisdiction.

1 “(2) PRIOR WRITTEN NOTICE.—

2 “(A) IN GENERAL.—The State attorney
3 general shall provide prior written notice of any
4 such civil action to the Federal Trade Commis-
5 sion and shall provide the Commission with a
6 copy of the complaint.

7 “(B) EMERGENCY ACTION.—If prior notice
8 is not feasible, the State attorney general shall
9 provide notice to the Commission immediately
10 upon instituting the action.

11 “(3) FTC INTERVENTION.—The Commission
12 may—

13 “(A) intervene in the action;

14 “(B) upon intervening—

15 “(i) remove the action to the appro-
16 appropriate United States district court, if it
17 was not originally brought there; and

18 “(ii) be heard on all matters arising in
19 the action; and

20 “(C) file a petition for appeal.

21 **“SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOW-**
22 **ING VIOLATION.**

23 “Whoever willfully and knowingly gives false or inac-
24 curate information or fails to provide information which
25 he is required to disclose under the provisions of this title

1 or any regulation issued thereunder shall be subject to the
2 penalty provisions as provided in section 112.

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

4 “(a) RELATION TO STATE LAW.—

5 “(1) NO EFFECT ON CONSISTENT STATE
6 LAWS.—Except as otherwise provided in subsection
7 (b), this title does not annul, alter, or affect in any
8 manner the meaning, scope or applicability of the
9 laws of any State relating to rental-purchase agree-
10 ments, except to the extent those laws are incon-
11 sistent with any provision of this title, and then only
12 to the extent of the inconsistency.

13 “(2) DETERMINATION OF INCONSISTENCY.—

14 Upon its own motion or upon the request of an in-
15 terested party, which is submitted in accordance
16 with procedures prescribed in regulations of the
17 Board, the Board shall determine whether any such
18 inconsistency exists. If the Board determines that a
19 term or provision of a State law is inconsistent, mer-
20 chants located in that State need not follow such
21 term or provision and shall incur no liability under
22 the law of that State for failure to follow such term
23 or provision, notwithstanding that such determina-
24 tion is subsequently amended, rescinded, or deter-

1 mined by judicial or other authority to be invalid for
2 any reason.

3 “(3) GREATER PROTECTION UNDER STATE
4 LAW.—Except as provided in subsection (b), for pur-
5 poses of this section, a term or provision of a State
6 law is not inconsistent with the provisions of this
7 title if the term or provision affords greater protec-
8 tion and benefit to the consumer than the protection
9 and benefit provided under this title as determined
10 by the Board, on its own motion or upon the peti-
11 tion of any interested party.

12 “(b) STATE LAWS RELATING TO CHARACTERIZATION
13 OF TRANSACTION.—Notwithstanding the provisions of
14 subsection (a), this title shall supersede any State law to
15 the extent that such law—

16 “(1) regulates a rental-purchase agreement as a
17 security interest, credit sale, retail installment sale,
18 conditional sale or any other form of consumer cred-
19 it, or that imputes to a rental-purchase agreement
20 the creation of a debt or extension of credit, or

21 “(2) requires the disclosure of a percentage rate
22 calculation, including a time-price differential, an
23 annual percentage rate, or an effective annual per-
24 centage rate.

1 “(c) RELATION TO FEDERAL TRADE COMMISSION
2 ACT.—No provision of this title shall be construed as lim-
3 iting, superseding, or otherwise affecting the applicability
4 of the Federal Trade Commission Act to any merchant
5 or rental-purchase transaction.

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

7 “No civil liability or criminal penalty under this title
8 may be imposed on the United States or any of its depart-
9 ments or agencies, any State or political subdivision, or
10 any agency of a State or political subdivision.

11 **“SEC. 1020. COMPLIANCE DATE.**

12 “Compliance with this title shall not be required until
13 6 months after the date of the enactment of the Consumer
14 Rental Purchase Agreement Act. In any case, merchants
15 may comply with this title at any time after such date
16 of enactment.”.

Passed the House of Representatives September 18,
2002.

Attest:

JEFF TRANDAHL,

Clerk.