

111TH CONGRESS
1ST SESSION

S. 738

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2009

Ms. LANDRIEU (for herself, Mr. BOND, Mr. BROWNBACK, Mr. COCHRAN, Mr. JOHNSON, and Mr. ROBERTS) 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 assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Rental-Pur-
5 chase Agreement Act of 2009”.

1 **SEC. 2. FINDINGS AND DECLARATION OF PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) the rental-purchase industry provides a
4 service that meets and satisfies the demands of
5 many consumers;

6 (2) each year, approximately 2,300,000 United
7 States households enter into rental-purchase trans-
8 actions, and over a 5-year period, approximately
9 4,900,000 United States households will do so;

10 (3) competition among the various firms en-
11 gaged in the extension of rental-purchase trans-
12 actions would be strengthened by informed use of
13 rental-purchase transactions; and

14 (4) the informed use of rental-purchase trans-
15 actions results from an awareness of the cost thereof
16 by consumers.

17 (b) PURPOSES.—The purposes of this Act are to as-
18 sure the availability of rental-purchase transactions, to as-
19 sure simple, meaningful, and consistent disclosure of rent-
20 al-purchase terms so that consumers will be able to more
21 readily compare the available rental-purchase terms and
22 avoid uninformed use of rental-purchase transactions, and
23 to protect consumers against unfair rental-purchase prac-
24 tices.

1 **SEC. 3. CONSUMER CREDIT 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—RENTAL-PURCHASE**
6 **TRANSACTIONS**

- “Sec. 1001. Short title; 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.

7 **“SEC. 1001. SHORT TITLE; DEFINITIONS.**

8 “(a) **SHORT TITLE.**—This title may be cited as the
9 ‘Rental-Purchase Protections Act’.

10 “(b) **DEFINITIONS.**—For purposes of this title, the
11 following definitions shall apply:

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

1 “(2) AGRICULTURAL PURPOSE.—The term ‘ag-
2 gricultural purpose’ includes—

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

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

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

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

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

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

1 “(7) INITIAL PAYMENT.—The term ‘initial pay-
 2 ment’ means the amount to be paid before or at the
 3 time of consummation of the agreement, or the time
 4 of delivery of the property covered by the agreement
 5 if delivery occurs after consummation, including—

6 “(A) the rental payment;

7 “(B) service, processing, or administrative
 8 charges;

9 “(C) any delivery fee;

10 “(D) refundable security deposit;

11 “(E) taxes;

12 “(F) mandatory fees or charges; and

13 “(G) any optional fees or charges agreed to
 14 by the consumer.

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

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

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

7 “(11) PROPERTY.—The term ‘property’ means
8 property that is not real property under the laws of
9 the State in which the property is located when it
10 is made available under a rental-purchase agree-
11 ment.

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

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

23 “(14) RENTAL-PURCHASE AGREEMENT.—

24 “(A) IN GENERAL.—The term ‘rental-pur-
25 chase 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’ does not include—

“(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 the Truth in Lending Act); or

“(iii) a transaction giving rise to a debt incurred in connection with the business of lending money or 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, including—

1 “(i) any service, processing, or admin-
2 istrative charge;

3 “(ii) any fee for an investigation or
4 credit report; and

5 “(iii) any charge for delivery required
6 by the merchant.

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

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

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

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

24 “(17) TOTAL COST.—The term ‘total cost’
25 means the sum of the initial payment and all peri-

1 odic payments in the payment schedule to be paid by
 2 the consumer to acquire ownership of the property
 3 that is the subject of the rental-purchase agreement.

4 **“SEC. 1002. EXEMPTED TRANSACTIONS.**

5 “This title does not apply to rental-purchase agree-
 6 ments primarily for business, commercial, or agricultural
 7 purposes, or those made with agencies or instrumentalities
 8 of the Federal Government or a State or political subdivi-
 9 sion thereof.

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

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

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

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

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

2 “(a) IN GENERAL.—For each rental-purchase agree-
3 ment, the merchant shall disclose to the consumer, to the
4 extent applicable—

5 “(1) the date of consummation of the rental-
6 purchase transaction and the identities of the mer-
7 chant and the consumer;

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

13 “(3) a description of any fee, charge, or pen-
14 alty, in addition to the periodic payment, that the
15 consumer may be required to pay under the agree-
16 ment, which shall be separately identified by type
17 and amount;

18 “(4) a clear and conspicuous statement that the
19 transaction is a rental-purchase agreement and that
20 the consumer will not obtain ownership of the prop-
21 erty until the consumer has paid the total dollar
22 amount necessary to acquire ownership;

23 “(5) the amount of any initial payment, which
24 includes the first periodic payment, and the total
25 amount of any fees, taxes, or other charges, required
26 to be paid by the consumer;

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

7 “(7) the amount and timing of periodic pay-
8 ments, and the total number of periodic payments
9 necessary to acquire ownership of the property
10 under the rental-purchase agreement;

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

15 “(9) a statement of the right of the consumer
16 to terminate the agreement without paying any fee
17 or charge not previously due under the agreement by
18 voluntarily surrendering or returning the property in
19 good repair upon expiration of any lease term; and

20 “(10) substantially the following statement:

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

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

3 “(b) FORM OF DISCLOSURE.—The disclosures re-
4 quired by paragraphs (4) through (10) of subsection (a)
5 shall—

6 “(1) be segregated from other information at
7 the beginning of the rental-purchase agreement;

8 “(2) contain only directly related information;
9 and

10 “(3) be identified in boldface, upper-case letters
11 as follows: ‘**IMPORTANT RENTAL-PURCHASE DIS-**
12 **CLOSURES**’.

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

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

22 “(2) AFFIRMATIVE WRITTEN REQUEST AFTER
23 COST DISCLOSURE.—A merchant may provide insur-
24 ance or liability waiver coverage, directly or indi-

1 rectly, in connection with a rental-purchase trans-
2 action only if—

3 “(A) the merchant clearly and conspicu-
4 ously discloses to the consumer the cost of each
5 component of such coverage before the con-
6 summation of the rental-purchase agreement;
7 and

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

12 “(d) ACCURACY OF DISCLOSURE.—

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

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

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

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

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

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

11 “(3) provide that the consumer may terminate
12 the agreement without paying any charges not pre-
13 viously due under the agreement by voluntarily sur-
14 rendering or returning the property that is the sub-
15 ject of the agreement upon expiration of any rental
16 period;

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

19 “(A) permits a consumer who fails to make
20 a timely rental payment to reinstate the agree-
21 ment, without losing any rights or options
22 which exist under the agreement, by the pay-
23 ment of all past due rental payments and any
24 other charges then due under the agreement
25 and a payment for the next rental period within
26 7 business days after failing to make a timely

1 rental payment if the consumer pays monthly,
2 or within 3 business days after failing to make
3 a timely rental payment if the consumer pays
4 more frequently than monthly;

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

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

1 any applicable fees, and a payment for the next
2 rental period; and

3 “(D) permits the consumer, upon rein-
4 statement of the agreement, to receive the same
5 property, if available, that was the subject of
6 the rental-purchase agreement, or if the same
7 property is not available, a substitute item of
8 comparable quality and condition, except that
9 the Board may, by regulation or order, exempt
10 any independent small business (as defined by
11 regulation of the Board) from the requirement
12 of providing the same or comparable product
13 during the extended reinstatement period pro-
14 vided in subparagraph (C), if the Board deter-
15 mines, taking into account such standards as
16 the Board determines appropriate, that the re-
17 instatement right provided in subparagraph (C)
18 would provide excessive hardship for the inde-
19 pendent small business;

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

1 by exercise of any early purchase option provided in
 2 the rental-purchase agreement;

3 “(6) provide a statement disclosing that if any
 4 part of a manufacturer’s express warranty covers
 5 the property at the time the consumer acquires own-
 6 ership of the property, the warranty will be trans-
 7 ferred to the consumer if allowed by the terms of the
 8 warranty; and

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

16 “(b) REPOSSESSION DURING REINSTATEMENT PE-
 17 RIOD.—Subsection (a)(4) shall not be construed so as to
 18 prevent a merchant from attempting to repossess property
 19 during the reinstatement period pursuant to subsection
 20 (a)(4)(A), but such a repossession does not affect the right
 21 of the consumer to reinstatement under subsection (a)(4).

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

23 “(a) IN GENERAL.—The consumer shall acquire own-
 24 ership of the property that is the subject of the rental-
 25 purchase agreement, and the rental-purchase agreement

1 shall terminate, upon compliance by the consumer with the
2 requirements of subsection (b) or any early payment op-
3 tion provided in the rental purchase agreement, and upon
4 payment of any past due payments and fees, as permitted
5 by regulation of the Board.

6 “(b) PAYMENT OF TOTAL COST.—The consumer
7 shall acquire ownership of the rental property upon pay-
8 ment of the total cost of the rental-purchase agreement,
9 as defined in section 1001(17), and as disclosed to the
10 consumer in the rental-purchase agreement pursuant to
11 section 1004(a).

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

23 “(d) TRANSFER OF OWNERSHIP RIGHTS.—Upon
24 payment by the consumer of all payments necessary to ac-
25 quire ownership under subsection (b) or any early pur-

1 chase option amount provided in the rental-purchase
2 agreement, as applicable, the merchant shall—

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

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

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

16 “A rental-purchase agreement may not contain—

17 “(1) a confession of judgment;

18 “(2) a negotiable instrument;

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

23 “(4) a wage assignment;

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

4 “(6) a provision requiring the consumer, in the
5 event that the property subject to the rental-pur-
6 chase agreement is lost, stolen, damaged, or de-
7 stroyed, to pay an amount in excess of the least of—

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

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

12 “(C) the actual cost of repair, as appro-
13 priate;

14 “(7) a provision authorizing the merchant, or a
15 person acting on behalf of the merchant, to enter the
16 dwelling of the consumer or other premises without
17 obtaining the consent of the consumer, or to commit
18 any breach of the peace in connection with the re-
19 possession of the rental property or the collection of
20 any obligation or alleged obligation of the consumer
21 arising out of the rental-purchase agreement;

22 “(8) a provision requiring the purchase of in-
23 surance or liability damage waiver to cover the prop-
24 erty that is the subject of the rental-purchase agree-

1 ment, except as permitted by regulation of the
2 Board; or

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

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

11 “Upon request of a consumer, a merchant shall pro-
12 vide a statement of the account of the consumer. If a con-
13 sumer requests a statement for an individual account more
14 than 4 times in any 12-month period, the merchant may
15 charge a reasonable fee for the additional statements re-
16 quested in excess of 4 times during that 12-month period.

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

18 “(a) RENEGOTIATIONS.—For purposes of this sec-
19 tion, a ‘renegotiation’ occurs when a rental-purchase
20 agreement is satisfied and replaced by a new agreement
21 undertaken by the same consumer. A renegotiation re-
22 quires new disclosures under this title, except as provided
23 in subsection (c).

24 “(b) EXTENSIONS.—For purposes of this section, an
25 ‘extension’ is an agreement by the consumer and the mer-

1 chant to continue an existing rental-purchase agreement
2 beyond the original end of the payment schedule, but does
3 not include a continuation that is the result of a renegoti-
4 ation.

5 “(c) EXCEPTIONS.—New disclosures under this title
6 are not required for the following, even if they meet the
7 definition of a renegotiation or an extension under this
8 section:

9 “(1) A reduction in payments.

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

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

13 “(4) The substitution of property with property
14 that has a substantially equivalent or greater eco-
15 nomic value, provided that the rental-purchase cost
16 does not increase.

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

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

21 “(7) An agreement resulting from a court pro-
22 ceeding.

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

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

2 “(a) IN GENERAL.—For any item of property or set
3 of items displayed or offered for rental-purchase, the mer-
4 chant shall display on or next to the item or set of items
5 a card, tag, or label that clearly and conspicuously dis-
6 closes—

7 “(1) a brief description of the property;

8 “(2) whether the property is new or used;

9 “(3) the cash price of the property;

10 “(4) the amount of each rental payment;

11 “(5) the total number of rental payments nec-
12 essary to acquire ownership of the property; and

13 “(6) the rental-purchase cost.

14 “(b) FORM OF DISCLOSURE.—

15 “(1) IN GENERAL.—A merchant may make the
16 disclosures required by subsection (a) in the form of
17 a list or catalog which is readily available to the con-
18 sumer at the point of rental if the merchandise is
19 not displayed in the showroom of the merchant, or
20 if displaying a card, tag, or label would be imprac-
21 tical due to the size of the merchandise.

22 “(2) CLEARLY AND CONSPICUOUSLY.—As used
23 in this section, the term ‘clearly and conspicuously’
24 means that information required to be disclosed to
25 the consumer shall appear in a type size, promi-

1 nence, and location as to be noticeable, readable,
 2 and comprehensible to an ordinary consumer.

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

4 “(a) IN GENERAL.—If an advertisement for a rental-
 5 purchase transaction refers to or states the amount of any
 6 payment for any specific item or set of items, the mer-
 7 chant making the advertisement shall also clearly and con-
 8 spicuously state in the advertisement for the item or set
 9 of items advertised—

10 “(1) that the transaction advertised is a rental-
 11 purchase agreement;

12 “(2) the amount, timing, and total number of
 13 rental payments necessary to acquire ownership
 14 under the rental-purchase agreement;

15 “(3) the amount of the rental-purchase cost;

16 “(4) that to acquire ownership of the property,
 17 the consumer must pay the rental-purchase cost plus
 18 applicable taxes; and

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

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

1 or will offer, the item or set of items at the stated amounts
2 or terms.

3 “(c) CLEARLY AND CONSPICUOUSLY.—

4 “(1) IN GENERAL.—For purposes of this sec-
5 tion, the term ‘clearly and conspicuously’ means that
6 required disclosures shall be presented in a type,
7 size, shade, contrast, prominence, location, and man-
8 ner, as applicable to different media for advertising,
9 so as to be readily noticeable and comprehensible to
10 the ordinary consumer.

11 “(2) REGULATORY GUIDANCE.—The Board
12 shall prescribe regulations on principles and factors
13 to meet the clear and conspicuous standard, as ap-
14 propriate to print, video, audio, and computerized
15 advertising, reflecting the principles and factors typi-
16 cally applied in each medium by the Federal Trade
17 Commission.

18 “(3) LIMITATION.—Nothing contrary to, incon-
19 sistent with, or in mitigation of, the disclosures re-
20 quired by this section shall be used in any advertise-
21 ment in any medium, and no audio, video, or print
22 technique shall be used that is likely to obscure or
23 detract significantly from the communication of the
24 required disclosures.

1 **“SEC. 1012. CIVIL LIABILITY.**

2 “(a) IN GENERAL.—Except as otherwise provided in
3 section 1013, any merchant who fails to comply with any
4 requirement of this title with respect to any consumer is
5 liable to such consumer as provided for leases in section
6 130. For purposes of this section, the term ‘creditor’ as
7 used in section 130 shall include a ‘merchant’, as defined
8 in section 1001.

9 “(b) JURISDICTION OF COURTS; LIMITATION ON AC-
10 TIONS.—

11 “(1) IN GENERAL.—Notwithstanding section
12 130(e), any action under this section may be
13 brought in any United States district court, or in
14 any other court of competent jurisdiction, before the
15 end of the 1-year period beginning on the date on
16 which the last payment was made by the consumer
17 under the rental-purchase agreement.

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

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

2 “(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—

3 Any merchant who fails to comply with any requirement
 4 imposed under section 1010 or 1011 with respect to any
 5 consumer who suffers actual damage from the violation
 6 shall be liable to such consumer as provided in section
 7 130.

8 “(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a
 9 merchant engages in a pattern or practice of violating any
 10 requirement imposed under section 1010 or 1011, the
 11 Federal Trade Commission or an appropriate State attor-
 12 ney general, in accordance with section 1016, may initiate
 13 an action to enforce sanctions against the merchant, in-
 14 cluding—

15 “(1) an order to cease and desist from such
 16 practices; and

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

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

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

24 “(b) LIABILITIES OF ASSIGNEES.—

25 “(1) APPARENT VIOLATION.—An action under
 26 section 1012 or 1013 for a violation of this title may

1 be brought against an assignee only if the violation
2 is apparent on the face of the rental-purchase agree-
3 ment to which it relates.

4 “(2) APPARENT VIOLATION DEFINED.—For
5 purposes of this subsection, a violation that is appar-
6 ent on the face of a rental-purchase agreement in-
7 cludes, but is not limited to, a disclosure that can
8 be determined to be incomplete or inaccurate from
9 the face of the agreement.

10 “(3) INVOLUNTARY ASSIGNMENT.—An assignee
11 has no liability under this section in a case in which
12 the assignment is involuntary.

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

17 “(c) PROOF OF DISCLOSURE.—In an action by or
18 against an assignee, the consumer’s written acknowledg-
19 ment of receipt of a disclosure, made as part of the rental-
20 purchase agreement, shall be conclusive proof that the dis-
21 closure was made, if the assignee had no knowledge that
22 the disclosure had not been made when the assignee ac-
23 quired the rental-purchase agreement to which it relates.

1 **“SEC. 1015. REGULATIONS.**

2 “(a) IN GENERAL.—The Board shall prescribe regu-
3 lations, as necessary to carry out this title, to prevent its
4 circumvention, and to facilitate compliance with its re-
5 quirements.

6 “(b) MODEL DISCLOSURE FORMS.—

7 “(1) BOARD AUTHORITY.—The Board may
8 publish model disclosure forms and clauses for com-
9 mon rental-purchase agreements to facilitate compli-
10 ance with the disclosure requirements of this title
11 and to aid the consumer in understanding the trans-
12 action by utilizing readily understandable language
13 to simplify the technical nature of the disclosures.

14 “(2) CONTENT.—In devising forms described in
15 paragraph (1), the Board shall consider the use by
16 merchants of data processing or similar automated
17 equipment.

18 “(3) USE NOT MANDATORY.—Nothing in this
19 title may be construed to require a merchant to use
20 any model form or clause published by the Board
21 under this section.

22 “(4) DETERMINATION OF COMPLIANCE.—A
23 merchant shall be deemed to be in compliance with
24 the requirement to provide disclosure under section
25 1003(a) if the merchant—

1 “(A) uses any appropriate model form or
 2 clause published by the Board under this sec-
 3 tion; or

4 “(B) uses any such model form or clause,
 5 and changes it by deleting any information
 6 which is not required by this title or rear-
 7 ranging the format, if in making such deletion
 8 or rearranging the format, the merchant does
 9 not affect the substance, clarity, or meaningful
 10 sequence of the disclosure.

11 “(c) EFFECTIVE DATE OF REGULATIONS.—

12 “(1) IN GENERAL.—Any regulation prescribed
 13 by the Board, or any amendment or interpretation
 14 thereof, shall not be effective before the October 1
 15 that follows the date of publication of the regulation
 16 in final form by at least 6 months.

17 “(2) AUTHORITY TO MODIFY.—The Board may,
 18 at its discretion—

19 “(A) lengthen the period of time described
 20 in paragraph (1) to permit merchants to adjust
 21 to accommodate new requirements; or

22 “(B) shorten that period of time, if the
 23 Board makes a specific finding that such action
 24 is necessary to comply with the findings of a

1 court or to prevent unfair or deceptive prac-
2 tices.

3 “(3) VOLUNTARY COMPLIANCE.—Notwith-
4 standing paragraph (1) or (2), a merchant may com-
5 ply with any newly prescribed disclosure requirement
6 prior to its effective date.

7 **“SEC. 1016. ENFORCEMENT.**

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

20 “(b) STATE ENFORCEMENT.—

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

1 “(2) PRIOR WRITTEN NOTICE.—

2 “(A) IN GENERAL.—The State attorney
3 general shall provide prior written notice of any
4 civil action described in paragraph (1) to the
5 Federal Trade Commission, and shall provide
6 the Commission with a copy of the complaint.

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

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

14 “(A) intervene in an action described in
15 paragraph (1);

16 “(B) upon intervening—

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

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

22 “(C) file a petition for appeal.

1 **“SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOW-**
 2 **ING VIOLATION.**

3 “Whoever willfully and knowingly gives false or inac-
 4 curate information, or fails to provide information which
 5 that person is required to disclose under the provisions
 6 of this title or any regulation issued under this title shall
 7 be subject to the penalty provisions as provided in section
 8 112.

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

10 “(a) RELATION TO STATE LAW.—

11 “(1) NO EFFECT ON CONSISTENT STATE
 12 LAWS.—Except as otherwise provided in subsection
 13 (b), this title does not annul, alter, or affect in any
 14 manner the meaning, scope, or applicability of the
 15 laws of any State relating to rental-purchase agree-
 16 ments, except to the extent that those laws are in-
 17 consistent with any provision of this title, and then
 18 only to the extent of the inconsistency.

19 “(2) DETERMINATION OF INCONSISTENCY.—

20 Upon its own motion or upon the request of an in-
 21 terested party, which is submitted in accordance
 22 with procedures prescribed by regulation of the
 23 Board, the Board shall determine whether any such
 24 inconsistency exists. If the Board determines that a
 25 term or provision of a State law is inconsistent with
 26 a provision of this title, merchants located in that

1 State shall not be required to comply with that term
2 or provision, and shall incur no liability under the
3 law of that State for failure to follow such term or
4 provision, notwithstanding that such determination
5 is subsequently amended, rescinded, or determined
6 by judicial or other authority to be invalid for any
7 reason.

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

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

21 “(1) regulates a rental-purchase agreement as a
22 security interest, credit sale, retail installment sale,
23 conditional sale, or any other form of consumer
24 credit, or that imputes to a rental-purchase agree-

1 ment the creation of a debt or extension of credit;
 2 or

3 “(2) requires the disclosure of a percentage rate
 4 calculation, including a time-price differential, an
 5 annual percentage rate, or an effective annual per-
 6 centage rate.

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

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

13 ““No civil liability or criminal penalty under this title
 14 may be imposed on the United States or any of its depart-
 15 ments or agencies, any State or political subdivision there-
 16 of, or any agency of a State or political subdivision there-
 17 of.

18 **“SEC. 1020. COMPLIANCE DATE.**

19 ““Compliance with this title shall not be required until
 20 6 months after the date of enactment of this title. In any
 21 case, a merchant may comply with this title at any time
 22 after such date of enactment.”.

