

Amendment in the Nature of a Substitute
to H.R. 1701

Offered by Mr. Jones of North Carolina
and Mr. Maloney of Connecticut

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Consumer Rental Pur-
3 chase Agreement Act”.

4 **SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.**

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

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

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

13 (3) Competition among the various firms en-
14 gaged in the extension of rental-purchase trans-



1 actions would be strengthened by informed use of
2 rental-purchase transactions.

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

6 (b) PURPOSE.—The purpose of this title is to assure
7 the availability of rental-purchase transactions and to as-
8 sure simple, meaningful, and consistent disclosure of rent-
9 al-purchase terms so that consumers will be able to more
10 readily compare the available rental-purchase terms and
11 avoid uninformed use of rental-purchase transactions, and
12 to protect consumers against unfair rental-purchase prac-
13 tices.

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

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

17 **“TITLE X—RENTAL-PURCHASE**
18 **TRANSACTIONS**

19 **“SEC. 1001. DEFINITIONS.**

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

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



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

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

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

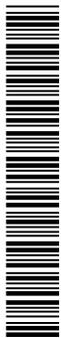
10 “(B) the acquisition of farmlands, real
11 property with a farm residence, or personal
12 property and services used primarily in farm-
13 ing.

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

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

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

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



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

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

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

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

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



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

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

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

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

19 “(14) RENTAL-PURCHASE AGREEMENT.—

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



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

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

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

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

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

12 “(15) RENTAL-PURCHASE COST.—

13 “(A) IN GENERAL.—The term ‘rental-pur-
14 chase cost’ means the sum of all rental pay-
15 ments and mandatory fees or charges imposed
16 by the merchant as a condition of entering into
17 a rental-purchase agreement or acquiring own-
18 ership of property under a rental-purchase
19 agreement, such as—

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

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

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



1 “(iv) Subject to subparagraph (B),
2 charge for waiver of the consumer’s liabil-
3 ity in the event of loss, damage, or de-
4 struction of the property.

5 “(v) Subject to subparagraph (B),
6 premium or other charge for insurance.

7 “(B) INSURANCE PREMIUMS AND CHARGES
8 FOR LIABILITY WAIVER.—Charges or premiums
9 for insurance or liability waiver written in con-
10 nection with any rental-purchase agreement
11 shall be included in determining the rental-pur-
12 chase cost with respect to any rental-purchase
13 transaction unless—

14 “(i) coverage of the consumer by the
15 insurance or liability waiver is not a factor
16 in the merchant’s approval of the rental-
17 purchase transaction, and this fact is
18 clearly and conspicuously disclosed in writ-
19 ing to the consumer at or before con-
20 summation of the rental-purchase trans-
21 action; and

22 “(ii) before obtaining the insurance or
23 liability waiver, the consumer has initialed
24 or signed an affirmative written request
25 for the insurance or liability waiver after



1 receiving a clear and conspicuous dislo-
2 sure in writing of the cost thereof.

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

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

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

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

20 “(17) TOTAL OF PAYMENTS.—The term ‘total
21 of payments’ means the sum of the initial payment
22 and all periodic payments in the payment schedule.

23 **“SEC. 1002. EXEMPTED TRANSACTIONS.**

24 “This title shall not apply to rental-purchase agree-
25 ments primarily for business, commercial, or agricultural



1 purposes, or those made with Government agencies or in-
2 strumentalities.

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

4 “(a) RECIPIENT OF DISCLOSURE.—A merchant shall
5 disclose to the person who will be obligated on a rental-
6 purchase agreement the information required by sections
7 1004 and 1005. In a transaction involving more than 1
8 person who will be obligated on a rental-purchase agree-
9 ment, a merchant need not disclose to more than 1 of such
10 persons.

11 “(b) TIMING OF DISCLOSURE.—The disclosures re-
12 quired under sections 1004 and 1005 shall be made before
13 the consummation of the rental-purchase agreement and
14 clearly and conspicuously in writing and in a form that
15 the consumer may keep.

16 “(c) INFORMATION SUBSEQUENTLY RENDERED IN-
17 ACCURATE.—If information disclosed in accordance with
18 this title is subsequently rendered inaccurate as a result
19 of any act, occurrence, or agreement subsequent to the
20 delivery of the required disclosures, the resulting inaccu-
21 racy does not constitute a violation of this title.

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

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



1 “(1) The date of consummation of the trans-
2 action and the identities of the merchant and con-
3 sumer.

4 “(2) A description of the property and a state-
5 ment indicating whether the property is new or used,
6 except a statement indicating that new property is
7 used property is not a violation of this title.

8 “(3) A statement of the rental payment for
9 each item of property and the total rental payment
10 if multiple items are rented. If 2 or more items are
11 rented as a set, a statement of the aggregate rental
12 payment of all items satisfies this requirement.

13 “(4) A statement of the cash price of each item
14 of property and the total cash price if multiple items
15 are rented. If 2 or more items are rented as a set,
16 a statement of the aggregate cash price of all items
17 satisfies this requirement.

18 “(5) The ‘initial payment’, using that term, and
19 an itemization of each component of the initial pay-
20 ment by type and amount.

21 “(6) The ‘periodic payment’, using that term,
22 and an itemization of each component of the periodic
23 payment by type and amount. If the final periodic
24 payment is less than the regular periodic payments,
25 the components of the final periodic payment need



1 not be itemized. A merchant may disclose alternative
2 periodic payments based on different rental periods.

3 “(7) The ‘rental-purchase cost’, using that
4 term, and a brief description such as ‘The amount
5 you will pay the merchant to acquire ownership of
6 the property. This amount excludes taxes and other
7 charges not imposed by the merchant as a condition
8 of acquiring ownership.’

9 “(8) The difference between the cash price and
10 the rental-purchase cost, using the term ‘cost of
11 rental services’.

12 “(9) The ‘payment schedule’, using that term.

13 “(10) The ‘total of payments’, using that term,
14 and a brief description such as ‘This is the amount
15 you will have paid, including the rental-purchase
16 cost, taxes, and charges for other products or serv-
17 ices you may have elected to purchase, if you make
18 all periodic payments as scheduled.’ A merchant may
19 disclose alternative payment schedules based on dif-
20 ferent rental periods.

21 “(11) Substantially the following statement in
22 boldface, uppercase letters: **‘YOU ARE RENTING
23 THE PROPERTY. TO ACQUIRE OWNERSHIP
24 OF THE PROPERTY YOU MUST MAKE ALL**



1 PAYMENTS NECESSARY TO ACQUIRE OWN-
2 ERSHIP.’

3 “(12) Substantially the following statement:
4 ‘Other Important Terms. See your rental-purchase
5 agreement for additional important information on
6 termination, purchase option rights, reinstatement
7 rights, warranties, maintenance responsibilities, your
8 liability for loss, theft, damage, or destruction of the
9 property, and other charges and fees you may incur.’

10 “(b) FORM OF DISCLOSURE.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), the disclosures required by paragraphs
13 (5) through (12) of subsection (a) shall be seg-
14 regated from other information and shall contain
15 only directly related information, and shall be identi-
16 fied in boldface, uppercase letters as ‘RENTAL-
17 PURCHASE DISCLOSURES’.

18 “(2) INSURANCE PREMIUM AND LIABILITY
19 WAIVER.—The disclosures required under paragraph
20 (7) of subsection (a) relating to charges and pre-
21 miums described in section 1001(15)(B) with re-
22 spect to a rental-purchase transaction may be in-
23 cluded in the rental-purchase agreement or made on
24 a separate form that the consumer may keep.



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 30 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; and

16 “(C) if the consumer has paid 60 percent
17 or more of the rental-purchase cost and returns
18 or voluntarily surrenders the property, other
19 than through judicial process, during the appli-
20 cable reinstatement period set forth in subpara-
21 graph (A), permits the consumer to reinstate
22 the agreement during a period of at least 90
23 days after the date of the return of the property
24 by the payment of all amounts previously due



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

3 “(5) if the merchant offers a purchase option,
4 provide a statement of the consumer’s purchase op-
5 tion rights under the agreement, including the meth-
6 od of determining the purchase price at any point in
7 time if the property is acquired through the exercise
8 of the purchase option;

9 “(6) provide a statement disclosing that if any
10 part of a manufacturer’s express warranty covers
11 the property at the time the consumer acquires own-
12 ership of the property, the warranty will be trans-
13 ferred to the consumer if allowed by the terms of the
14 warranty; and

15 “(7) provide, to the extent applicable, a state-
16 ment of any payment grace period, the amount of
17 any late payment fee, any additional fees or require-
18 ments for reinstatement, and the amount of any
19 other charges and fees the consumer may incur.

20 “(b) REPOSSESSION DURING REINSTATEMENT PE-
21 RIOD.—Subsection (a)(4) shall not be construed so as to
22 prevent a merchant from attempting to repossess property
23 during the reinstatement period pursuant to subsection
24 (a)(4)(A), but such a repossession does not affect the con-
25 sumer’s right to reinstate. Upon reinstatement, the mer-



1 chant shall provide the consumer with the same property,
2 if available; if it is not available, the merchant shall sub-
3 stitute property of comparable quality and condition.

4 **“SEC. 1006. PROHIBITED PROVISIONS.**

5 “A rental-purchase agreement may not contain—

6 “(1) a confession of judgment;

7 “(2) a negotiable instrument;

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

12 “(4) a wage assignment;

13 “(5) a waiver by the consumer of a claim or de-
14 fense; or

15 “(6) a provision requiring the consumer to pay
16 in excess of the lesser of the fair market value, any
17 purchase option amount, remaining rent, or cost of
18 repair if the property is lost, stolen, damaged, or de-
19 stroyed.

20 **“SEC. 1007. STATEMENT OF ACCOUNTS.**

21 “Upon request of a consumer, a merchant shall pro-
22 vide a statement of the consumer’s account. If a consumer
23 requests a statement for an individual account more than
24 4 times in any 12-month period, the merchant may charge
25 a reasonable fee for the additional statements.



1 **“SEC. 1008. RENEGOTIATIONS AND EXTENSIONS.**

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

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

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

15 “(1) A reduction in payments.

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

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

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

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

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



1 “(7) An agreement resulting from a court pro-
2 ceeding.

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

5 **“SEC. 1009. POINT-OF-RENTAL DISCLOSURES.**

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

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

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

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

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

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

17 “(6) The rental-purchase cost.

18 “(b) FORM OF DISCLOSURE.—A merchant may make
19 the disclosure required by subsection (a) in the form of
20 a list or catalog which is readily available to the consumer
21 at the point of rental if the merchandise is not displayed
22 in the merchant’s showroom or if displaying a card, tag,
23 or label would be impractical due to the size of the mer-
24 chandise.



1 **“SEC. 1010. RENTAL-PURCHASE ADVERTISING.**

2 “(a) IN GENERAL.—If an advertisement refers to or
3 states the amount of any payment for any specific item
4 or set of items, the merchant making the advertisement
5 shall also clearly and conspicuously state in the advertise-
6 ment the following:

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

9 “(2) The amount, timing, and total number of
10 rental payments necessary to acquire ownership.

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

12 “(4) To acquire ownership of the property the
13 consumer must pay the rental-purchase cost plus ap-
14 plicable taxes.

15 “(5) Whether the advertised rental-purchase
16 cost is for new or used property.

17 “(b) RADIO AND TELEVISION ADVERTISING.—

18 (1) IN GENERAL.—An advertisement made
19 through television or radio, which states the amount
20 of any payment for any specific item or set of items,
21 complies with this section if the advertisement lists
22 a toll-free telephone number along with a reference
23 that such number may be used by consumers to ob-
24 tain the additional information required by sub-
25 section (a).



1 “(2) AVAILABILITY OF NUMBER.—The toll-free
2 telephone number required under subsection what
3 shall be available beginning on the date of the
4 broadcast and continue until the earlier of—

5 “(A) the end of the 10-day period begin-
6 ning on the day of the last broadcast; or

7 “(B) if the offer expires before the end of
8 such 10-day period and the advertisement dis-
9 closes that the offer expires before the end of
10 such period, the date the offer expires.

11 **“SEC. 1011. CIVIL LIABILITY.**

12 “(a) INDIVIDUAL OR CLASS ACTION FOR DAMAGES;
13 AMOUNT OF AWARD; FACTORS DETERMINING AMOUNT
14 OF AWARD.—Except as otherwise provided in this section,
15 any merchant who fails to comply with any requirement
16 imposed by section 1003, 1004, 1005, 1006, or 1007, with
17 respect to any consumer is liable to such consumer in an
18 amount equal to the sum of—

19 “(1) any actual damage sustained by such con-
20 sumer as a result of the failure;

21 “(2)(A) in the case of an individual action, 25
22 percent of the rental-purchase cost under the rental-
23 purchase agreement, except that the liability under
24 this subparagraph shall not be less than \$100 nor
25 greater than \$1,000;



1 “(B) in the case of a class action, such amount
2 as the court may allow, except that as to each mem-
3 ber of the class no minimum recovery shall be appli-
4 cable, and the total recovery under this subpara-
5 graph in any class action or series of class actions
6 arising out of the same failure to comply by the
7 same merchant shall not be more than the lesser of
8 \$500,000 or 1 percent of the net worth of the mer-
9 chant; and

10 “(3) in the case of any successful action to en-
11 force the foregoing liability, the costs of the action,
12 together with a reasonable attorney’s fee as deter-
13 mined by the court.

14 “(b) FACTORS TO BE CONSIDERED IN CLASS AC-
15 TIONS.—In determining the amount of award in any class
16 action, the court shall consider, among other relevant fac-
17 tors, the amount of any actual damages awarded, the fre-
18 quency and persistence of failures of compliance by the
19 merchant, the resources of the merchant, the number of
20 persons adversely affected, and the extent to which the
21 merchant’s failure of compliance was intentional. With re-
22 spect to any failure to make disclosures required under
23 this title, liability shall be imposed only upon the merchant
24 required to make disclosure, except as provided in section
25 1013.



1 “(c) CORRECTION OF ERRORS.—A merchant or as-
2 signee has no liability under this section or section 1015
3 or 1016 for any failure to comply with any requirement
4 imposed under this title, if within 60 days after discov-
5 ering an error, and prior to the institution of an action
6 under this section or the receipt of written notice of the
7 error from the consumer, the merchant or assignee notifies
8 the consumer concerned of the error and makes whatever
9 adjustments in the appropriate account are necessary to
10 assure that the person will not be required to pay an
11 amount in excess of the charge actually disclosed.

12 “(d) UNINTENTIONAL VIOLATIONS; BONA FIDE ER-
13 RORS.—

14 “(1) IN GENERAL.—A merchant or assignee
15 may not be held liable in any action brought under
16 this title for a violation of this title if the merchant
17 or assignee shows by a preponderance of evidence
18 that the violation was not intentional and resulted
19 from a bona fide error notwithstanding the mainte-
20 nance of procedures reasonably adapted to avoid any
21 such error.

22 “(2) EXAMPLES OF BONA FIDE ERRORS.—Ex-
23 amples of a bona fide error include clerical, calcula-
24 tion, computer malfunction and programming, and
25 printing errors, except that an error of legal judg-



1 ment with respect to a person's obligations under
2 this title is not a bona fide error.

3 “(e) LIABILITY IN TRANSACTIONS INVOLVING MUL-
4 TIPLE CONSUMERS.—When there are multiple consumers
5 in a single rental-purchase agreement there shall be no
6 more than 1 recovery of damages under subsection (a)(2)
7 of this section for a violation of this title.

8 “(f) JURISDICTION OF COURTS; LIMITATION OF AC-
9 TIONS.—Any action under this section may be brought in
10 any United States district court, or in any other court of
11 competent jurisdiction, within 1 year from the date of the
12 occurrence of the violation. This subsection shall not bar
13 a consumer from asserting a violation of this title in an
14 action to collect an obligation arising from a rental-pur-
15 chase agreement, which was brought more than 1 year
16 from the date of the occurrence of the violation as a mat-
17 ter of defense by recoupment or set-off in such action, ex-
18 cept as otherwise provided by State law.

19 “(g) GOOD FAITH COMPLIANCE WITH RULE, REGU-
20 LATION, OR INTERPRETATION OF BOARD.—No provision
21 of this section or section 1015 or 1016 imposing any liabil-
22 ity shall apply to any act done or omitted in good faith
23 in conformity with any rule, regulation, or interpretation
24 thereof by the Board or in conformity with any interpreta-
25 tion or approval by an official or employee of the Board



1 duly authorized by the Board to issue such interpretations
2 or approvals under such procedures as the Board may pre-
3 scribe therefor, notwithstanding that after such act or
4 omission has occurred, such rule, regulation, interpreta-
5 tion, or approval is amended, rescinded, or determined by
6 judicial or other authority to be invalid for any reason.

7 “(h) RECOVERY FOR MULTIPLE FAILURES TO DIS-
8 CLOSE.—The multiple failure to disclose to any person any
9 information required under this title in connection with
10 a single rental-purchase transaction shall entitle the per-
11 son to a single recovery under this section but continued
12 failure to disclose after a recovery has been granted shall
13 give rise to rights to additional recoveries.

14 “(i) OFFSET FROM AMOUNT OWED TO MERCHANT
15 OR ASSIGNEE; RIGHTS OF CONSUMER.—A person may not
16 take any action to offset any amount for which a merchant
17 or assignee is potentially liable to such person under sub-
18 section (a)(2) of this section against any amount owed by
19 such person, unless the amount of the merchant’s or as-
20 signee’s liability under this section has been determined
21 by judgment of a court of competent jurisdiction in an
22 action of which such person was a party. This subsection
23 does not bar a consumer from asserting a violation of this
24 title as an original action, or as a defense or counterclaim



1 to an action to collect amounts owed by the consumer
2 brought by a person liable under this section.

3 **“SEC. 1012. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.**

4 “Any merchant who fails to comply with any require-
5 ments imposed under section 1009 or 1010 with respect
6 to any consumer who suffers actual damage from the vio-
7 lation is liable to such consumer as provided in section
8 1011.

9 **“SEC. 1013. LIABILITY OF ASSIGNEES.**

10 “(a) ASSIGNEES INCLUDED.—For purposes of sec-
11 tion 1011, and this section, the term ‘merchant’ includes
12 an assignee of a merchant.

13 “(b) LIABILITIES OF ASSIGNEES.—

14 “(1) APPARENT VIOLATION.—An action under
15 section 1011 for a violation of this title may be
16 brought against an assignee only if the violation is
17 apparent on the face of the rental-purchase agree-
18 ment to which it relates.

19 “(2) APPARENT VIOLATION DEFINED.—For
20 purposes of this subsection, a violation that is appar-
21 ent on the face of a rental-purchase agreement in-
22 cludes a disclosure that can be determined to be in-
23 complete or inaccurate from the face of the agree-
24 ment.



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

4 “(4) RULE OF CONSTRUCTION.—No provision
5 of this section shall be construed as limiting or alter-
6 ing the liability under section 1011 of a merchant
7 assigning a rental-purchase agreement.

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

15 **“SEC. 1014. REGULATIONS.**

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

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



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

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

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

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

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

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



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

7 **“SEC. 1015. ENFORCEMENT.**

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

20 “(b) STATE ENFORCEMENT.—

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



1 “(2) PRIOR WRITTEN NOTICE.—

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

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

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

13 “(A) intervene in the action;

14 “(B) upon intervening—

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

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

20 “(C) file a petition for appeal.

21 **“SEC. 1016. CRIMINAL LIABILITY FOR WILLFUL AND KNOW-**
22 **ING VIOLATION.**

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



1 or any regulation issued thereunder shall be fined not
2 more than \$5,000 or imprisoned not more than one year,
3 or both.

4 **“SEC. 1017. RELATION TO STATE LAW.**

5 “(a) IN GENERAL.—

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

14 “(2) DETERMINATION OF INCONSISTENCY.—

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



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

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

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

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

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



1 **“SEC. 1018. EFFECT ON GOVERNMENT AGENCIES.**

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

6 **“SEC. 1019. COMPLIANCE DATE.**

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

