

CONSUMER RENTAL PURCHASE AGREEMENT ACT

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JUNE 29, 2012.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. BACHUS, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1588]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Consumer Rental Purchase Agreement Act”.

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The rental-purchase industry provides a service that meets and satisfies the demands of many consumers.

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

(3) Competition among the various firms engaged in the extension of rental-purchase transactions would be strengthened by informed use of rental-purchase transactions.

(4) The informed use of rental-purchase transactions results from an awareness of the cost thereof by consumers.

(b) PURPOSE.—The purpose of this title is to assure the availability of rental-purchase transactions and to assure simple, meaningful, and consistent disclosure of rental-purchase terms so that consumers will be able to more readily compare the available rental-purchase terms and avoid uninformed use of rental-purchase transactions, and to protect consumers against unfair rental-purchase practices.

SEC. 3. RENTAL-PURCHASE TRANSACTIONS COVERED UNDER THE CONSUMER CREDIT PROTECTION ACT.

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

“TITLE X—RENTAL-PURCHASE 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.

“SEC. 1001. DEFINITIONS.

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

“(1) ADVERTISEMENT.—The term ‘advertisement’ means a commercial message in any medium that promotes, directly or indirectly, a rental-purchase agreement but does not include price tags, window signs, or other in-store merchandising aids.

“(2) AGRICULTURAL PURPOSE.—The term ‘agricultural purpose’ includes—

“(A) the production, harvest, exhibition, marketing, transformation, processing, or manufacture of agricultural products by a natural person who cultivates plants or propagates or nurtures agricultural products; and

“(B) the acquisition of farmlands, real property with a farm residence, or personal property and services used primarily in farming.

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

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

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

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

“(7) INITIAL PAYMENT.—The term ‘initial payment’ means the amount to be paid before or at the consummation of the agreement or the delivery of the property if delivery occurs after consummation, including the rental payment; service, processing, or administrative charges; delivery fee; refundable security deposit; taxes; mandatory fees or charges; and any optional fees or charges agreed to by the consumer.

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

“(9) PAYMENT SCHEDULE.—The term ‘payment schedule’ means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments.

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

ment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

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

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

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

“(14) RENTAL-PURCHASE AGREEMENT.—

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

“(B) EXCLUSIONS.—The term ‘rental-purchase agreement’ shall not be construed to be, nor governed by laws regulating any of the following:

“(i) A credit sale (as defined in section 103(g) of the Truth in Lending Act).

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

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

“(15) RENTAL-PURCHASE COST.—

“(A) IN GENERAL.—For purposes of sections 1010 and 1011, the term ‘rental-purchase cost’ means the sum of all rental payments and mandatory fees or charges imposed by the merchant as a condition of entering into a rental-purchase agreement or acquiring ownership of property under a rental-purchase agreement, such as the following:

“(i) Service, processing, or administrative charge.

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

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

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

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

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

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

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

“SEC. 1002. EXEMPTED TRANSACTIONS.

“This title shall not apply to rental-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with Government agencies or instrumentalities.

“SEC. 1003. GENERAL DISCLOSURE REQUIREMENTS.

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

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

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

“SEC. 1004. RENTAL-PURCHASE DISCLOSURES.

“(a) IN GENERAL.—For each rental-purchase agreement, the merchant shall clearly and conspicuously disclose to the consumer the following, to the extent applicable:

“(1) The date of the consummation of the rental-purchase transaction and the identities of the merchant and the consumer.

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

“(3) A description of any fee, charge or penalty, in addition to the periodic payment, that the consumer may be required to pay under the agreement, which shall be separately identified by type and amount.

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

“(5) The amount of any initial payment.

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

“(7) The payment schedule.

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

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

“(10) Substantially the following statement: **‘OTHER IMPORTANT TERMS:** See your rental-purchase agreement for additional important information on early termination procedures, purchase option rights, responsibilities for loss, damage or destruction of the property, warranties, maintenance responsibilities, and other charges or penalties you may incur.’.

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

“(c) DISCLOSURE REQUIREMENTS RELATING TO INSURANCE PREMIUMS AND LIABILITY WAIVERS.—

“(1) IN GENERAL.—A merchant shall clearly and conspicuously disclose in writing to the consumer before the consummation of a rental-purchase agreement that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement.

“(2) AFFIRMATIVE WRITTEN REQUEST AFTER COST DISCLOSURE.—A merchant may provide insurance or liability waiver coverage, directly or indirectly, in connection with a rental-purchase transaction only if—

“(A) the merchant clearly and conspicuously discloses to the consumer the cost of such coverage before the consummation of the rental-purchase agreement; and

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

“(d) ACCURACY OF DISCLOSURE.—

“(1) IN GENERAL.—The disclosures required to be made under subsection (a) shall be accurate as of the date the disclosures are made, based on the information available to the merchant.

“(2) INFORMATION SUBSEQUENTLY RENDERED INACCURATE.—If information required to be disclosed under subsection (a) is subsequently rendered inaccurate as a result of any agreement between the merchant and the consumer subsequent to the delivery of the required disclosures, the resulting inaccuracy shall not constitute a violation of this title.

“SEC. 1005. OTHER AGREEMENT PROVISIONS.

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

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

“(2) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibility;

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

“(A) permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental payments and any other charges then due under the agreement and a payment for the next rental period within 7 business days after failing to make a timely rental payment if the consumer pays monthly, or within 3 business days after failing to make a timely rental payment if the consumer pays more frequently than monthly;

“(B) if the consumer returns or voluntarily surrenders the property covered by the agreement, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 60 days after the date of the return or surrender of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period;

“(C) if the consumer has paid 50 percent or more of the total cost necessary to acquire ownership and returns or voluntarily surrenders the property, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 120 days after the date of the return of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period; and

“(D) permits the consumer, upon reinstatement of the agreement to receive the same property, if available, that was the subject of the rental-purchase agreement, or if the same property is not available, a substitute item of comparable quality and condition may be provided to the consumer; except that, the Board may, by regulation or order, exempt any independent small business (as defined by the Board by regulation) from the requirement of providing the same or comparable product during the extended reinstatement period provided in subparagraph (C), if the Board determines, taking into account such standards as the Board determines to be appropriate, that the reinstatement right provided in such subparagraph would provide excessive hardship for such independent small business;

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

“(5) provide a statement disclosing that if any part of a manufacturer’s express warranty covers the property at the time the consumer acquires ownership of the property, the warranty will be transferred to the consumer if allowed by the terms of the warranty; and

“(6) provide, to the extent applicable, a description of any grace period for making any periodic payment, the amount of any security deposit, if any, to be paid by the consumer upon initiation of the rental-purchase agreement, and the terms for refund of such security deposit to the consumer upon return, surrender or purchase of the property.

“(b) REPOSSESSION DURING REINSTATEMENT PERIOD.—Subsection (a)(3) shall not be construed so as to prevent a merchant from attempting to repossess property during the reinstatement period pursuant to subsection (a)(3)(A), but such a repossession does not affect the consumer’s right to reinstate.

“SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.

“(a) IN GENERAL.—The consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement, and the rental-purchase agreement shall terminate, upon compliance by the consumer with the requirements of subsection (b) or any early payment option provided in the rental purchase agreement, and upon payment of any past due payments and fees, as permitted in regulation by the Board.

“(b) PAYMENT OF TOTAL COST.—The consumer shall acquire ownership of the rental property upon payment of the total cost of the rental-purchase agreement, as such term is defined in section 1001(17), and as disclosed to the consumer in the rental-purchase agreement pursuant to section 1004(a).

“(c) **ADDITIONAL FEES PROHIBITED.**—A merchant shall not require the consumer to pay, as a condition for acquiring ownership of the property that is the subject of the rental-purchase agreement, any fee or charge in addition to, or in excess of, the regular periodic payments required by subsection (b), or any early purchase option amount provided in the rental-purchase agreement, as applicable. A requirement that the consumer pay an unpaid late charge or other fee that is past due shall not constitute an additional fee or charge for purposes of this subsection.

“(d) **TRANSFER OF OWNERSHIP RIGHTS.**—Upon payment by the consumer of all payments necessary to acquire ownership under subsection (b) or any early purchase option amount provided in the rental-purchase agreement, as appropriate, the merchant shall—

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

“(2) transfer to the consumer the unexpired portion of any warranties provided by the manufacturer, distributor, or seller of the property, which shall apply as if the consumer were the original purchaser of the property, except where such transfer is prohibited by the terms of the warranty.

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

“A rental-purchase agreement may not contain—

“(1) a confession of judgment;

“(2) a negotiable instrument;

“(3) a security interest or any other claim of a property interest in any goods, except those goods the use of which is provided by the merchant pursuant to the agreement;

“(4) a wage assignment;

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

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

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

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

“(C) the actual cost of repair, as appropriate;

“(7) a provision authorizing the merchant, or a person acting on behalf of the merchant, to enter the consumer’s dwelling or other premises without obtaining the consumer’s consent or to commit any breach of the peace in connection with the repossession of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement;

“(8) a provision requiring the purchase of insurance or liability damage waiver to cover the property that is the subject of the rental-purchase agreement, except as permitted by the Board in regulation; or

“(9) a provision requiring the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remains unpaid or delinquent, or to pay a late fee or charge for any periodic payment because a previously assessed late fee has not been paid in full.

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

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

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

“(a) **RENEGOTIATIONS.**—A renegotiation occurs when a rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same consumer. A renegotiation requires new disclosures, except as provided in subsection (c).

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

“(c) **EXCEPTIONS.**—New disclosures are not required for the following, even if they meet the definition of a renegotiation or an extension:

“(1) A reduction in payments.

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

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

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

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

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

“(7) An agreement resulting from a court proceeding.

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

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

“(a) **IN GENERAL.**—For any item of property or set of items displayed or offered for rental-purchase, the merchant shall display on or next to the item or set of items a card, tag, or label that clearly and conspicuously discloses the following:

“(1) A brief description of the property.

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

“(3) The cash price of the property.

“(4) The amount of each rental payment.

“(5) The total number of rental payments necessary to acquire ownership of the property.

“(6) The rental-purchase cost.

“(b) **FORM OF DISCLOSURE.**—

“(1) **IN GENERAL.**—A merchant may make the disclosure required by subsection (a) in the form of a list, catalog, or electronic facsimile of the card, tag, or label which is readily available to the consumer at the point of rental if the merchandise is not displayed in the merchant’s showroom or if displaying a card, tag, or label would be impractical due to the size of the merchandise.

“(2) **CLEARLY AND CONSPICUOUSLY.**—As used in this section, the term ‘clearly and conspicuously’ means that information required to be disclosed to the consumer shall appear in a type size, prominence, and location as to be noticeable, readable, and comprehensible to an ordinary consumer.

“SEC. 1011. RENTAL-PURCHASE ADVERTISING.

“(a) **IN GENERAL.**—If an advertisement for a rental-purchase transaction refers to or states the amount of any payment for any specific item or set of items, the merchant making the advertisement shall also clearly and conspicuously state in the advertisement the following for the item, or set of items, advertised:

“(1) The transaction advertised is a rental-purchase agreement.

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

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

“(4) To acquire ownership of the property the consumer must pay the rental-purchase cost plus applicable taxes.

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

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

“(c) **CLEARLY AND CONSPICUOUSLY.**—

“(1) **IN GENERAL.**—For purposes of this section, the term ‘clearly and conspicuously’ means that required disclosures shall be presented in a type, size, shade, contrast, prominence, location, and manner, as applicable to different mediums for advertising, so as to be readily noticeable and comprehensible to the ordinary consumer.

“(2) **REGULATORY GUIDANCE.**—The Board shall prescribe regulations on principles and factors to meet the clear and conspicuous standard as appropriate to print, video, audio, and computerized advertising, reflecting the principles and factors typically applied in each medium by the Federal Trade Commission.

“(3) **LIMITATION.**—Nothing contrary to, inconsistent with, or in mitigation of, the required disclosures shall be used in any advertisement in any medium, and no audio, video, or print technique shall be used that is likely to obscure or detract significantly from the communication of the disclosures.

“SEC. 1012. CIVIL LIABILITY.

“(a) **IN GENERAL.**—Except as otherwise provided in section 1013, any merchant who fails to comply with any requirement of this title with respect to any consumer is liable to such consumer as provided for leases in section 130. For purposes of this section, the term ‘creditor’ as used in section 130 shall include a ‘merchant’, as defined in section 1001, and for purposes of this title, the term ‘total amount of month-

ly payments under the lease' as used in section 130 shall mean the sum of all fees, periodic payments, initial payment, and any other charges paid by the consumer since the date of consummation.

"(b) JURISDICTION OF COURTS; LIMITATION ON ACTIONS.—

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

"(2) RECOURPMENT OR SET-OFF.—This subsection shall not bar a consumer from asserting a violation of this title in an action to collect an obligation arising from a rental-purchase agreement, which was brought after the end of the 1-year period described in paragraph (1) as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.

"SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.

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

"(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a merchant engages in a pattern or practice of violating any requirement imposed under section 1010 or 1011, the Federal Trade Commission or an appropriate State attorney general, in accordance with section 1016, may initiate an action to enforce sanctions against the merchant, including—

"(1) an order to cease and desist from such practices; and

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

"SEC. 1014. LIABILITY OF ASSIGNEES.

"(a) ASSIGNEES INCLUDED.—For purposes of section 1013, and this section, the term 'merchant' includes an assignee of a merchant.

"(b) LIABILITIES OF ASSIGNEES.—

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

"(2) APPARENT VIOLATION DEFINED.—For purposes of this subsection, a violation that is apparent on the face of a rental-purchase agreement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement.

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

"(4) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting or altering the liability under section 1012 or 1013 of a merchant assigning a rental-purchase agreement.

"(c) PROOF OF DISCLOSURE.—In an action by or against an assignee, the consumer's written acknowledgment of receipt of a disclosure, made as part of the rental-purchase agreement, shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

"SEC. 1015. REGULATIONS.

"(a) IN GENERAL.—The Board shall prescribe regulations as necessary to carry out the purposes of this title. Such regulations may contain such additional requirements, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for all or any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

"(b) MODEL DISCLOSURE FORMS.—The Board may publish model disclosure forms and clauses for common rental-purchase agreements to facilitate compliance with the disclosure requirements of this title and to aid the consumer in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by merchants of data processing or similar automated equipment. Nothing in this title may be construed to require a merchant to use any such model form or clause prescribed by the Board under this section. A merchant shall be deemed to be in compliance with the requirement to provide disclosure under section 1003(a) if the merchant—

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

"(2) uses any such model form or clause and changes it by—

- “(A) deleting any information which is not required by this title; or
 - “(B) rearranging the format, if in making such deletion or rearranging the format, the merchant does not affect the substance, clarity, or meaningful sequence of the disclosure.
- “(c) **EFFECTIVE DATE OF REGULATIONS.**—Any regulation prescribed by the Board, or any amendment or interpretation thereof, shall not be effective before the October 1 that follows the date of publication of the regulation in final form by at least 6 months. The Board may at its discretion lengthen that period of time to permit merchants to adjust to accommodate new requirements. The Board may also shorten that period of time, notwithstanding the first sentence, if it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices. In any case, merchants may comply with any newly prescribed disclosure requirement prior to its effective date.

“SEC. 1016. ENFORCEMENT.

“(a) **FEDERAL ENFORCEMENT.**—Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and a violation of any requirements imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements of this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional test in the Federal Trade Commission Act.

“(b) **STATE ENFORCEMENT.**—

“(1) **IN GENERAL.**—An action to enforce the requirements imposed by this title may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction.

“(2) **PRIOR WRITTEN NOTICE.**—

“(A) **IN GENERAL.**—The State attorney general shall provide prior written notice of any such civil action to the Federal Trade Commission and shall provide the Commission with a copy of the complaint.

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

“(3) **FTC INTERVENTION.**—The Commission may—

“(A) intervene in the action;

“(B) upon intervening—

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

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

“(C) file a petition for appeal.

“SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION.

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

“SEC. 1018. RELATION TO OTHER LAWS.

“(a) **RELATION TO STATE LAW.**—

“(1) **NO EFFECT ON CONSISTENT STATE LAWS.**—Except as otherwise provided in subsection (b), this title does not annul, alter, or affect in any manner the meaning, scope, or applicability of the laws of any State relating to rental-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

“(2) **DETERMINATION OF INCONSISTENCY.**—Upon its own motion or upon the request of an interested party, which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent, merchants located in that State need not follow such term or provision and shall incur no liability under the law of that State for failure to follow such term or provision, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

“(3) **GREATER PROTECTION UNDER STATE LAW.**—Except as provided in subsection (b), for purposes of this section, a term or provision of a State law is not inconsistent with the provisions of this title if the term or provision affords greater protection and benefit to the consumer than the protection and benefit provided under this title as determined by the Board, on its own motion or upon the petition of any interested party.

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

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

“(2) requires the disclosure of a percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate.

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

“SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.

“No civil liability or criminal penalty under this title may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of a State or political subdivision.

“SEC. 1020. COMPLIANCE DATE.

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

PURPOSE AND SUMMARY

The purpose of H.R. 1588, the Consumer Rental Purchase Agreement Act, is to set a federal regulatory floor for consumer protection in rental-purchase transactions. Although most states currently regulate rental-purchase transactions as leases, the scope and consumer protection requirements of these laws vary significantly from state to state.

Currently, there is no federal oversight or regulation of the rent-to-own industry. This bill amends the Consumer Credit Protection Act (CCPA) to provide such oversight and regulation. The bill defines a number of terms pertaining to rental purchase transactions, including a “rental-purchase agreement,” which excludes credit sales and consumer leases (as defined by the Truth in Lending Act). H.R. 1588 also includes the following provisions: (1) requires rent-to-own merchants to include certain disclosures about the transaction in their rental-purchase agreements; (2) specifies the rights of consumers to acquire ownership of the property that is the subject of the rental-purchase agreement and to request statements of their accounts; (3) specifies provisions that are prohibited from appearing in rental-purchase agreements; (4) includes standards governing renegotiations and extensions of rental-purchase agreements; (5) mandates disclosures for both point-of-rental and advertising; (6) permits consumers to take civil action against merchants that fail to comply with the requirements in the bill; and (7) establishes criminal liability for merchants that willfully and knowingly give false or inaccurate information or fail to make disclosures required by the bill. H.R. 1588 authorizes the Board of Governors of the Federal Reserve System to promulgate implementing regulations and grants enforcement powers to the Federal Trade Commission and to state attorneys general.

While the consumer protections contained in H.R. 1588 generally exceed those contained in existing state laws, the bill does not preempt stronger state laws. The bill does, however, preclude states from treating rental-purchase transactions as credit sales and from requiring the disclosure of an annual percentage rate.

BACKGROUND AND NEED FOR LEGISLATION

In April 2000, the Federal Trade Commission (FTC) issued a staff report titled “Survey of Rent-to-Own Customers,” which concluded that potential rental-purchase customers should have clear and accurate information about the total cost of the transaction to allow them to compare rental-purchase transactions to other alternatives. The FTC also noted that inadequacies exist in many state rental-purchase disclosure laws. This bill cures those inadequacies.

Federal legislation to regulate this industry has been considered by Congress for more than a decade. H.R. 1588 brings greater stability and consistency to rental-purchase transactions nationally and adds substantive consumer protections consistent with that of a majority of the states that have adopted rental-purchase legislation. In addition, H.R. 1588 helps to eliminate claims and litigation by providing a clear statement of Congressional policy regarding these transactions.

HEARINGS

On July 26, 2011, the Subcommittee on Financial Institutions and Consumer Credit held a hearing entitled “Examining Rental Purchase Agreements and the Potential Role for Federal Regulation,” to examine H.R. 1588. This was a two-panel hearing, and the following witnesses testified:

- Mr. Charles Harwood, Deputy Director, Bureau of Consumer Protection, Federal Trade Commission
- Mr. Jim Hawkins, Assistant Professor of Law, University of Houston Law Center
- Mr. Roy Soto, Owner, Premier Rental Purchase
- Ms. Vivian Saunders, rent-to-own customer from Lewiston Woodville, NC
- Ms. Margot Freeman Saunders, Of Counsel, National Consumer Law Center

COMMITTEE CONSIDERATION

The Subcommittee on Financial Institutions and Consumer Credit met in open session on November 17, 2011, and ordered H.R. 1588, as amended, favorably reported to the full Committee by voice vote.

The Committee on Financial Services met in open session on May 31, 2012, and ordered H.R. 1588, as amended, favorably reported to the House by a record vote of 33 yeas and 21 nays (Record vote no. FC–80).

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Chairman Bachus to report the bill, as amended, to the House with a favorable recommendation was agreed to by a record vote of 33 yeas and 21 nays (Record vote no. FC–80). The names of Members voting for and against follow:

RECORD VOTE NO. FC-80

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X			Mr. Frank (MA)		X	
Mr. Hensarling	X			Ms. Waters		X	
Mr. King (NY)	X			Mrs. Maloney		X	
Mr. Royce	X			Mr. Gutierrez		X	
Mr. Lucas	X			Ms. Velázquez			
Mr. Paul				Mr. Watt		X	
Mr. Manzullo	X			Mr. Ackerman	X		
Mr. Jones				Mr. Sherman	X		
Mrs. Biggert	X			Mr. Meeks	X		
Mr. Gary G. Miller (CA)		X		Mr. Capuano		X	
Mrs. Capito	X			Mr. Hinojosa	X		
Mr. Garrett		X		Mr. Clay			
Mr. Neugebauer	X			Mrs. McCarthy (NY)	X		
Mr. McHenry	X			Mr. Baca	X		
Mr. Campbell	X			Mr. Lynch		X	
Mrs. Bachmann		X		Mr. Miller (NC)		X	
Mr. McCotter	X			Mr. David Scott (GA)	X		
Mr. McCarthy (CA)				Mr. Al Green (TX)		X	
Mr. Pearce		X		Mr. Cleaver	X		
Mr. Posey		X		Ms. Moore		X	
Mr. Fitzpatrick	X			Mr. Ellison			
Mr. Westmoreland	X			Mr. Perlmutter	X		
Mr. Luetkemeyer	X			Mr. Donnelly	X		
Mr. Huizenga		X		Mr. Carson		X	
Mr. Duffy	X			Mr. Himes		X	
Ms. Hayworth	X			Mr. Peters		X	
Mr. Renacci		X		Mr. Carney	X		
Mr. Hurt	X						
Mr. Dold	X						
Mr. Schweikert		X					
Mr. Grimm							
Mr. Canseco	X						
Mr. Stivers	X						
Mr. Fincher	X						

During consideration of H.R. 1588 by the Committee, the following amendments were considered:

1. An amendment offered by Ms. Moore and Mr. Ellison, no. 3, to allow states to permit rental-purchase agreements to disclose annual percentage rates and to classify rental-purchase transactions as credit sales, was not agreed to by a record vote of 19 yeas and 32 nays (Record vote no. FC-78).

RECORD VOTE NO. FC-78

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)	X		
Mr. Hensarling		X		Ms. Waters	X		
Mr. King (NY)		X		Mrs. Maloney	X		
Mr. Royce		X		Mr. Gutierrez	X		
Mr. Lucas		X		Ms. Velázquez			
Mr. Paul				Mr. Watt	X		
Mr. Manzullo		X		Mr. Ackerman		X	
Mr. Jones				Mr. Sherman		X	
Mrs. Biggert		X		Mr. Meeks		X	
Mr. Gary G. Miller (CA)		X		Mr. Capuano	X		
Mrs. Capito		X		Mr. Hinojosa			
Mr. Garrett		X		Mr. Clay			
Mr. Neugebauer		X		Mrs. McCarthy (NY)	X		
Mr. McHenry		X		Mr. Baca		X	
Mr. Campbell		X		Mr. Lynch	X		
Mrs. Bachmann	X			Mr. Miller (NC)	X		

RECORD VOTE NO. FC-78—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. McCotter		X		Mr. David Scott (GA)		X	
Mr. McCarthy (CA)				Mr. Al Green (TX)	X		
Mr. Pearce		X		Mr. Cleaver			
Mr. Posey		X		Ms. Moore	X		
Mr. Fitzpatrick		X		Mr. Ellison			
Mr. Westmoreland		X		Mr. Perlmutter		X	
Mr. Luetkemeyer		X		Mr. Donnelly		X	
Mr. Huizenga		X		Mr. Carson	X		
Mr. Duffy	X			Mr. Himes	X		
Ms. Hayworth				Mr. Peters	X		
Mr. Renacci	X			Mr. Carney	X		
Mr. Hurt		X					
Mr. Dold	X						
Mr. Schweikert		X					
Mr. Grimm							
Mr. Canseco		X					
Mr. Stivers		X					
Mr. Fincher		X					

2. An amendment offered by Mr. Watt and Ms. Moore, no. 4, to limit the applicability of the bill to interstate transactions, was not agreed to by a record vote of 20 yeas and 33 nays (Record vote no. FC-79).

RECORD VOTE NO. FC-79

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)	X		
Mr. Hensarling		X		Ms. Waters	X		
Mr. King (NY)		X		Mrs. Maloney	X		
Mr. Royce		X		Mr. Gutierrez	X		
Mr. Lucas		X		Ms. Velázquez			
Mr. Paul				Mr. Watt	X		
Mr. Manullo		X		Mr. Ackerman		X	
Mr. Jones				Mr. Sherman		X	
Mrs. Biggert		X		Mr. Meeks		X	
Mr. Gary G. Miller (CA)		X		Mr. Capuano	X		
Mrs. Capito		X		Mr. Hinojosa			
Mr. Garrett	X			Mr. Clay			
Mr. Neugebauer		X		Mrs. McCarthy (NY)	X		
Mr. McHenry		X		Mr. Baca		X	
Mr. Campbell		X		Mr. Lynch	X		
Mrs. Bachmann	X			Mr. Miller (NC)	X		
Mr. McCotter		X		Mr. David Scott (GA)		X	
Mr. McCarthy (CA)				Mr. Al Green (TX)	X		
Mr. Pearce		X		Mr. Cleaver	X		
Mr. Posey		X		Ms. Moore	X		
Mr. Fitzpatrick		X		Mr. Ellison			
Mr. Westmoreland		X		Mr. Perlmutter	X		
Mr. Luetkemeyer		X		Mr. Donnelly		X	
Mr. Huizenga	X			Mr. Carson		X	
Mr. Duffy		X		Mr. Himes	X		
Ms. Hayworth		X		Mr. Peters	X		
Mr. Renacci	X			Mr. Carney	X		
Mr. Hurt		X					
Mr. Dold		X					
Mr. Schweikert		X					
Mr. Grimm							
Mr. Canseco		X					
Mr. Stivers		X					
Mr. Fincher		X					

The following amendments and motion were also considered by the Committee:

1. An amendment offered by Mr. Canseco and Mrs. Maloney, No. 1, to allow the Federal Reserve to conduct consumer testing of disclosure forms and other documents in order to determine the most effective way to communicate such disclosures to rental-purchase customers—similar to the Federal Reserve’s authority under the Truth in Lending Act—was agreed to by voice vote.

2. An amendment offered by Mrs. Maloney and Ms. Moore, No. 2, to provide that the amount of civil penalties shall be twenty-five percent of the sum of all fees, periodic payments, initial payment, and any other charges paid by the consumer since the date of consummation, was agreed to by voice vote.

3. A motion offered by Mrs. Capito to move the previous question on H.R. 1588 was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The objective of H.R. 1588 is to set a federal regulatory floor for consumer protection in rental-purchase transactions. There is no federal oversight or regulation of the rent-to-own industry. Currently, most states regulate rental-purchase transactions as leases; however, the scope and consumer protection requirements of these laws vary significantly by state. This bill would amend the Consumer Credit Protection Act (CCPA) to provide such oversight and regulation by (1) defining a number of terms pertaining to rental purchase transactions, including a “rental-purchase agreement,” which excludes credit sales and consumer leases (as defined by the Truth in Lending Act); (2) requiring rent-to-own merchants to include certain disclosures about the transaction in their rental-purchase agreements; (3) specifying the rights of consumers to acquire ownership of the property and to request statements of their accounts; (4) specifying provisions that are prohibited from appearing in rental-purchase agreements; (5) including standards governing renegotiations and extensions of rental-purchase agreements; (6) mandating disclosures for both point-of-rental and advertising; (7) permitting consumers to take civil action against a merchant that fails to comply with the requirements in the bill; (8) establishing criminal liability for merchants that willfully and knowingly give false or inaccurate information or fail to make any required disclosures under the bill; and (9) authorizing the Board of Governors of the Federal Reserve System to promulgate implementing regulations and granting enforcement powers to the Federal Trade Commission and to state attorneys general.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

JUNE 22, 2012.

Hon. SPENCER BACHUS,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1588, the Consumer Rental Purchase Agreement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1588—Consumer Rental Purchase Agreement Act

Estimated Impact on the Federal Budget: H.R. 1588 would require certain information to be disclosed by a merchant before a consumer finalizes a rent-to-own agreement—a contract that allows a consumer to lease certain property with the option, but not the obligation, to buy the property. The bill would require the Board of Governors of the Federal Reserve System to develop regulations as necessary to carry out the purposes of H.R. 1588. The regulations would stipulate, among other things, information that must be provided to a consumer before completing the transaction and information that must be included in advertisements for rent-to-own contracts. The bill would authorize the Federal Trade Commission (FTC) to enforce the new regulations and would provide for criminal penalties in cases of willful failure to disclose the required information.

Based on information from the FTC, CBO estimates that implementing H.R. 1588 would not significantly increase discretionary costs. The FTC expects that most affected businesses would comply with the new regulations.

Enacting H.R. 1588 would affect revenues and direct spending; therefore, pay-as-you-go procedures apply. Any increase in costs to the Federal Reserve that would result from the bill's provisions requiring the Federal Reserve to develop new regulations would be recorded as changes in revenues. However, CBO expects that any such effects would be negligible.

Because H.R. 1588 would allow for criminal fines to be collected in certain instances, the federal government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the small number of cases likely to be affected.

Estimated impact on State, local, and tribal governments: H.R. 1588 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state laws that provide less protection to consumers that enter into rent-to-own agreements than the federal standard. The bill also would impose notification requirements and limitations on state attorneys general. Because the limits on state authority would not require the expenditure of funds and because the notification requirements would result in minimal additional spending, CBO estimates that the costs of the intergovernmental mandates would be small and would not exceed the threshold established in UMRA (\$73 million in 2012, adjusted annually for inflation).

Estimated impact on the private sector: H.R. 1588 contains private-sector mandates as defined in UMRA. The bill would require merchants who provide the use of property through a rent-to-own agreement to provide certain disclosures to consumers in those agreements and in advertisements. Under the bill, such merchants also would be required to provide specific information in merchandise labeling and to furnish statements of account to customers upon request. In addition, the bill would prohibit those merchants from charging certain fees related to acquiring ownership through a rent-to-own agreement and from entering the premises of customers to reclaim property without the customer's permission.

According to the Federal Trade Commission, 47 states and the District of Columbia currently have laws that require some type of disclosure and labeling for such merchants. Industry representatives indicate that, because most merchants already comply with similar requirements in state laws, the incremental cost to comply with the mandates in the bill would be small. Therefore, CBO estimates that the direct cost to comply with the mandates in the bill would fall below the annual threshold established in UMRA for private-sector mandates (\$146 million in 2012, adjusted annually for inflation).

Staff contacts: The CBO staff contacts for this estimate are Susan Willie (for federal costs), Barbara Edwards (for federal revenues), Elizabeth Cove Delisle (for the impact on state and local governments), and Paige Piper/Bach (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 1588 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Act may be cited as the “Consumer Rental Purchase Agreement Act.”

Section 2. Findings and declaration of purpose

This section sets forth certain facts concerning the rental-purchase industry and also declares the purposes of the Act.

Section 3. Rental-purchase transactions covered under the Consumer Credit Protection Act

This section amends the Consumer Credit Protection Act by adding a new title X to the Consumer Credit Protection Act.

TITLE X—RENTAL-PURCHASE TRANSACTIONS

Section 1001. Definitions

This section defines the following terms used in the Act: advertisement, agricultural purpose, Board, cash price, consumer, date of consummation, initial payment, merchant, payment schedule, periodic payment, property, rental payment, rental period, rental-purchase agreement, rental-purchase cost, state, and total cost.

Section 1002. Exempted transactions

This section exempts from the provisions of the Act rental-purchase agreements used primarily for business, commercial, or agricultural purposes, or those involving the government.

Section 1003. General disclosure requirements

This section requires merchants to disclose the information required by Sections 1004 and 1005 to any customer before the consummation of a transaction, and also requires that the disclosures

be displayed “clearly and conspicuously” in a “type size, prominence, and location as to be readily noticeable” to the customer.

Section 1004. Rental purchase disclosures

This section requires that for each rental-purchase agreement, the merchant clearly and conspicuously disclose to the consumer: (1) the date of the transaction and identities of merchant and consumer; (2) a description of the rental property, including an identification number and whether the property is new or used; (3) a description and amount of each fee, charge or penalty, in addition to the periodic payment; (4) a statement that a consumer will not obtain ownership of the property until he or she has paid the total cost to acquire ownership; (5) the amount of the initial payment; (6) the amount of the cash price of the property; (7) the payment schedule; (8) the total cost to acquire ownership; (9) a statement of the consumer’s right to terminate the agreement without paying any fee or charge not previously due under the agreement by voluntarily returning the property; and (10) a statement that the consumer should refer to the agreement for additional information on early termination procedures, purchase option rights, responsibilities for loss or damage, warranties, maintenance responsibilities, and other charges or penalties the consumer may incur. Disclosures 4–10 of the above list are required to be placed at the beginning of the rental-purchase agreement and to be identified as “IMPORTANT RENTAL-PURCHASE DISCLOSURES.”

This section also requires the merchant to disclose to the customer that the purchase of leased property insurance or liability waiver coverage is not required. This section permits the merchant to offer liability coverage to the customer as long as the price and terms of the coverage are disclosed.

This section also requires that the above disclosures be accurate as of the date the disclosures are made, based on the information available to the merchant. This section provides that information subsequently rendered inaccurate as a result of an agreement between the merchant and consumer subsequent to the delivery of the required disclosures shall not constitute a violation of the Act.

Section 1005. Other agreement provisions

This section mandates that each rental-purchase agreement shall provide a statement (1) specifying the party responsible for damage or loss, theft, damage, or destruction of the property; (2) specifying the party responsible for maintaining or servicing the property; (3) specifying the terms by which the customer can obtain ownership of the product by paying the total cost or via an early purchase option; (4) disclosing that any remaining portion of a manufacturer’s warranty shall be transferred to the consumer upon purchase if allowed by the terms of the warranty; and (5) providing a description of any grace period for making the periodic payment, the amount of any security deposit, and the terms for a security deposit refund.

This section also requires that the rental-purchase agreement include a provision for reinstatement of the agreement with the same property, or if it is unavailable, a comparable substitute. Specifically, this section would permit consumers that rent merchandise on a monthly basis seven business days in which to cure any default under the agreement without losing any rights or options. For

consumers that pay more frequently than monthly, the statutory cure period is three business days. This section also provides that if a consumer returns the property within the prescribed default cure periods, then the right to reinstate the terminated agreement, without losing any rights or options previously acquired, is extended from 60 to 120 days, depending upon how long the consumer has been renting the item.

Section 1006. Right to acquire ownership

This section provides that the customer has the right to obtain ownership of the product by making all required payments in the agreement or through an early payment option. A merchant is prohibited from requiring the customer to pay any fee or charge in addition to the regular periodic payments or any early purchase option amount provided for in the agreement. As soon as the consumer makes all payments necessary to acquire ownership of the property, the merchant is required to deliver to the consumer any document to acknowledge full ownership of the property, as well as the unexpired portions of any warranties provided by the manufacturer, distributor, or seller of the property.

Section 1007. Prohibited provisions

This section prohibits a rental-purchase agreement from containing the following provisions: confession of judgment; a negotiable instrument; a security interest in other property; a wage assignment; or a waiver of any claim or defenses. This section also prohibits provisions requiring the consumer—in the event the property is lost, stolen, damaged or destroyed—to pay an amount in excess of the lesser of the fair market value, an early purchase option, or the actual cost of repair.

This section also prohibits a rental-purchase agreement from containing provisions that authorize the merchant to enter the consumer's dwelling without their permission to repossess merchandise; require the consumer to purchase insurance or liability damage waiver; or require the consumer to pay more than one late fee or charge for an unpaid or delinquent periodic payment.

Section 1008. Statement of accounts

This section requires a merchant to provide a consumer with a statement of his or her account upon request. It also permits the merchant to assess the consumer a reasonable fee if he or she requests a statement more than four times in a 12-month period.

Section 1009. Renegotiations and Extensions

This section requires that new disclosures be made at the time a rental-purchase agreement is renegotiated, except when payments are reduced; one or more payments are deferred; the rental-purchase agreement is extended; the property is substituted with property of equal or greater value, provided the rental-purchase cost does not increase; the property is deleted from a multi-item agreement; the rental period is changed, but the rental-purchase cost does not increase; a court proceeding results in a new agreement; or any other event described in regulations prescribed by the Federal Reserve occurs.

Section 1010. Point-of-rental disclosures

This section requires that for any items displayed or offered for rental-purchase, the merchant display on or next to the item a card, tag, or label that discloses the following: a brief description of the property; whether the property is new or used; the cash price of the property; the amount of each rental payment; the total number of rental payments required to obtain ownership of the property; and the rental-purchase cost. These disclosures are permitted to be made in the form of a list, catalog, or electronic facsimile of the card, tag, or label if the merchandise is not displayed in the showroom.

Section 1011. Rental-purchase advertising

This section mandates that if an advertisement for a rental-purchase transaction refers to the amount of any payment for a specific item, the merchant clearly and conspicuously disclose the following: that the transaction advertised is a rental-purchase agreement; the amount, timing, and total number of payments necessary to obtain ownership of the property; the amount of the rental-purchase cost; that the customer must pay the rental-purchase cost plus applicable taxes in order to obtain ownership of the property; and whether the stated payment amount and advertised rental-purchase cost is for new or used property. The section prohibits a merchant from advertising items at amounts or terms that they do not regularly offer. The section also requires the Federal Reserve to prescribe regulations on principles and factors to meet the “clear and conspicuous” standard for print, video, audio and computerized advertising.

Section 1012. Civil liability

This section provides that if a merchant fails to comply with the requirements contained in the Act, the individual consumer is entitled to statutory damages equal to 25% of the sum of all fees, periodic payments, initial payment, and any other charges paid by the consumer since the date of consummation. It also provides that any action under Section 1012 of the Act may be brought in any United States district court or in any other court of competent jurisdiction, before the end of the 1-year period beginning on the date the last payment was made by the consumer.

Section 1013. Additional grounds for civil liability

This section provides that any merchant that fails to comply with the requirements imposed in Sections 1010 and 1011 shall be liable to any consumer that suffers actual damages resulting from the violation. It also states that if a merchant engages in a pattern of violating requirements imposed in Sections 1010 and 1011, the Federal Trade Commission or State attorney general may initiate an action to enforce sanctions against the merchant, including an order to cease and desist and a civil money penalty.

Section 1014. Liability of assignees

This section permits actions under Sections 1012 and 1013 to be taken against assignees of the merchant if the violation was apparent on the face of the rental-purchase agreement, including incomplete or inaccurate disclosures.

Section 1015. Regulations

This section directs the Federal Reserve to prescribe regulations as necessary to carry out the provisions included in the Act. Those regulations may contain additional requirements, classifications, and differentiations, as well as provide for such adjustments and exceptions as the Federal Reserve deems necessary to effectuate the purposes of the Act, to prevent its circumvention or evasion, or to facilitate compliance with the Act. This section also permits the Federal Reserve to publish model disclosure forms and clauses for rental-purchase agreements in order to facilitate compliance with the disclosure requirements of the Act and to aid the consumer in understanding the transaction. The section states that any regulation prescribed by the Federal Reserve shall not be effective before the October 1 that follows the date of publication of the final regulation by at least 6 months.

Section 1016. Enforcement

This section grants enforcement authority under the Act to the Federal Trade Commission. This section also permits state attorneys general to bring actions to enforce the Act in any U.S. district court, as long as they provide prior written notice to the Federal Trade Commission. The Federal Trade Commission may intervene in the action, remove it to an appropriate U.S. district court, be heard on all matters arising in the action, and file a petition for appeal.

Section 1017. Criminal liability for willful and knowing violation

This section provides that merchants who willfully and knowingly give false information or fail to provide disclosures required by the Act or subsequent regulations are subject to the penalty provisions of Section 112 of the Consumer Credit Protection Act, which requires those individuals to be fined not more than \$5,000 or imprisoned not more than one year, or both.

Section 1018. Relation to other laws

This section clarifies that the Act does not annul, alter, or affect any state laws relating to rental-purchase agreements, except when those state laws are inconsistent with this bill, and then only to the extent of the inconsistency, as determined by the Federal Reserve. If the Federal Reserve determines that a provision of a state law is inconsistent, then merchants in that state are not required to follow that provision of the state law, and will not incur any liability under the state law. This section provides that a state law should not be considered inconsistent if the term or provision affords greater protection and benefit to the consumer, as determined by the Federal Reserve.

This section provides that the Act shall supersede any state law that (1) regulates a rental-purchase transaction as a security interest, credit sale, retail installment sale, conditional sale, or any other form of consumer credit, or (2) requires the disclosure of a percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate. It clarifies that no provision of the Act shall be construed as limiting or superseding the applicability of the Federal Trade Commission Act to any merchant or rental-purchase transaction.

Section 1019. Effect on government agencies

This section provides that no civil liability or criminal penalty under the Act may be imposed on any federal or state government entities.

Section 1020. Compliance date

This section requires compliance with the Act six months after its enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

CONSUMER CREDIT PROTECTION ACT

* * * * *

***TITLE X—RENTAL-PURCHASE
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.***SEC. 1001. DEFINITIONS.**

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

(1) **ADVERTISEMENT.**—*The term “advertisement” means a commercial message in any medium that promotes, directly or indirectly, a rental-purchase agreement but does not include price tags, window signs, or other in-store merchandising aids.*

(2) **AGRICULTURAL PURPOSE.**—*The term “agricultural purpose” includes—*

(A) the production, harvest, exhibition, marketing, transformation, processing, or manufacture of agricultural products by a natural person who cultivates plants or propagates or nurtures agricultural products; and

(B) the acquisition of farmlands, real property with a farm residence, or personal property and services used primarily in farming.

(3) BOARD.—The term “Board” means the Board of Governors of the Federal Reserve System.

(4) CASH PRICE.—The term “cash price” means the price at which a merchant, in the ordinary course of business, offers to sell for cash the property that is the subject of the rental-purchase transaction.

(5) CONSUMER.—The term “consumer” means a natural person who is offered or enters into a rental-purchase agreement.

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

(7) INITIAL PAYMENT.—The term “initial payment” means the amount to be paid before or at the consummation of the agreement or the delivery of the property if delivery occurs after consummation, including the rental payment; service, processing, or administrative charges; delivery fee; refundable security deposit; taxes; mandatory fees or charges; and any optional fees or charges agreed to by the consumer.

(8) MERCHANT.—The term “merchant” means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom a consumer’s initial payment under the agreement is payable.

(9) PAYMENT SCHEDULE.—The term “payment schedule” means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments.

(10) PERIODIC PAYMENT.—The term “periodic payment” means the total payment a consumer will make for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

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

(12) RENTAL PAYMENT.—The term “rental payment” means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

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

(14) RENTAL-PURCHASE AGREEMENT.—

(A) IN GENERAL.—The term “rental-purchase agreement” means a contract in the form of a bailment or lease for the use of property by a consumer for an initial period of 4 months or less, that is renewable with each payment by the consumer, and that permits but does not obligate the consumer to become the owner of the property.

(B) *EXCLUSIONS.*—The term “rental-purchase agreement” shall not be construed to be, nor governed by laws regulating any of the following:

(i) A credit sale (as defined in section 103(g) of the Truth in Lending Act).

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

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

(15) *RENTAL-PURCHASE COST.*—

(A) *IN GENERAL.*—For purposes of sections 1010 and 1011, the term “rental-purchase cost” means the sum of all rental payments and mandatory fees or charges imposed by the merchant as a condition of entering into a rental-purchase agreement or acquiring ownership of property under a rental-purchase agreement, such as the following:

(i) Service, processing, or administrative charge.

(ii) Fee for an investigation or credit report.

(iii) Charge for delivery required by the merchant.

(B) *EXCLUDED ITEMS.*—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

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

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

(16) *STATE.*—The term “State” means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(17) *TOTAL COST.*—The term “total cost” means the sum of the initial payment and all periodic payments in the payment schedule to be paid by the consumer to acquire ownership of the property that is the subject of the rental-purchase agreement.

SEC. 1002. EXEMPTED TRANSACTIONS.

This title shall not apply to rental-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with Government agencies or instrumentalities.

SEC. 1003. GENERAL DISCLOSURE REQUIREMENTS.

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

(b) *TIMING OF DISCLOSURE.*—The disclosures required under sections 1004 and 1005 shall be made before the consummation of the rental-purchase agreement and clearly and conspicuously in writing as part of the rental-purchase agreement to be signed by the consumer.

(c) *CLEARLY AND CONSPICUOUSLY.*—As used in this section, the term “clearly and conspicuously” means that information required to be disclosed to the consumer shall be worded plainly and simply,

and appear in a type size, prominence, and location as to be readily noticeable, readable, and comprehensible to an ordinary consumer.

SEC. 1004. RENTAL-PURCHASE DISCLOSURES.

(a) *IN GENERAL.*—For each rental-purchase agreement, the merchant shall clearly and conspicuously disclose to the consumer the following, to the extent applicable:

(1) The date of the consummation of the rental-purchase transaction and the identities of the merchant and the consumer.

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

(3) A description of any fee, charge or penalty, in addition to the periodic payment, that the consumer may be required to pay under the agreement, which shall be separately identified by type and amount.

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

(5) The amount of any initial payment.

(6) The amount of the cash price of the property that is the subject of the rental-purchase agreement, and, if the agreement involves the rental of 2 or more items as a set (as may be defined by the Board in regulation) a statement of the aggregate cash price of all items shall satisfy this requirement.

(7) The payment schedule.

(8) The total cost, using that term, and a brief description, such as “This is the amount you will pay the merchant if you make all periodic payments to acquire ownership of the property.”.

(9) A statement of the consumer’s right to terminate the agreement without paying any fee or charge not previously due under the agreement by voluntarily surrendering or returning the property in good repair upon expiration of any rental period.

(10) Substantially the following statement: “**OTHER IMPORTANT TERMS:** See your rental-purchase agreement for additional important information on early termination procedures, purchase option rights, responsibilities for loss, damage or destruction of the property, warranties, maintenance responsibilities, and other charges or penalties you may incur.”.

(b) *FORM OF DISCLOSURE.*—The disclosures required by paragraphs (4) through (10) of subsection (a) shall be segregated from other information at the beginning of the rental-purchase agreement and shall contain only directly related information, and shall be identified in boldface, upper-case letters as follows: “**IMPORTANT RENTAL-PURCHASE DISCLOSURES**”.

(c) *DISCLOSURE REQUIREMENTS RELATING TO INSURANCE PREMIUMS AND LIABILITY WAIVERS.*—

(1) *IN GENERAL.*—A merchant shall clearly and conspicuously disclose in writing to the consumer before the consummation of a rental-purchase agreement that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement.

(2) *AFFIRMATIVE WRITTEN REQUEST AFTER COST DISCLOSURE.*—A merchant may provide insurance or liability waiver coverage, directly or indirectly, in connection with a rental-purchase transaction only if—

(A) the merchant clearly and conspicuously discloses to the consumer the cost of such coverage before the consummation of the rental-purchase agreement; and

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

(d) *ACCURACY OF DISCLOSURE.*—

(1) *IN GENERAL.*—The disclosures required to be made under subsection (a) shall be accurate as of the date the disclosures are made, based on the information available to the merchant.

(2) *INFORMATION SUBSEQUENTLY RENDERED INACCURATE.*—If information required to be disclosed under subsection (a) is subsequently rendered inaccurate as a result of any agreement between the merchant and the consumer subsequent to the delivery of the required disclosures, the resulting inaccuracy shall not constitute a violation of this title.

SEC. 1005. OTHER AGREEMENT PROVISIONS.

(a) *IN GENERAL.*—Each rental-purchase agreement shall—

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

(2) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibility;

(3) contain a provision for reinstatement of the agreement, which at a minimum—

(A) permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental payments and any other charges then due under the agreement and a payment for the next rental period within 7 business days after failing to make a timely rental payment if the consumer pays monthly, or within 3 business days after failing to make a timely rental payment if the consumer pays more frequently than monthly;

(B) if the consumer returns or voluntarily surrenders the property covered by the agreement, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 60 days after the date of the return or surrender of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period;

(C) if the consumer has paid 50 percent or more of the total cost necessary to acquire ownership and returns or voluntarily surrenders the property, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 120 days

after the date of the return of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period; and

(D) permits the consumer, upon reinstatement of the agreement to receive the same property, if available, that was the subject of the rental-purchase agreement, or if the same property is not available, a substitute item of comparable quality and condition may be provided to the consumer; except that, the Board may, by regulation or order, exempt any independent small business (as defined by the Board by regulation) from the requirement of providing the same or comparable product during the extended reinstatement period provided in subparagraph (C), if the Board determines, taking into account such standards as the Board determines to be appropriate, that the reinstatement right provided in such subparagraph would provide excessive hardship for such independent small business;

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

(5) provide a statement disclosing that if any part of a manufacturer's express warranty covers the property at the time the consumer acquires ownership of the property, the warranty will be transferred to the consumer if allowed by the terms of the warranty; and

(6) provide, to the extent applicable, a description of any grace period for making any periodic payment, the amount of any security deposit, if any, to be paid by the consumer upon initiation of the rental-purchase agreement, and the terms for refund of such security deposit to the consumer upon return, surrender or purchase of the property.

(b) **REPOSSESSION DURING REINSTATEMENT PERIOD.**—Subsection (a)(3) shall not be construed so as to prevent a merchant from attempting to repossess property during the reinstatement period pursuant to subsection (a)(3)(A), but such a repossession does not affect the consumer's right to reinstate.

SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.

(a) **IN GENERAL.**—The consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement, and the rental-purchase agreement shall terminate, upon compliance by the consumer with the requirements of subsection (b) or any early payment option provided in the rental purchase agreement, and upon payment of any past due payments and fees, as permitted in regulation by the Board.

(b) **PAYMENT OF TOTAL COST.**—The consumer shall acquire ownership of the rental property upon payment of the total cost of the rental-purchase agreement, as such term is defined in section 1001(17), and as disclosed to the consumer in the rental-purchase agreement pursuant to section 1004(a).

(c) **ADDITIONAL FEES PROHIBITED.**—A merchant shall not require the consumer to pay, as a condition for acquiring ownership of the property that is the subject of the rental-purchase agreement, any fee

or charge in addition to, or in excess of, the regular periodic payments required by subsection (b), or any early purchase option amount provided in the rental-purchase agreement, as applicable. A requirement that the consumer pay an unpaid late charge or other fee that is past due shall not constitute an additional fee or charge for purposes of this subsection.

(d) *TRANSFER OF OWNERSHIP RIGHTS.*—Upon payment by the consumer of all payments necessary to acquire ownership under subsection (b) or any early purchase option amount provided in the rental-purchase agreement, as appropriate, the merchant shall—

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

(2) transfer to the consumer the unexpired portion of any warranties provided by the manufacturer, distributor, or seller of the property, which shall apply as if the consumer were the original purchaser of the property, except where such transfer is prohibited by the terms of the warranty.

SEC. 1007. PROHIBITED PROVISIONS.

A rental-purchase agreement may not contain—

(1) a confession of judgment;

(2) a negotiable instrument;

(3) a security interest or any other claim of a property interest in any goods, except those goods the use of which is provided by the merchant pursuant to the agreement;

(4) a wage assignment;

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

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

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

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

(C) the actual cost of repair, as appropriate;

(7) a provision authorizing the merchant, or a person acting on behalf of the merchant, to enter the consumer's dwelling or other premises without obtaining the consumer's consent or to commit any breach of the peace in connection with the repossession of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement;

(8) a provision requiring the purchase of insurance or liability damage waiver to cover the property that is the subject of the rental-purchase agreement, except as permitted by the Board in regulation; or

(9) a provision requiring the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remains unpaid or delinquent, or to pay a late fee or charge for any periodic

payment because a previously assessed late fee has not been paid in full.

SEC. 1008. STATEMENT OF ACCOUNTS.

Upon request of a consumer, a merchant shall provide a statement of the consumer's account. If a consumer requests a statement for an individual account more than 4 times in any 12-month period, the merchant may charge a reasonable fee for the additional statements.

SEC. 1009. RENEGOTIATIONS AND EXTENSIONS.

(a) *RENEGOTIATIONS.*—A renegotiation occurs when a rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same consumer. A renegotiation requires new disclosures, except as provided in subsection (c).

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

(c) *EXCEPTIONS.*—New disclosures are not required for the following, even if they meet the definition of a renegotiation or an extension:

- (1) A reduction in payments.
- (2) A deferment of 1 or more payments.
- (3) The extension of a rental-purchase agreement.
- (4) The substitution of property with property that has a substantially equivalent or greater economic value provided the rental-purchase cost does not increase.
- (5) The deletion of property in a multiple-item agreement.
- (6) A change in rental period provided the rental-purchase cost does not increase.
- (7) An agreement resulting from a court proceeding.
- (8) Any other event described in regulations prescribed by the Board.

SEC. 1010. POINT-OF-RENTAL DISCLOSURES.

(a) *IN GENERAL.*—For any item of property or set of items displayed or offered for rental-purchase, the merchant shall display on or next to the item or set of items a card, tag, or label that clearly and conspicuously discloses the following:

- (1) A brief description of the property.
- (2) Whether the property is new or used.
- (3) The cash price of the property.
- (4) The amount of each rental payment.
- (5) The total number of rental payments necessary to acquire ownership of the property.
- (6) The rental-purchase cost.

(b) *FORM OF DISCLOSURE.*—

(1) *IN GENERAL.*—A merchant may make the disclosure required by subsection (a) in the form of a list, catalog, or electronic facsimile of the card, tag, or label which is readily available to the consumer at the point of rental if the merchandise is not displayed in the merchant's showroom or if displaying a card, tag, or label would be impractical due to the size of the merchandise.

(2) *CLEARLY AND CONSPICUOUSLY.*—As used in this section, the term "clearly and conspicuously" means that information re-

quired to be disclosed to the consumer shall appear in a type size, prominence, and location as to be noticeable, readable, and comprehensible to an ordinary consumer.

SEC. 1011. RENTAL-PURCHASE ADVERTISING.

(a) *IN GENERAL.*—If an advertisement for a rental-purchase transaction refers to or states the amount of any payment for any specific item or set of items, the merchant making the advertisement shall also clearly and conspicuously state in the advertisement the following for the item, or set of items, advertised:

(1) The transaction advertised is a rental-purchase agreement.

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

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

(4) To acquire ownership of the property the consumer must pay the rental-purchase cost plus applicable taxes.

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

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

(c) *CLEARLY AND CONSPICUOUSLY.*—

(1) *IN GENERAL.*—For purposes of this section, the term “clearly and conspicuously” means that required disclosures shall be presented in a type, size, shade, contrast, prominence, location, and manner, as applicable to different mediums for advertising, so as to be readily noticeable and comprehensible to the ordinary consumer.

(2) *REGULATORY GUIDANCE.*—The Board shall prescribe regulations on principles and factors to meet the clear and conspicuous standard as appropriate to print, video, audio, and computerized advertising, reflecting the principles and factors typically applied in each medium by the Federal Trade Commission.

(3) *LIMITATION.*—Nothing contrary to, inconsistent with, or in mitigation of, the required disclosures shall be used in any advertisement in any medium, and no audio, video, or print technique shall be used that is likely to obscure or detract significantly from the communication of the disclosures.

SEC. 1012. CIVIL LIABILITY.

(a) *IN GENERAL.*—Except as otherwise provided in section 1013, any merchant who fails to comply with any requirement of this title with respect to any consumer is liable to such consumer as provided for leases in section 130. For purposes of this section, the term “creditor” as used in section 130 shall include a “merchant”, as defined in section 1001, and for purposes of this title, the term “total amount of monthly payments under the lease” as used in section 130 shall mean the sum of all fees, periodic payments, initial payment, and any other charges paid by the consumer since the date of consummation.

(b) *JURISDICTION OF COURTS; LIMITATION ON ACTIONS.*—

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

(2) *RECOUPMENT OR SET-OFF.*—This subsection shall not bar a consumer from asserting a violation of this title in an action to collect an obligation arising from a rental-purchase agreement, which was brought after the end of the 1-year period described in paragraph (1) as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.

SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.

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

(b) *PATTERN OR PRACTICE OF VIOLATIONS.*—If a merchant engages in a pattern or practice of violating any requirement imposed under section 1010 or 1011, the Federal Trade Commission or an appropriate State attorney general, in accordance with section 1016, may initiate an action to enforce sanctions against the merchant, including—

- (1) an order to cease and desist from such practices; and
- (2) a civil money penalty of such amount as the court may impose, based on such factors as the court may determine to be appropriate.

SEC. 1014. LIABILITY OF ASSIGNEES.

(a) *ASSIGNEES INCLUDED.*—For purposes of section 1013, and this section, the term “merchant” includes an assignee of a merchant.

(b) *LIABILITIES OF ASSIGNEES.*—

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

(2) *APPARENT VIOLATION DEFINED.*—For purposes of this subsection, a violation that is apparent on the face of a rental-purchase agreement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement.

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

(4) *RULE OF CONSTRUCTION.*—No provision of this section shall be construed as limiting or altering the liability under section 1012 or 1013 of a merchant assigning a rental-purchase agreement.

(c) *PROOF OF DISCLOSURE.*—In an action by or against an assignee, the consumer’s written acknowledgment of receipt of a disclosure, made as part of the rental-purchase agreement, shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

SEC. 1015. REGULATIONS.

(a) *IN GENERAL.*—The Board shall prescribe regulations as necessary to carry out the purposes of this title. Such regulations may contain such additional requirements, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for all or any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) *MODEL DISCLOSURE FORMS.*—The Board may publish model disclosure forms and clauses for common rental-purchase agreements to facilitate compliance with the disclosure requirements of this title and to aid the consumer in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by merchants of data processing or similar automated equipment. Nothing in this title may be construed to require a merchant to use any such model form or clause prescribed by the Board under this section. A merchant shall be deemed to be in compliance with the requirement to provide disclosure under section 1003(a) if the merchant—

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

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

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

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

(c) *EFFECTIVE DATE OF REGULATIONS.*—Any regulation prescribed by the Board, or any amendment or interpretation thereof, shall not be effective before the October 1 that follows the date of publication of the regulation in final form by at least 6 months. The Board may at its discretion lengthen that period of time to permit merchants to adjust to accommodate new requirements. The Board may also shorten that period of time, notwithstanding the first sentence, if it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices. In any case, merchants may comply with any newly prescribed disclosure requirement prior to its effective date.

SEC. 1016. ENFORCEMENT.

(a) *FEDERAL ENFORCEMENT.*—Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and a violation of any requirements imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements of this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional test in the Federal Trade Commission Act.

(b) *STATE ENFORCEMENT.*—

(1) *IN GENERAL.*—An action to enforce the requirements imposed by this title may also be brought by the appropriate State

attorney general in any appropriate United States district court, or any other court of competent jurisdiction.

(2) **PRIOR WRITTEN NOTICE.**—

(A) **IN GENERAL.**—The State attorney general shall provide prior written notice of any such civil action to the Federal Trade Commission and shall provide the Commission with a copy of the complaint.

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

(3) **FTC INTERVENTION.**—The Commission may—

(A) intervene in the action;

(B) upon intervening—

(i) remove the action to the appropriate United States district court, if it was not originally brought there; and

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

(C) file a petition for appeal.

SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION.

Whoever willfully and knowingly gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this title or any regulation issued thereunder shall be subject to the penalty provisions as provided in section 112.

SEC. 1018. RELATION TO OTHER LAWS.

(a) **RELATION TO STATE LAW.**—

(1) **NO EFFECT ON CONSISTENT STATE LAWS.**—Except as otherwise provided in subsection (b), this title does not annul, alter, or affect in any manner the meaning, scope, or applicability of the laws of any State relating to rental-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

(2) **DETERMINATION OF INCONSISTENCY.**—Upon its own motion or upon the request of an interested party, which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent, merchants located in that State need not follow such term or provision and shall incur no liability under the law of that State for failure to follow such term or provision, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(3) **GREATER PROTECTION UNDER STATE LAW.**—Except as provided in subsection (b), for purposes of this section, a term or provision of a State law is not inconsistent with the provisions of this title if the term or provision affords greater protection and benefit to the consumer than the protection and benefit provided under this title as determined by the Board, on its own motion or upon the petition of any interested party.

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

(1) regulates a rental-purchase agreement as a security interest, credit sale, retail installment sale, conditional sale or any other form of consumer credit, or that imputes to a rental-purchase agreement the creation of a debt or extension of credit; or

(2) requires the disclosure of a percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate.

(c) *RELATION TO FEDERAL TRADE COMMISSION ACT.*—No provision of this title shall be construed as limiting, superseding, or otherwise affecting the applicability of the Federal Trade Commission Act to any merchant or rental-purchase transaction.

SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.

No civil liability or criminal penalty under this title may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of a State or political subdivision.

SEC. 1020. COMPLIANCE DATE.

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

MINORITY VIEWS

MINORITY VIEWS ON H.R. 1588

We believe that state consumer protection laws should be preserved. We object to the defeat of two amendments that would have specifically protected the laws of four states—New Jersey, Minnesota, Wisconsin and Vermont. We do not believe in preempting these state laws when no economic argument has even been presented that one national approach to this law is required. Rent to own transactions can be performed according to the rules of the state with no impact on any other state.

BARNEY FRANK.
MELVIN L. WATT.
MICHAEL E. CAPUANO.
ANDRÉ CARSON.
GWEN MOORE.
CAROLYN B. MALONEY.
MAXINE WATERS.
STEPHEN F. LYNCH.
KEITH ELLISON.

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