

[Committee Print]

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[Showing H.R. 1588, as reported by the Subcommittee on Financial Institutions and Consumer Credit on November 17, 2011]

112TH CONGRESS
1ST SESSION

H. R. 1588

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.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. CANSECO (for himself, Mr. CLAY, Mr. MANZULLO, Mr. DOLD, Mr. WESTMORELAND, Mr. HENSARLING, Mr. MCINTYRE, Mr. JONES, Mr. ROSS of Arkansas, Mr. BACA, Mr. HOLDEN, Mr. SESSIONS, Mr. DAVIS of Illinois, Mr. MEEKS, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

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 sub-

stantive 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-

1 al-purchase terms so that consumers will be able to more
2 readily compare the available rental-purchase terms and
3 avoid uninformed use of rental-purchase transactions, and
4 to protect consumers against unfair rental-purchase prac-
5 tices.

6 **SEC. 3. RENTAL-PURCHASE TRANSACTIONS COVERED**
7 **UNDER THE CONSUMER CREDIT PROTEC-**
8 **TION ACT.**

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

11 **“TITLE X—RENTAL-PURCHASE**
12 **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.

13 **“SEC. 1001. DEFINITIONS.**

14 “For purposes of this title, the following definitions
15 shall apply:

1 “(1) ADVERTISEMENT.—The term ‘advertise-
2 ment’ means a commercial message in any medium
3 that promotes, directly or indirectly, a rental-pur-
4 chase agreement but does not include price tags,
5 window signs, or other in-store merchandising aids.

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

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

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

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

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

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

4 “(6) DATE OF CONSUMMATION.—The term
5 ‘date of consummation’ means the date on which a
6 consumer becomes contractually obligated under a
7 rental-purchase agreement.

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

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

22 “(9) PAYMENT SCHEDULE.—The term ‘pay-
23 ment schedule’ means the amount and timing of the
24 periodic payments and the total number of all peri-
25 odic payments that the consumer will make if the

1 consumer acquires ownership of the property by
2 making all periodic payments.

3 “(10) PERIODIC PAYMENT.—The term ‘periodic
4 payment’ means the total payment a consumer will
5 make for a specific rental period after the initial
6 payment, including the rental payment, taxes, man-
7 datory fees or charges, and any optional fees or
8 charges agreed to by the consumer.

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

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

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

24 “(14) RENTAL-PURCHASE AGREEMENT.—

1 “(A) IN GENERAL.—The term ‘rental-pur-
2 chase agreement’ means a contract in the form
3 of a bailment or lease for the use of property
4 by a consumer for an initial period of 4 months
5 or less, that is renewable with each payment by
6 the consumer, and that permits but does not
7 obligate the consumer to become the owner of
8 the property.

9 “(B) EXCLUSIONS.—The term ‘rental-pur-
10 chase agreement’ shall not be construed to be,
11 nor governed by laws regulating any of the fol-
12 lowing:

13 “(i) A credit sale (as defined in sec-
14 tion 103(g) of the Truth in Lending Act).

15 “(ii) A consumer lease (as defined in
16 section 181(1) of such Act).

17 “(iii) An extension of credit or a
18 transaction giving rise to a debt incurred
19 in connection with the purchase of a thing
20 of value.

21 “(15) RENTAL-PURCHASE COST.—

22 “(A) IN GENERAL.—For purposes of sec-
23 tions 1010 and 1011, the term ‘rental-purchase
24 cost’ means the sum of all rental payments and
25 mandatory fees or charges imposed by the mer-

1 chant as a condition of entering into a rental-
2 purchase agreement or acquiring ownership of
3 property under a rental-purchase agreement,
4 such as the following:

5 “(i) Service, processing, or adminis-
6 trative charge.

7 “(ii) Fee for an investigation or credit
8 report.

9 “(iii) Charge for delivery required by
10 the merchant.

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

15 “(i) Fees and charges prescribed by
16 law, which actually are or will be paid to
17 public officials or government entities, such
18 as sales tax.

19 “(ii) Fees and charges for optional
20 products and services offered in connection
21 with a rental-purchase agreement.

22 “(16) STATE.—The term ‘State’ means any
23 State of the United States, the District of Columbia,
24 any territory of the United States, Puerto Rico,
25 Guam, American Samoa, the Trust Territory of the

1 Pacific Islands, the Virgin Islands, and the Northern
2 Mariana Islands.

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

8 **“SEC. 1002. EXEMPTED TRANSACTIONS.**

9 “This title shall not apply to rental-purchase agree-
10 ments primarily for business, commercial, or agricultural
11 purposes, or those made with Government agencies or in-
12 strumentalities.

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

14 “(a) RECIPIENT OF DISCLOSURE.—A merchant shall
15 disclose to any person who will be a signatory to a rental-
16 purchase agreement the information required by sections
17 1004 and 1005.

18 “(b) TIMING OF DISCLOSURE.—The disclosures re-
19 quired under sections 1004 and 1005 shall be made before
20 the consummation of the rental-purchase agreement and
21 clearly and conspicuously in writing as part of the rental-
22 purchase agreement to be signed by the consumer.

23 “(c) CLEARLY AND CONSPICUOUSLY.—As used in
24 this section, the term ‘clearly and conspicuously’ means
25 that information required to be disclosed to the consumer

1 shall be worded plainly and simply, and appear in a type
2 size, prominence, and location as to be readily noticeable,
3 readable, and comprehensible to an ordinary consumer.

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

5 “(a) IN GENERAL.—For each rental-purchase agree-
6 ment, the merchant shall clearly and conspicuously dis-
7 close to the consumer the following, to the extent applica-
8 ble:

9 “(1) The date of the consummation of the rent-
10 al-purchase transaction and the identities of the
11 merchant and the consumer.

12 “(2) A brief description of the rental property,
13 which shall be sufficient to identify the property to
14 the consumer, including an identification or serial
15 number, if applicable, and a statement indicating
16 whether the property is new or used.

17 “(3) A description of any fee, charge or penalty,
18 in addition to the periodic payment, that the con-
19 sumer may be required to pay under the agreement,
20 which shall be separately identified by type and
21 amount.

22 “(4) A statement that the transaction is a rent-
23 al-purchase agreement and that the consumer will
24 not obtain ownership of the property until the con-

1 sumer has paid the total dollar amount necessary to
2 acquire ownership.

3 “(5) The amount of any initial payment.

4 “(6) The amount of the cash price of the prop-
5 erty that is the subject of the rental-purchase agree-
6 ment, and, if the agreement involves the rental of 2
7 or more items as a set (as may be defined by the
8 Board in regulation) a statement of the aggregate
9 cash price of all items shall satisfy this requirement.

10 “(7) The payment schedule.

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

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

20 “(10) Substantially the following statement:

21 ‘**OTHER IMPORTANT TERMS:** See your rental-pur-
22 chase agreement for additional important informa-
23 tion on early termination procedures, purchase op-
24 tion rights, responsibilities for loss, damage or de-
25 struction of the property, warranties, maintenance

1 responsibilities, and other charges or penalties you
2 may incur.’.

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

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

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

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

24 “(A) the merchant clearly and conspicu-
25 ously discloses to the consumer the cost of such

1 coverage before the consummation of the rental-
2 purchase agreement; and

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

7 “(d) ACCURACY OF DISCLOSURE.—

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

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

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

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

22 “(1) provide a statement specifying whether the
23 merchant or the consumer is responsible for loss,
24 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) contain a provision for reinstatement of
6 the agreement, which at a minimum—

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

19 “(B) if the consumer returns or voluntarily
20 surrenders the property covered by the agree-
21 ment, other than through judicial process, dur-
22 ing the applicable reinstatement period set forth
23 in subparagraph (A), permits the consumer to
24 reinstate the agreement during a period of at
25 least 60 days after the date of the return or

1 surrender of the property by the payment of all
2 amounts previously due under the agreement,
3 any applicable fees, and a payment for the next
4 rental period;

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

17 “(D) permits the consumer, upon rein-
18 statement of the agreement to receive the same
19 property, if available, that was the subject of
20 the rental-purchase agreement, or if the same
21 property is not available, a substitute item of
22 comparable quality and condition may be pro-
23 vided to the consumer; except that, the Board
24 may, by regulation or order, exempt any inde-
25 pendent small business (as defined by the

1 Board by regulation) from the requirement of
2 providing the same or comparable product dur-
3 ing the extended reinstatement period provided
4 in subparagraph (C), if the Board determines,
5 taking into account such standards as the
6 Board determines to be appropriate, that the
7 reinstatement right provided in such subpara-
8 graph would provide excessive hardship for such
9 independent small business;

10 “(4) provide a statement specifying the terms
11 under which the consumer shall acquire ownership of
12 the property that is the subject of the rental-pur-
13 chase agreement either by payment of the total cost
14 to acquire ownership, as provided in section 1006, or
15 by exercise of any early purchase option provided in
16 the rental-purchase agreement;

17 “(5) provide a statement disclosing that if any
18 part of a manufacturer’s express warranty covers
19 the property at the time the consumer acquires own-
20 ership of the property, the warranty will be trans-
21 ferred to the consumer if allowed by the terms of the
22 warranty; and

23 “(6) provide, to the extent applicable, a descrip-
24 tion of any grace period for making any periodic
25 payment, the amount of any security deposit, if any,

1 to be paid by the consumer upon initiation of the
2 rental-purchase agreement, and the terms for refund
3 of such security deposit to the consumer upon re-
4 turn, surrender or purchase of the property.

5 “(b) REPOSSESSION DURING REINSTATEMENT PE-
6 RIOD.—Subsection (a)(3) shall not be construed so as to
7 prevent a merchant from attempting to repossess property
8 during the reinstatement period pursuant to subsection
9 (a)(3)(A), but such a repossession does not affect the con-
10 sumer’s right to reinstate.

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

12 “(a) IN GENERAL.—The consumer shall acquire own-
13 ership of the property that is the subject of the rental-
14 purchase agreement, and the rental-purchase agreement
15 shall terminate, upon compliance by the consumer with the
16 requirements of subsection (b) or any early payment op-
17 tion provided in the rental purchase agreement, and upon
18 payment of any past due payments and fees, as permitted
19 in regulation by the Board.

20 “(b) PAYMENT OF TOTAL COST.—The consumer
21 shall acquire ownership of the rental property upon pay-
22 ment of the total cost of the rental-purchase agreement,
23 as such term is defined in section 1001(17), and as dis-
24 closed to the consumer in the rental-purchase agreement
25 pursuant to section 1004(a).

1 “(c) ADDITIONAL FEES PROHIBITED.—A merchant
2 shall not require the consumer to pay, as a condition for
3 acquiring ownership of the property that is the subject of
4 the rental-purchase agreement, any fee or charge in addi-
5 tion to, or in excess of, the regular periodic payments re-
6 quired by subsection (b), or any early purchase option
7 amount provided in the rental-purchase agreement, as ap-
8 plicable. A requirement that the consumer pay an unpaid
9 late charge or other fee that is past due shall not con-
10 stitute an additional fee or charge for purposes of this sub-
11 section.

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

17 “(1) deliver to the consumer, or mail to the
18 consumer’s last known address, such documents or
19 other instruments, which the Board has determined
20 by regulation, are necessary to acknowledge full
21 ownership by the consumer of the property acquired
22 pursuant to the rental-purchase agreement; and

23 “(2) transfer to the consumer the unexpired
24 portion of any warranties provided by the manufac-
25 turer, distributor, or seller of the property, which

1 shall apply as if the consumer were the original pur-
2 chaser of the property, except where such transfer is
3 prohibited by the terms of the warranty.

4 **“SEC. 1007. PROHIBITED PROVISIONS.**

5 “A rental-purchase agreement may not contain—

6 “(1) a confession of judgment;

7 “(2) a negotiable instrument;

8 “(3) a security interest or any other claim of a
9 property interest in any goods, except those goods
10 the use of which is provided by the merchant pursu-
11 ant to the agreement;

12 “(4) a wage assignment;

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

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

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

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

24 “(C) the actual cost of repair, as appro-
25 priate;

1 “(7) a provision authorizing the merchant, or a
2 person acting on behalf of the merchant, to enter the
3 consumer’s dwelling or other premises without ob-
4 taining the consumer’s consent or to commit any
5 breach of the peace in connection with the reposses-
6 sion of the rental property or the collection of any
7 obligation or alleged obligation of the consumer aris-
8 ing out of the rental-purchase agreement;

9 “(8) a provision requiring the purchase of in-
10 surance or liability damage waiver to cover the prop-
11 erty that is the subject of the rental-purchase agree-
12 ment, except as permitted by the Board in regula-
13 tion;

14 “(9) a provision requiring the consumer to pay
15 more than 1 late fee or charge for an unpaid or de-
16 linquent periodic payment, regardless of the period
17 in which the payment remains unpaid or delinquent,
18 or to pay a late fee or charge for any periodic pay-
19 ment because a previously assessed late fee has not
20 been paid in full.

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

22 “Upon request of a consumer, a merchant shall pro-
23 vide a statement of the consumer’s account. If a consumer
24 requests a statement for an individual account more than

1 4 times in any 12-month period, the merchant may charge
2 a reasonable fee for the additional statements.

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

4 “(a) RENEGOTIATIONS.—A renegotiation occurs
5 when a rental-purchase agreement is satisfied and re-
6 placed by a new agreement undertaken by the same con-
7 sumer. A renegotiation requires new disclosures, except as
8 provided in subsection (c).

9 “(b) EXTENSIONS.—An extension is an agreement by
10 the consumer and the merchant, to continue an existing
11 rental-purchase agreement beyond the original end of the
12 payment schedule, but does not include a continuation
13 that is the result of a renegotiation.

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

17 “(1) A reduction in payments.

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

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

21 “(4) The substitution of property with property
22 that has a substantially equivalent or greater eco-
23 nomic value provided the rental-purchase cost does
24 not increase.

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

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

5 “(7) An agreement resulting from a court pro-
6 ceeding.

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

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

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

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

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

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

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

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

21 “(6) The rental-purchase cost.

22 “(b) FORM OF DISCLOSURE.—

23 “(1) IN GENERAL.—A merchant may make the
24 disclosure required by subsection (a) in the form of
25 a list, catalog, or electronic facsimile of the card,

1 tag, or label which is readily available to the con-
2 sumer at the point of rental if the merchandise is
3 not displayed in the merchant's showroom or if dis-
4 playing a card, tag, or label would be impractical
5 due to the size of the merchandise.

6 “(2) CLEARLY AND CONSPICUOUSLY.—As used
7 in this section, the term ‘clearly and conspicuously’
8 means that information required to be disclosed to
9 the consumer shall appear in a type size, promi-
10 nence, and location as to be noticeable, readable,
11 and comprehensible to an ordinary consumer.

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

13 “(a) IN GENERAL.—If an advertisement for a rental-
14 purchase transaction refers to or states the amount of any
15 payment for any specific item or set of items, the mer-
16 chant making the advertisement shall also clearly and con-
17 spicuously state in the advertisement the following for the
18 item, or set of items, advertised:

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

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

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

1 “(4) To acquire ownership of the property the
2 consumer must pay the rental-purchase cost plus ap-
3 plicable taxes.

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

7 “(b) PROHIBITION.—An advertisement for a rental-
8 purchase agreement shall not state or imply that a specific
9 item, or set of items, is available at specific amounts or
10 terms unless the merchant usually and customarily offers,
11 or will offer, the item or set of items at the stated amounts
12 or terms.

13 “(c) CLEARLY AND CONSPICUOUSLY.—

14 “(1) IN GENERAL.—For purposes of this sec-
15 tion, the term ‘clearly and conspicuously’ means that
16 required disclosures shall be presented in a type,
17 size, shade, contrast, prominence, location, and man-
18 ner, as applicable to different mediums for adver-
19 tising, so as to be readily noticeable and comprehen-
20 sible to the ordinary consumer.

21 “(2) REGULATORY GUIDANCE.—The Board
22 shall prescribe regulations on principles and factors
23 to meet the clear and conspicuous standard as ap-
24 propriate to print, video, audio, and computerized
25 advertising, reflecting the principles and factors typi-

1 cally applied in each medium by the Federal Trade
2 Commission.

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

9 **“SEC. 1012. CIVIL LIABILITY.**

10 “(a) IN GENERAL.—Except as otherwise provided in
11 section 1013, any merchant who fails to comply with any
12 requirement of this title with respect to any consumer is
13 liable to such consumer as provided for leases in section
14 130. For purposes of this section, the term ‘creditor’ as
15 used in section 130 shall include a ‘merchant’, as defined
16 in section 1001.

17 “(b) JURISDICTION OF COURTS; LIMITATION ON AC-
18 TIONS.—

19 “(1) IN GENERAL.—Notwithstanding section
20 130(e), any action under this section may be
21 brought in any United States district court, or in
22 any other court of competent jurisdiction, before the
23 end of the 1-year period beginning on the date the
24 last payment was made by the consumer under the
25 rental-purchase agreement.

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

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

10 “(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—
11 Any merchant who fails to comply with any requirements
12 imposed under section 1010 or 1011 with respect to any
13 consumer who suffers actual damage from the violation
14 shall be liable to such consumer as provided in section
15 130.

16 “(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a
17 merchant engages in a pattern or practice of violating any
18 requirement imposed under section 1010 or 1011, the
19 Federal Trade Commission or an appropriate State attor-
20 ney general, in accordance with section 1016, may initiate
21 an action to enforce sanctions against the merchant, in-
22 cluding—

23 “(1) an order to cease and desist from such
24 practices; and

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

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

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

8 “(b) LIABILITIES OF ASSIGNEES.—

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

14 “(2) APPARENT VIOLATION DEFINED.—For
15 purposes of this subsection, a violation that is appar-
16 ent on the face of a rental-purchase agreement in-
17 cludes, but is not limited to, a disclosure that can
18 be determined to be incomplete or inaccurate from
19 the face of the agreement.

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

23 “(4) RULE OF CONSTRUCTION.—No provision
24 of this section shall be construed as limiting or alter-

1 ing the liability under section 1012 or 1013 of a
2 merchant assigning a rental-purchase agreement.

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

10 **“SEC. 1015. REGULATIONS.**

11 “(a) **IN GENERAL.**—The Board shall prescribe regu-
12 lations as necessary to carry out the purposes of this title,
13 to prevent its circumvention, and to facilitate compliance
14 with its requirements.

15 “(b) **MODEL DISCLOSURE FORMS.**—The Board may
16 publish model disclosure forms and clauses for common
17 rental-purchase agreements to facilitate compliance with
18 the disclosure requirements of this title and to aid the con-
19 sumer in understanding the transaction by utilizing read-
20 ily understandable language to simplify the technical na-
21 ture of the disclosures. In devising such forms, the Board
22 shall consider the use by merchants of data processing or
23 similar automated equipment. Nothing in this title may
24 be construed to require a merchant to use any such model
25 form or clause prescribed by the Board under this section.

1 A merchant shall be deemed to be in compliance with the
2 requirement to provide disclosure under section 1003(a)
3 if the merchant—

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

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

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

10 “(B) rearranging the format, if in making
11 such deletion or rearranging the format, the
12 merchant does not affect the substance, clarity,
13 or meaningful sequence of the disclosure.

14 “(c) EFFECTIVE DATE OF REGULATIONS.—Any reg-
15 ulation prescribed by the Board, or any amendment or in-
16 terpretation thereof, shall not be effective before the Octo-
17 ber 1 that follows the date of publication of the regulation
18 in final form by at least 6 months. The Board may at
19 its discretion lengthen that period of time to permit mer-
20 chants to adjust to accommodate new requirements. The
21 Board may also shorten that period of time, notwith-
22 standing the first sentence, if it makes a specific finding
23 that such action is necessary to comply with the findings
24 of a court or to prevent unfair or deceptive practices. In

1 any case, merchants may comply with any newly pre-
2 scribed disclosure requirement prior to its effective date.

3 **“SEC. 1016. ENFORCEMENT.**

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

16 “(b) STATE ENFORCEMENT.—

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

22 “(2) PRIOR WRITTEN NOTICE.—

23 “(A) IN GENERAL.—The State attorney
24 general shall provide prior written notice of any
25 such civil action to the Federal Trade Commis-

1 sion and shall provide the Commission with a
2 copy of the complaint.

3 “(B) EMERGENCY ACTION.—If prior notice
4 is not feasible, the State attorney general shall
5 provide notice to the Commission immediately
6 upon instituting the action.

7 “(3) FTC INTERVENTION.—The Commission
8 may—

9 “(A) intervene in the action;

10 “(B) upon intervening—

11 “(i) remove the action to the appro-
12 priate United States district court, if it
13 was not originally brought there; and

14 “(ii) be heard on all matters arising in
15 the action; and

16 “(C) file a petition for appeal.

17 **“SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOW-**
18 **ING VIOLATION.**

19 “Whoever willfully and knowingly gives false or inac-
20 curate information or fails to provide information which
21 he is required to disclose under the provisions of this title
22 or any regulation issued thereunder shall be subject to the
23 penalty provisions as provided in section 112.

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

25 “(a) RELATION TO STATE LAW.—

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

9 “(2) DETERMINATION OF INCONSISTENCY.—
10 Upon its own motion or upon the request of an in-
11 terested party, which is submitted in accordance
12 with procedures prescribed in regulations of the
13 Board, the Board shall determine whether any such
14 inconsistency exists. If the Board determines that a
15 term or provision of a State law is inconsistent, mer-
16 chants located in that State need not follow such
17 term or provision and shall incur no liability under
18 the law of that State for failure to follow such term
19 or provision, notwithstanding that such determina-
20 tion is subsequently amended, rescinded, or deter-
21 mined by judicial or other authority to be invalid for
22 any reason.

23 “(3) GREATER PROTECTION UNDER STATE
24 LAW.—Except as provided in subsection (b), for pur-
25 poses of this section, a term or provision of a State

1 law is not inconsistent with the provisions of this
2 title if the term or provision affords greater protec-
3 tion and benefit to the consumer than the protection
4 and benefit provided under this title as determined
5 by the Board, on its own motion or upon the peti-
6 tion of any interested party.

7 “(b) STATE LAWS RELATING TO CHARACTERIZATION
8 OF TRANSACTION.—Notwithstanding the provisions of
9 subsection (a), this title shall supersede any State law to
10 the extent that such law—

11 “(1) regulates a rental-purchase agreement as a
12 security interest, credit sale, retail installment sale,
13 conditional sale or any other form of consumer cred-
14 it, or that imputes to a rental-purchase agreement
15 the creation of a debt or extension of credit, or

16 “(2) requires the disclosure of a percentage rate
17 calculation, including a time-price differential, an
18 annual percentage rate, or an effective annual per-
19 centage rate.

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

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

2 “No civil liability or criminal penalty under this title
3 may be imposed on the United States or any of its depart-
4 ments or agencies, any State or political subdivision, or
5 any agency of a State or political subdivision.

6 **“SEC. 1020. COMPLIANCE DATE.**

7 “Compliance with this title shall not be required until
8 6 months after the date of the enactment of the ‘Con-
9 sumer Rental Purchase Agreement Act’. In any case, mer-
10 chants may comply with this title at any time after such
11 date of enactment.”.