

109TH CONGRESS
2^D SESSION

S. 4037

To amend the Consumer Credit Protection Act to protect consumers from inadequate disclosures and certain abusive practices in rent-to-own transactions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2006

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Consumer Credit Protection Act to protect consumers from inadequate disclosures and certain abusive practices in rent-to-own transactions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rent-To-Own Reform
5 Act of 2006”.

1 **SEC. 2. RENT-TO-OWN PROTECTION ACT.**

2 The Consumer Credit Protection Act (15 U.S.C.
3 1601 et seq.) is amended by adding at the end the fol-
4 lowing new title:

5 **“TITLE X—RENT-TO-OWN**
6 **TRANSACTIONS**

“Sec

“1001. Short title

“1002. Findings and purposes

“1003. Definitions

“1004. Application of State laws regarding fees, charges, guarantees, and war-
ranties to rent-to-own transactions

“1005. Application of Federal laws to rent-to-own transactions

“1006. Disclosures

“1007. Prohibitions and enforcement

“1008. Civil liability

“1009. Application of this title

“1010. Regulations

“1011. Relationship to other laws

7 **“SEC. 1001. SHORT TITLE.**

8 “This title may be cited as the ‘Rent-To-Own Protec-
9 tion Act’.

10 **“SEC. 1002. FINDINGS AND PURPOSES.**

11 “(a) FINDINGS.—Congress finds that—

12 “(1) the rent-to-own industry targets its prod-
13 ucts primarily to low income and minority neighbor-
14 hoods;

15 “(2) the majority of rent-to-own customers
16 enter into rent-to-own contracts with the intention of
17 owning the goods for which they are contracting;

1 “(3) rent-to-own dealers often fail to disclose
2 key terms of rent-to-own contracts, and engage in
3 unfair collection practices; and

4 “(4) of primary significance, rent-to-own deal-
5 ers do not provide customers with the protections af-
6 farded purchasers in retail installment sales under
7 State and Federal laws, and often charge excessive
8 fees and interest rates.

9 “(b) PURPOSES.—The purposes of this title are—

10 “(1) to provide consumers in rent-to-own trans-
11 actions the range of protections provided under
12 State and Federal laws to individuals that acquire
13 goods in other consumer credit sales, while recog-
14 nizing and preserving consumers’ unilateral right to
15 terminate;

16 “(2) to require rent-to-own contracts and tags
17 affixed to items available for acquisition in rent-to-
18 own transactions to disclose material terms of those
19 transactions; and

20 “(3) to prohibit rent-to-own dealers and collec-
21 tion agents hired by those dealers from engaging in
22 abusive collection practices.

23 **“SEC. 1003. DEFINITIONS.**

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

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

3 “(2) CASH PRICE.—The term ‘cash price’
4 means the fair market price at which retail sellers,
5 not in the business of renting or leasing such goods,
6 are selling and retail buyers are buying the same or
7 similar property for cash in the same trade area in
8 which the lessor’s place of business is located. Any
9 increase in the cash price above such fair market
10 price shall be disclosed to the consumer as a finance
11 charge.

12 “(3) CONSUMER.—The term ‘consumer’—

13 “(A) when used as an adjective, means for
14 use by an individual primarily for personal,
15 family, or household purposes; and

16 “(B) when used as a noun, means an indi-
17 vidual who is the lessee or bailee under a rent-
18 to-own contract.

19 “(4) CREDIT.—The term ‘credit’—

20 “(A) includes the right granted by a seller
21 to a consumer to obtain possession of an item
22 of consumer goods under a rent-to-own contract
23 before payment of the total amount that is re-
24 quired to be paid to acquire ownership of the
25 item; and

1 “(B) is deemed to be a fixed sum equal
2 to—

3 “(i) the total of payments for the item
4 required to obtain ownership of the item
5 under the contract; minus

6 “(ii) the sum of—

7 “(I) the cash price;

8 “(II) any fees specifically allow-
9 able under State law, except finance
10 charges, interest, or a time price dif-
11 ferential; and

12 “(III) the termination fee under
13 section 1004.

14 “(5) RENT-TO-OWN CONTRACT.—The term
15 ‘rent-to-own contract’ means—

16 “(A) a contract in the form of a terminable
17 lease or bailment of an item of consumer goods,
18 under which—

19 “(i) a consumer—

20 “(I) has the right of possession
21 and use of the item; and

22 “(II) has the option to renew the
23 contract periodically by making pay-
24 ments specified in the contract; and

1 “(ii) a seller agrees, in writing or oral-
2 ly, to transfer ownership of the item to the
3 consumer upon the fulfillment of all obliga-
4 tions of the consumer under the contract
5 for that transfer; and

6 “(B) any contract which is advertised as or
7 denominated as a rent-to-own contract or lease-
8 purchase contract, or which is in substance a
9 rent-to-own contract, as described in subpara-
10 graph (A).

11 “(6) RENT-TO-OWN TRANSACTION.—The term
12 ‘rent-to-own transaction’ means the lease or bail-
13 ment of an item of consumer goods under a rent-to-
14 own contract.

15 “(7) SELLER.—The term ‘seller’ means—

16 “(A) a person—

17 “(i) who regularly makes consumer
18 goods available under rent-to-own con-
19 tracts; and

20 “(ii) to whom payments are payable
21 under those contracts; and

22 “(B) an assignee of such a person.

23 “(8) STATE.—The term ‘State’ means any
24 State, the Commonwealth of Puerto Rico, the Dis-

1 trict of Columbia, and any territory or possession of
2 the United States.

3 **“SEC. 1004. APPLICATION OF STATE LAWS REGARDING**
4 **FEES, CHARGES, GUARANTEES, AND WARRANT-**
5 **TIES TO RENT-TO-OWN TRANSACTIONS.**

6 “(a) IN GENERAL.—Subject to subsection (b), a sell-
7 er in a rent-to-own transaction may not take, receive, or
8 assess any interest, finance charge, or other fee for the
9 transaction that is in excess of the interest, fees, or fi-
10 nance charges that may be charged under the laws of the
11 State in which the seller is located which—

12 “(1) establish a maximum rate or amount of in-
13 terest, finance charge, or time-price differential that
14 may be charged in connection with a credit sale or
15 retail installment sale for the same or a similar item;

16 “(2) establish the types of fees and the max-
17 imum amount of fees that a seller may charge in
18 connection with a credit sale or retail installment
19 sale for the same or a similar item; or

20 “(3) establish the types of credit insurance and
21 the maximum amount of premiums that can be
22 charged for credit insurance in connection with a
23 credit sale or a retail installment sale for the same
24 or a similar item.

1 “(b) ADDITIONAL TERMINATION CHARGES AND
2 FEES.—

3 “(1) CHARGES AND FEES AUTHORIZED.—In ad-
4 dition to fees and charges authorized under sub-
5 section (a), a seller in a rent-to-own transaction may
6 charge—

7 “(A) a termination fee in accordance with
8 paragraph (2), if in exchange the consumer is
9 given the right to terminate the rent-to-own
10 contract for the transaction at any time without
11 regard to whether the consumer has completed
12 payment of the fee; and

13 “(B) fees that are reasonable in relation to
14 the cash price of the good, for recovery of the
15 items that are the subject of the contract and
16 that are not voluntarily returned to the seller
17 upon the termination of the contract.

18 “(2) TERMINATION FEE.—A termination fee
19 under paragraph (1)(A)—

20 “(A) shall not exceed 5 percent of the cash
21 price under the contract;

22 “(B) shall be disclosed in the contract;

23 “(C) may be paid at the time the contract
24 is entered into or over the life of the contract;
25 and

1 “(D) shall be calculated as part of the fi-
 2 nance charge as determined under section 106
 3 of the Truth in Lending Act.

4 “(3) RECOVERY FEES.—A recovery fee under
 5 paragraph (1)(B) shall be disclosed in the contract.

6 “(4) EFFECT OF TERMINATION.—The termi-
 7 nation of a rent-to-own contract by a consumer in
 8 accordance with a right of termination given to the
 9 consumer in exchange for a termination fee under
 10 subsection (a)(1) is deemed to satisfy the consumer’s
 11 obligation for all payments and fees due under the
 12 contract, except fees and charges under the contract
 13 that become due before the date of termination.

14 “(c) GUARANTEES AND WARRANTIES.—All guaran-
 15 tees and warranties established or required under the laws
 16 of a State for goods sold pursuant to a consumer credit
 17 sale or retail installment sale apply to goods which are
 18 the subject of a rent-to-own transaction in the State.

19 **“SEC. 1005. APPLICATION OF FEDERAL LAWS TO RENT-TO-
 20 OWN TRANSACTIONS.**

21 “The following Federal laws apply to a rent-to-own
 22 transaction, as follows:

23 “(1) TRUTH IN LENDING ACT.—The Truth in
 24 Lending Act applies as such Act applies to a con-

1 consumer credit transaction that is a credit sale (as
2 that term is defined in that Act).

3 “(2) EQUAL CREDIT OPPORTUNITY ACT.—The
4 Equal Credit Opportunity Act applies as such Act
5 applies to credit transactions. For purposes of that
6 application—

7 “(A) a consumer shall be treated as an ap-
8 plicant; and

9 “(B) a seller shall be treated as a creditor.

10 “(3) FAIR DEBT COLLECTION PRACTICES
11 ACT.—The Fair Debt Collection Practices Act ap-
12 plies to the collection of payments owed that arise
13 from a rent-to-own transaction, unless those pay-
14 ments are collected by any person specified in sub-
15 paragraphs (A) through (F) of section 803(6) of
16 such Act. For purposes of that application, pay-
17 ments owed shall be treated as debt.

18 “(4) FAIR CREDIT REPORTING ACT.—The Fair
19 Credit Reporting Act applies as such Act applies to
20 a credit transaction and to any extension or denial
21 of credit.

22 **“SEC. 1006. DISCLOSURES.**

23 “(a) DISCLOSURES ON GOODS.—A seller shall include
24 on each item in the place of business of the seller that

1 is available for purchase pursuant to a rent-to-own trans-
2 action the following information:

3 “(1) The cash price of the item.

4 “(2) An itemization of services offered under a
5 rent-to-own contract for the item, and the cash price
6 of each service.

7 “(3) The annual percentage rate of the item
8 under a rent-to-own contract, determined under sec-
9 tion 107 of the Truth in Lending Act.

10 “(4) The weekly, biweekly, monthly, or other in-
11 cremental payment applicable under the rent-to-own
12 contract for the transaction and the number of pay-
13 ments.

14 “(5) The total of payments required to be paid
15 to acquire ownership of the item under a rent-to-own
16 contract for the transaction, determined under regu-
17 lations under the Truth in Lending Act.

18 “(6) Specification of whether the item is new or
19 used.

20 “(b) DISCLOSURES UPON CONTRACTING.—A seller
21 shall provide to a consumer in writing, at the time the
22 seller and consumer enter into a rent-to-own contract for
23 an item, the information referred to in subsection (a) for
24 the item and the contract.

1 **“SEC. 1007. PROHIBITIONS AND ENFORCEMENT.**

2 “(a) PROHIBITIONS.—A person who is a seller under
3 a rent-to-own contract with a consumer shall not—

4 “(1) threaten or invoke criminal prosecution of
5 a consumer for any matter related to the contract,
6 unless there is clear and convincing evidence that
7 the goods that are the subject of the contract are
8 being held by the consumer with an intent to de-
9 fraud the seller;

10 “(2) use threats or coercion to collect or at-
11 tempt to collect any amounts alleged to be due from
12 the consumer;

13 “(3) engage in any conduct, the natural con-
14 sequence of which is to oppress, harass, or abuse
15 any person in connection with an attempt to collect
16 amounts owed by the consumer under the contract;

17 “(4) unreasonably disclose information to third
18 parties regarding amounts owed by the consumer;

19 “(5) make any fraudulent, deceptive, or mis-
20 leading representation to obtain information about
21 the consumer or to collect amounts owed by the con-
22 sumer;

23 “(6) use any unconscionable means to collect or
24 attempt to collect a debt owed to the seller;

25 “(7) advertise, announce, solicit, or otherwise
26 represent as free or available without charge (includ-

1 ing by use of other words of similar meaning) any
2 service under the contract for which the seller
3 charges the consumer, including any service for
4 which a charge is collected by inclusion in the
5 amount required to be paid under the contract;

6 “(8) use, for purposes of complying with any
7 State or Federal law governing rent-to-own trans-
8 actions (other than a State or Federal tax law) any
9 definition of the term ‘cash price’ other than the def-
10 inition under section 1003(2);

11 “(9) engage in any act or practice which is un-
12 fair or deceptive in connection with a rent-to-own
13 transaction; or

14 “(10) violate any regulation issued by the
15 Board under subsection (c)(1).

16 “(b) ENFORCEMENT.—

17 “(1) ENFORCEMENT.—Compliance with the re-
18 quirements under this title shall be enforced by the
19 Federal Trade Commission. All functions and pow-
20 ers of the Federal Trade Commission under the
21 Federal Trade Commission Act shall be available to
22 the Commission to enforce compliance with this title
23 by any person, irrespective of whether the person is
24 engaged in commerce or meets any other jurisdic-
25 tional tests in the Federal Trade Commission Act,

1 including the power to enforce the provisions of this
2 title in the same manner as if the violation had been
3 a violation of a Federal Trade Commission trade
4 regulation rule.

5 “(2) TREATMENT OF VIOLATIONS.—For the
6 purpose of the exercise by the Federal Trade Com-
7 mission of the functions and powers of such Com-
8 mission under the Federal Trade Commission Act, a
9 violation of any requirement or prohibition under
10 this title is deemed to be an unfair or deceptive act
11 or practice in commerce in violation of that Act.

12 “(c) REGULATIONS.—

13 “(1) BOARD.—The Board shall issue such regu-
14 lations as are necessary or appropriate for imple-
15 menting subsection (a), including regulations de-
16 scribing specific practices by a seller that are prohib-
17 ited by paragraphs (1) through (9) of that sub-
18 section.

19 “(2) FEDERAL TRADE COMMISSION.—The Fed-
20 eral Trade Commission shall issue regulations imple-
21 menting subsection (b).

22 **“SEC. 1008. CIVIL LIABILITY.**

23 “(a) LIABILITY FOR FAILURE TO PROPERLY DIS-
24 CLOSE TERMS.—Any seller who fails to comply with a re-

1 quirement under section 1006 is liable to the consumer
2 in an amount equal to the sum of—

3 “(1) actual damages sustained by the consumer
4 as a result of the failure;

5 “(2) \$250 for each failure; and

6 “(3) all costs of the action and reasonable at-
7 torney fees, as determined by the court.

8 “(b) OTHER LIABILITY.—A seller that violates this
9 title or fails to comply with any requirement imposed
10 under this title, other than under section 1006, shall be
11 liable to the consumer in an amount equal to the sum of—

12 “(1) actual damages sustained by the consumer
13 as a result of the violation;

14 “(2) \$2,500 for each violation; and

15 “(3) all costs of the action and reasonable at-
16 torney fees, as determined by the court.

17 “(c) JURISDICTION AND LIMITATION.—An action
18 under this title may be brought in any United States dis-
19 trict court or in any other court of competent jurisdiction,
20 within 24 months after the date of the violation or failure
21 that is the subject of the action. This subsection does not
22 bar a person from asserting a violation of this title in an
23 action to collect amounts alleged to be due from the person
24 which is brought more than 2 years after the date of the

1 occurrence of the violation as a matter of defense by
2 recoupment or set-off in such action.

3 **“SEC. 1009. APPLICATION OF THIS TITLE.**

4 “(a) IN GENERAL.—This title shall apply to rent-to-
5 own contracts entered into after the date of the issuance
6 of regulations by the Board under section 1010.

7 “(b) MOTOR VEHICLES.—This title shall not apply
8 to any lease or sale of a motor vehicle entered into after
9 the date of enactment of the Rent-To-Own Reform Act
10 of 2006 that, if entered into on the day before that date
11 of enactment, would have been subject to chapter 5 of the
12 Truth in Lending Act.

13 **“SEC. 1010. REGULATIONS.**

14 “The Board shall issue such regulations as may be
15 necessary to implement this title (including regulations
16 under section 1007(c)(1)), not later than 12 months after
17 the date of enactment of the Rent-To-Own Reform Act
18 of 2006.

19 **“SEC. 1011. RELATIONSHIP TO OTHER LAWS.**

20 “(a) STATE LAW.—This title does not annul, alter,
21 or affect, or exempt any person subject to the provisions
22 of this title from complying with, the laws of any State
23 with respect to rent-to-own transactions, except to the ex-
24 tent that those laws are inconsistent with any provision
25 of this title, and then only to the extent of the inconsist-

1 ency. A State law is not inconsistent with this title solely
2 because the protection afforded by such provision of law
3 to any consumer is greater than the protection afforded
4 by this title.

5 “(b) CONSUMER LEASE PROVISIONS OF TRUTH IN
6 LENDING ACT.—Chapter 5 of the Truth in Lending Act,
7 relating to consumer leases, shall not apply to a rent-to-
8 own transaction except the lease or sale of a motor vehicle
9 that, if entered into on the day before the date of enact-
10 ment of the Rent-To-Own Reform Act of 2006, would have
11 been subject to that chapter.”.

○