

3083--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. PHEFFER, PRETLOW, PEOPLES, GIANARIS, AUBRY, ORTIZ, SCHROEDER, GABRYSZAK -- Multi-Sponsored by -- M. of A. CAHILL, GLICK, HIKIND, HOYT, MAYERSOHN, TOWNS -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the personal property law, in relation to providing consumers with greater protection in rental purchase agreements; and to repeal certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and intent. The legislature finds and
2 declares that merchants that lease personal property pursuant to
3 rental-purchase agreements, commonly referred to as rent-to-own agree-
4 ments, provide a unique transaction that is popular with many consumers.
5 The legislature also finds that rent-to-own merchants provide credit-
6 constrained consumers with the ability to obtain high quality goods and
7 the flexibility to terminate agreements at any time without further
8 obligation.
9 The legislature also finds that article 11 of the personal property
10 law fails to provide rent-to-own merchants with appropriate regulatory
11 guidance with respect to how such merchants are to set cash prices. The
12 legislature also finds that many rent-to-own merchants set cash prices
13 at a level considerably higher than the price at which the same or simi-
14 lar merchandise is offered to consumers at nearby retailers. The legis-
15 lature further finds and declares that there is a need to clarify arti-
16 cle 11 of the personal property law to ensure that rent-to-own merchants
17 set cash prices at fair and reasonable levels.
18 The legislature also finds that rent-to-own agreements are complex and
19 that consumers need clear and useful disclosures in order to make
20 informed decisions regarding these agreements.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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Therefore, it is the intent of the legislature to establish reasonable price controls by implementing fair and reasonable formulas for use by rent-to-own merchants in setting cash prices, ensuring that rent-to-own customers pay fair prices and providing much-needed regulatory guidance to rent-to-own merchants.

S 2. Subdivisions 2 and 6 of section 500 of the personal property law, as added by chapter 792 of the laws of 1986, are amended and seven new subdivisions 7, 8, 9, 10, 11, 12 and 13 are added to read as follows:

2. "Cash price" means the price [at which a merchant, in the ordinary course of business, would offer to sell the merchandise to the consumer for cash on the date] OF THE MERCHANDISE DESCRIBED IN THE RENTAL-PURCHASE AGREEMENT THAT THE CONSUMER MAY PAY IN CASH TO THE MERCHANT AT THE INCEPTION of the rental-purchase agreement TO ACQUIRE OWNERSHIP OF SUCH MERCHANDISE.

6. "Rental-purchase agreement" means an agreement for the use of merchandise by a consumer for PRIMARILY personal, family, or household purposes, for an initial period of four months or less, that is renewable with each payment after the initial period and that permits the [lessee] CONSUMER to become the owner of the property, WHETHER OR NOT THE CONSUMER IS OBLIGATED TO COMPLETE THE PAYMENTS ON THE AGREEMENT. An agreement that complies with this article is not a retail installment sales contract, agreement, or obligation as defined in this chapter [or] NOR a security interest as defined in subdivision thirty-seven of section 1-201 of the uniform commercial code.

7. "COST OF RENTAL" MEANS THE DIFFERENCE BETWEEN THE TOTAL OF ALL PERIODIC PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP UNDER THE RENTAL-PURCHASE AGREEMENT AND THE CASH PRICE OF THE RENTAL MERCHANDISE THAT IS SUBJECT TO THE RENTAL-PURCHASE AGREEMENT.

8. "FEE" MEANS ANY PAYMENT, CHARGE, FEE, COST, OR EXPENSE, HOWEVER DENOMINATED, OTHER THAN A RENTAL PAYMENT.

9. "APPLIANCE" MEANS AND INCLUDES ANY REFRIGERATOR, FREEZER, RANGE INCLUDING ANY COOKTOP OR OVEN, MICROWAVE OVEN, WASHER, DRYER, DISHWASHER, OR ROOM AIR CONDITIONER OR AIR PURIFIER.

10. "ELECTRONIC SET" MEANS AND INCLUDES ANY TELEVISION, RADIO, CAMERA, VIDEO GAME, OR ANY TYPE OF DEVICE FOR THE RECORDING, STORAGE, COPYING, PRINTING, TRANSMISSION, DISPLAY, OR PLAYBACK OF ANY SOUND OR IMAGE, BUT DOES NOT INCLUDE ANY ITEM THAT IS PART OF A COMPUTER SYSTEM.

11. "COMPUTER SYSTEM" MEANS A COMPUTER PROCESSOR AND A VIDEO MONITOR, PRINTER, AND PERIPHERAL ITEMS PRIMARILY DESIGNED FOR USE WITH A COMPUTER. AUDIO AND VIDEO DEVICES, WHICH ARE COMMONLY USED FOR ENTERTAINMENT AND INTO WHICH DATA MAY BE DOWNLOADED FROM A COMPUTER, ARE NOT PART OF A COMPUTER SYSTEM.

12. "MERCHANT'S COST" MEANS THE DOCUMENTED ACTUAL COST, INCLUDING ACTUAL FREIGHT CHARGES, OF THE RENTAL MERCHANDISE TO THE MERCHANT FROM A WHOLESALE, DISTRIBUTOR, SUPPLIER, OR MANUFACTURER AND NET OF ANY DISCOUNTS, REBATES, AND INCENTIVES.

13. "TOTAL OF PAYMENTS" MEANS THE TOTAL AMOUNT OF PERIODIC PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE MERCHANDISE THAT IS THE SUBJECT OF THE RENTAL-PURCHASE AGREEMENT IF THE CONSUMER MAKES ALL REGULARLY SCHEDULED PAYMENTS.

S 3. Paragraph (e) of subdivision 3 and subdivisions 4, 5, 6 and 7 of section 501 of the personal property law, as added by chapter 792 of the laws of 1986, are amended to read as follows:

(e) requiring the payment of a late charge or reinstatement fee unless a periodic payment is delinquent for more than three days for agreements that are renewed on week by week terms and seven days for agreements

1 that are renewed on month by month terms; PROVIDED, HOWEVER, THAT
2 NEITHER SUNDAYS NOR FEDERALLY-RECOGNIZED HOLIDAYS DURING WHICH THE
3 UNITED STATES POSTAL SERVICE IS NOT OPEN TO THE PUBLIC SHALL COUNT
4 TOWARD THE THREE OR SEVEN DAY TOTALS, and the charge or fee is in an
5 amount not more than the greater of ten percent of the delinquent amount
6 or three dollars for agreements that are renewed on week by week terms
7 and not more than the greater of ten percent of the delinquent amount or
8 five dollars for agreements that are renewed on month by month terms. In
9 the event that multiple items are leased to a consumer pursuant to more
10 than one rental-purchase agreement, any late fee imposed pursuant to
11 this section shall not exceed ten percent of the total of the periodic
12 payments that are delinquent.

13 4. Only one late charge or reinstatement fee may be assessed for a
14 delinquent periodic payment, regardless of the period during which it
15 remains in default. No merchant shall assess a late charge for a period-
16 ic payment made in full on its due date or within three days for agree-
17 ments that are renewed on week by week terms or seven days for agree-
18 ments that are renewed on month by month terms when the only delinquency
19 is attributable to late fees assessed on earlier periodic payments;
20 PROVIDED, HOWEVER, THAT NEITHER SUNDAYS NOR FEDERALLY-RECOGNIZED HOLI-
21 DAYS DURING WHICH THE UNITED STATES POSTAL SERVICE IS NOT OPEN TO THE
22 PUBLIC SHALL COUNT TOWARD THE THREE OR SEVEN DAY TOTALS. With respect
23 to payments accepted by mail or by store deposit box, no merchant shall
24 assess a late fee for payments which are post-marked or received before
25 the expiration of the applicable delinquency periods.

26 5. A rental-purchase agreement must provide that:

27 (a) a charge in addition to periodic payments, if any, must be reason-
28 ably related to the cost of a service performed;

29 (b) a consumer who fails to make a timely payment may reinstate an
30 agreement without losing rights or options previously acquired and with-
31 out incurring any charges, other than rental charges for the time he
32 possessed the property, except for those charges provided for in para-
33 graph (e) of subdivision three of THIS section [five hundred one of this
34 article] by making the required payment before the later of seven days
35 or half the number of days in a regular payment period after the due
36 date of the payment; [and]

37 (c) if the merchandise is returned or voluntarily surrendered by the
38 consumer, other than through judicial process, during the applicable
39 reinstatement period set forth in paragraph (b) of this subdivision, the
40 consumer's right to reinstate the agreement as set forth in paragraph
41 (b) of this subdivision shall be extended for a period of not less than
42 [thirty days] ONE YEAR after the date of the return of the merchandise[.
43 If a consumer has paid one-half the total of payments necessary to
44 acquire ownership, the right to reinstate the agreement shall be
45 extended for a period of not less than sixty days after the date of the
46 return of the merchandise. If a consumer has paid three-quarters of the
47 total of payments necessary to acquire ownership, the consumer's rights
48 to reinstate the agreement shall be extended for a period of not less
49 than one hundred eighty days after the return of the merchandise.]; AND

50 (D) THE CONSUMER HAS THE OPTION OF MAKING PERIODIC PAYMENTS PURSUANT
51 TO AN AGREEMENT ON A WEEKLY OR MONTHLY BASIS.

52 6. This section does not prevent a merchant from attempting to repos-
53 sess merchandise during the reinstatement period[,] provided in para-
54 graph (b) of subdivision five of this section. The consumer's right to
55 reinstate an agreement does not expire because of such a repossession.
56 UPON REPOSSESSION, THE MERCHANT SHALL PROVIDE WRITTEN NOTICE TO THE

CONSUMER OF THE CONSUMER'S RIGHT TO REINSTATE THE AGREEMENT PURSUANT TO PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION AND THE FINAL DATE FOR PAYMENTS NECESSARY FOR REINSTATEMENT PURSUANT TO SUCH PARAGRAPH ALONG WITH THE APPROPRIATE AMOUNT DUE. On reinstatement, the merchant shall provide the consumer with the same merchandise or substitute merchandise of comparable quality and condition. If substitute merchandise is provided, the merchant shall provide the consumer with the disclosures required in subdivision seven of this section.

7. [A rental-purchase agreement must disclose in a conspicuous and informative fashion:

(a) a description of the merchandise provided;

(b) whether the merchandise is new or used, provided however, that it shall not be a violation of this section to indicate that the merchandise is used if it is actually new;

(c) the amount and timing of rental-purchase payments;

(d) the total number of payments and the total amount that must be paid to acquire ownership of the merchandise, which amount shall be explicitly labelled "total cost";

(e) the amount and purpose of any payment, charge, or fee, in addition to the regular periodic payments;

(f) whether the consumer is liable for loss or damage to the merchandise and, if so, the maximum amount for which the consumer may be liable, which in the case of loss shall in no event be greater than the price the consumer would have paid to exercise an early purchase option pursuant to this article. In the case of damage to the merchandise, other than normal wear and tear the consumer shall be liable for the lesser of the price the consumer would have paid to exercise an early purchase option pursuant to this article or the cost of the repair as determined by the merchant;

(g) that the consumer does not acquire ownership rights unless the consumer has complied with the ownership terms of the agreement;

(h) the cash price of the merchandise; and

(i) a statement of the conditions under which a consumer may exercise an early purchase option and under which the merchant or consumer may otherwise terminate the lease] (A) EVERY RENTAL-PURCHASE AGREEMENT SHALL BE CONTAINED IN A SINGLE DOCUMENT WHICH SHALL SET FORTH ALL OF THE AGREEMENTS OF THE MERCHANT AND THE CONSUMER WITH RESPECT TO THE RIGHTS AND OBLIGATIONS OF EACH PARTY. EVERY RENTAL-PURCHASE AGREEMENT SHALL BE WRITTEN IN AT LEAST TEN-POINT TYPE IN THE SAME LANGUAGE AS PRINCIPALLY USED IN ANY ORAL SALES PRESENTATION OR NEGOTIATIONS LEADING TO THE EXECUTION OF THE AGREEMENT, AND SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE ALL OF THE FOLLOWING:

(1) THE NAMES OF THE MERCHANT AND THE CONSUMER, THE MERCHANT'S BUSINESS ADDRESS AND TELEPHONE NUMBER, THE CONSUMER'S ADDRESS, THE DATE ON WHICH THE AGREEMENT IS EXECUTED, AND A DESCRIPTION OF THE MERCHANDISE SUFFICIENT TO IDENTIFY IT;

(2) WHETHER THE MERCHANDISE SUBJECT TO THE RENTAL-PURCHASE AGREEMENT IS NEW OR USED, PROVIDED, HOWEVER THAT IT SHALL NOT BE A VIOLATION OF THIS SECTION TO INDICATE THAT THE MERCHANDISE IS USED IF IT IS ACTUALLY NEW;

(3) THE MINIMUM PERIOD FOR WHICH THE CONSUMER IS OBLIGATED UNDER THE RENTAL-PURCHASE AGREEMENT; THE DURATION OF THE RENTAL-PURCHASE AGREEMENT IF ALL REGULARLY SCHEDULED PERIODIC PAYMENTS ARE MADE, DESIGNATED AS THE "RENTAL PERIOD"; AND THE AMOUNT OF EACH PERIODIC PAYMENT;

(4) THE TOTAL OF PAYMENTS AND THE TOTAL NUMBER OF PERIODIC PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE MERCHANDISE IF THE RENTER MAKES ALL REGULARLY SCHEDULED PERIODIC PAYMENTS;

(5) THE CONSUMER'S RIGHT TO MAKE PERIODIC PAYMENTS ON A WEEKLY OR MONTHLY BASIS;

(6) THE CASH PRICE OF THE MERCHANDISE SUBJECT TO THE RENTAL PURCHASE AGREEMENT;

(7) THE COST OF RENTAL;

(8) THE AMOUNT AND PURPOSE OF ANY OTHER PAYMENT OR FEE PERMITTED BY THIS ARTICLE IN ADDITION TO THOSE SPECIFIED PURSUANT TO SUBPARAGRAPHS THREE AND FOUR OF THIS PARAGRAPH, INCLUDING ANY LATE PAYMENT FEE;

(9) A STATEMENT THAT THE TOTAL NUMBER AND DOLLAR AMOUNT OF PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE RENTAL MERCHANDISE DISCLOSED UNDER SUBPARAGRAPH FOUR OF THIS PARAGRAPH DOES NOT INCLUDE OTHER FEES PERMITTED BY THIS ARTICLE, SUCH AS LATE PAYMENT FEES, AND THAT THE CONSUMER SHOULD READ THE RENTAL-PURCHASE AGREEMENT FOR AN EXPLANATION OF ANY APPLICABLE ADDITIONAL FEES;

(10) WHETHER THE CONSUMER IS LIABLE FOR LOSS OR DAMAGE TO THE MERCHANDISE AND, IF SO, THE MAXIMUM AMOUNT FOR WHICH THE CONSUMER MAY BE LIABLE, WHICH IN THE CASE OF LOSS SHALL IN NO EVENT BE GREATER THAN THE PRICE THE CONSUMER WOULD HAVE PAID TO EXERCISE AN EARLY PURCHASE OPTION PURSUANT TO THIS ARTICLE. IN THE CASE OF DAMAGE TO THE MERCHANDISE, OTHER THAN NORMAL WEAR AND TEAR THE CONSUMER SHALL BE LIABLE FOR THE LESSER OF THE PRICE THE CONSUMER WOULD HAVE PAID TO EXERCISE AN EARLY PURCHASE OPTION PURSUANT TO THIS ARTICLE OR THE COST OF THE REPAIR AS DETERMINED BY THE MERCHANT;

(11) THAT THE CONSUMER DOES NOT ACQUIRE OWNERSHIP RIGHTS UNLESS THE CONSUMER HAS COMPLIED WITH THE OWNERSHIP TERMS OF THE AGREEMENT;

(12) THE FOLLOWING NOTICE:

NOTICE

YOU ARE RENTING THIS MERCHANDISE. YOU WILL NOT OWN IT UNTIL YOU MAKE ALL OF THE REGULARLY SCHEDULED PAYMENTS OR YOU USE THE EARLY PURCHASE OPTION.

YOU DO NOT HAVE THE RIGHT TO KEEP THE MERCHANDISE IF YOU DO NOT MAKE REQUIRED PAYMENTS OR DO NOT USE THE EARLY PURCHASE OPTION. IF YOU MISS A PAYMENT, THE MERCHANT CAN REPOSSESS THE MERCHANDISE, BUT, YOU MAY HAVE THE RIGHT TO THE RETURN OF THE SAME OR SIMILAR MERCHANDISE.

SEE THE CONTRACT FOR AN EXPLANATION OF YOUR RIGHTS.

(13) A DESCRIPTION OF THE CONSUMER'S RIGHT TO ACQUIRE OWNERSHIP OF THE MERCHANDISE BEFORE THE END OF THE RENTAL PERIOD AS PROVIDED IN SECTION FIVE HUNDRED FOUR OF THIS ARTICLE.

(14) A DESCRIPTION OF THE CONSUMER'S REINSTATEMENT RIGHTS AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION.

(15) IF WARRANTY COVERAGE IS TRANSFERABLE TO A CONSUMER WHO ACQUIRES OWNERSHIP OF THE MERCHANDISE, A STATEMENT THAT THE UNEXPIRED PORTION OF ALL WARRANTIES PROVIDED BY THE MANUFACTURER, DISTRIBUTOR, OR SELLER OF THE MERCHANDISE THAT IS THE SUBJECT OF THE RENTAL-PURCHASE AGREEMENT WILL BE TRANSFERRED BY THE MERCHANT TO THE CONSUMER AT THE TIME THE CONSUMER ACQUIRES OWNERSHIP OF THE MERCHANDISE FROM THE MERCHANT.

(16) A DESCRIPTION OF THE MERCHANT'S OBLIGATION TO MAINTAIN THE RENTAL MERCHANDISE AND TO REPAIR OR REPLACE RENTAL MERCHANDISE THAT IS NOT OPERATING PROPERLY, AS PROVIDED IN SECTION FIVE HUNDRED FOUR-A OF THIS ARTICLE.

(B) (1) THE DISCLOSURES REQUIRED BY SUBPARAGRAPHS THREE, FOUR, FIVE, SIX AND SEVEN OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE PRINTED IN AT LEAST TEN-POINT BOLDFACED TYPE OR CAPITAL LETTERS IF TYPED AND SHALL BE GROUPED TOGETHER IN A BOX FORMED BY A HEAVY LINE IN THE FOLLOWING FORM:

TOTAL OF PAYMENTS	COST OF RENTAL	CASH PRICE
\$	\$	\$
YOU MUST PAY THIS AMOUNT TO OWN THE MERCHANDISE IF YOU MAKE ALL THE REGULAR PAYMENTS. YOU CAN BUY THE MERCHANDISE FOR LESS UNDER THE EARLY PURCHASE OPTION.	AMOUNT OVER CASH PRICE YOU WILL PAY IF YOU MAKE ALL REGULAR PAYMENTS.	MERCHANDISE AVAILABLE AT THIS PRICE FOR CASH FROM THE MERCHANT. SEE ABOUT YOUR EARLY PURCHASE OPTION RIGHTS.

AMOUNT OF
EACH PAYMENT

NUMBER
OF
PAYMENTS

RENTAL
PERIOD

\$
PER

(INSERT PERIOD)

(2) THE BOX DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH SHALL APPEAR IMMEDIATELY ABOVE THE SPACE RESERVED FOR THE BUYER'S SIGNATURE.

(C) THE DISCLOSURES REQUIRED BY SUBPARAGRAPHS THREE, FOUR, FIVE, SIX AND SEVEN OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE GROUPED TOGETHER IN A BOX FORMED BY A HEAVY LINE IN THE FORM PRESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION AND SHALL BE CLEARLY AND CONSPICUOUSLY PLACED ON A TAG OR STICKER AFFIXED TO THE MERCHANDISE AVAILABLE FOR RENTAL-PURCHASE. IF THE MERCHANDISE AVAILABLE FOR RENTAL-PURCHASE IS NOT DISPLAYED AT THE MERCHANT'S PLACE OF BUSINESS BUT APPEARS IN A PHOTOGRAPH OR CATALOG SHOWN TO CONSUMERS, A TAG OR STICKER SHALL BE AFFIXED TO THE PHOTOGRAPH OF THE MERCHANDISE OR CATALOG SHOWN TO CONSUMERS OR SHALL BE GIVEN TO CONSUMERS. THE DISCLOSURE REQUIRED BY SUBPARAGRAPH TWO OF PARAGRAPH (A) OF THIS SUBDIVISION ALSO SHALL BE CLEARLY AND CONSPICUOUSLY PLACED ON THE TAG OR STICKER.

(D) ALL DISCLOSURES REQUIRED BY THIS SUBDIVISION SHALL BE PRINTED OR TYPED IN A COLOR OR SHADE THAT CLEARLY CONTRASTS WITH THE BACKGROUND.

S 4. Section 502 of the personal property law, as added by chapter 792 of the laws of 1986, is amended to read as follows:

1 S 502. Availability. Every rental purchase agreement shall indicate
2 that a consumer at his or her [written] request shall be permitted to
3 review a completed rental-purchase agreement for up to [twenty-four]
4 FORTY-EIGHT hours prior to signing. A COPY OF THE FULLY COMPLETED
5 RENTAL-PURCHASE AGREEMENT AND ALL OTHER DOCUMENTS WHICH THE MERCHANT
6 REQUESTS THE CONSUMER TO SIGN SHALL BE GIVEN TO THE CONSUMER AT THE TIME
7 THEY ARE SIGNED. THE RENTAL-PURCHASE AGREEMENT SHALL NOT BE ENFORCEABLE
8 AGAINST THE CONSUMER UNTIL THE CONSUMER HAS RECEIVED A SIGNED COPY. IN
9 ADDITION TO ANY OTHER RIGHT OF CANCELLATION, A CONSUMER HAS THE RIGHT TO
10 CANCEL A RENTAL-PURCHASE AGREEMENT, WITHOUT PENALTY OR OBLIGATION IF THE
11 CONSUMER HAS NOT TAKEN POSSESSION OF THE MERCHANDISE.

12 S 5. Sections 503 and 504 of the personal property law are REPEALED
13 and two new sections 503 and 504 are added to read as follows:

14 S 503. TOTAL COST. 1. A MERCHANT SHALL MAINTAIN RECORDS THAT ESTABLISH
15 THE MERCHANT'S COST FOR EACH ITEM OF MERCHANDISE THAT IS THE SUBJECT OF
16 THE RENTAL-PURCHASE AGREEMENT. A COPY OF EACH RENTAL-PURCHASE AGREEMENT
17 AND OF THE RECORDS REQUIRED BY THIS SUBDIVISION SHALL BE MAINTAINED FOR
18 THREE YEARS FOLLOWING THE TERMINATION OF THE AGREEMENT.

19 2. (A) FOR RENT-TO-OWN MERCHANTS THAT OPERATE TEN OR MORE RENT-TO-OWN
20 STORE LOCATIONS IN THE STATE, THE MAXIMUM CASH PRICE FOR THE MERCHANT'S
21 FIRST RENTAL OF THE MERCHANDISE THAT IS THE SUBJECT OF THE RENTAL-PUR-
22 CHASE AGREEMENT MAY NOT EXCEED 1.65 TIMES THE MERCHANT'S COST FOR
23 COMPUTER SYSTEMS AND APPLIANCES, 1.7 TIMES THE MERCHANT'S COST FOR ELEC-
24 TRONIC SETS, 1.9 TIMES THE MERCHANT'S COST FOR AUTOMOTIVE ACCESSORIES,
25 FURNITURE, JEWELRY, AND MUSICAL INSTRUMENTS, AND 1.65 TIMES THE
26 MERCHANT'S COST FOR ALL OTHER ITEMS.

27 (B) FOR RENT-TO-OWN MERCHANTS THAT OPERATE LESS THAN TEN RENT-TO-OWN
28 STORE LOCATIONS IN THE STATE, THE MAXIMUM CASH PRICE FOR THE MERCHANT'S
29 FIRST RENTAL OF THE MERCHANDISE THAT IS THE SUBJECT OF THE RENTAL-PUR-
30 CHASE AGREEMENT MAY NOT EXCEED 1.85 TIMES THE MERCHANT'S COST FOR
31 COMPUTER SYSTEMS AND APPLIANCES, 1.9 TIMES THE MERCHANT'S COST FOR ELEC-
32 TRONIC SETS, 2.1 TIMES THE MERCHANT'S COST FOR AUTOMOTIVE ACCESSORIES,
33 FURNITURE, JEWELRY, AND MUSICAL INSTRUMENTS, AND 1.85 TIMES THE
34 MERCHANT'S COST FOR ALL OTHER ITEMS.

35 3. THE MAXIMUM TOTAL OF PAYMENTS MAY NOT EXCEED 2.25 TIMES THE MAXIMUM
36 CASH PRICE THAT COULD HAVE BEEN CHARGED FOR THE FIRST RENTAL OF THE
37 MERCHANDISE UNDER SUBDIVISION TWO OF THIS SECTION.

38 4. THE MAXIMUM TOTAL OF PAYMENTS FOR THE MERCHANT'S SECOND AND SUBSE-
39 QUENT RENTAL OF THE MERCHANDISE THAT IS THE SUBJECT OF THE RENTAL-PUR-
40 CHASE AGREEMENT MAY NOT EXCEED THE MAXIMUM TOTAL OF PAYMENTS PERMITTED
41 UNDER SUBDIVISION THREE OF THIS SECTION FOR THE FIRST RENTAL OF THE
42 MERCHANDISE LESS:

43 (A) FOR APPLIANCES AND ELECTRONIC SETS, ONE-THIRD THE AMOUNT OF ALL
44 RENTAL PAYMENTS PAID TO THE MERCHANT BY CONSUMERS WHO PREVIOUSLY RENTED
45 THAT MERCHANDISE; OR

46 (B) FOR FURNITURE, COMPUTER SYSTEMS, AND ALL OTHER ITEMS, ONE-HALF THE
47 AMOUNT OF ALL RENTAL PAYMENTS PAID TO THE MERCHANT BY CONSUMERS WHO
48 PREVIOUSLY RENTED THAT MERCHANDISE.

49 5. THE MAXIMUM CASH PRICE FOR MERCHANDISE ON ITS SECOND OR SUBSEQUENT
50 RENTAL MAY NOT EXCEED THE MAXIMUM TOTAL OF PAYMENTS FOR THAT MERCHANDISE
51 AS PERMITTED UNDER SUBDIVISION FOUR OF THIS SECTION DIVIDED BY 2.25.

52 6. UPON THE WRITTEN REQUEST OF THE ATTORNEY GENERAL, ANY DISTRICT
53 ATTORNEY, OR THE CHAIRPERSON AND EXECUTIVE DIRECTOR OF THE CONSUMER
54 PROTECTION BOARD, A MERCHANT SHALL PROVIDE COPIES OF THE RECORDS
55 DESCRIBED IN THIS SECTION.

1 7. IF A MERCHANT INTENTIONALLY DISCLOSES A CASH PRICE OR A TOTAL OF
2 PAYMENTS THAT EXCEEDS THE AMOUNT PERMITTED BY THIS SECTION, THE RENTAL-
3 PURCHASE AGREEMENT IS VOID, THE CONSUMER SHALL RETAIN THE MERCHANDISE
4 WITHOUT ANY OBLIGATION, AND THE MERCHANT SHALL REFUND TO THE CONSUMER
5 ALL AMOUNTS PAID.

6 S 504. EARLY PURCHASE OPTION. 1. (A) THE CONSUMER HAS THE RIGHT TO
7 ACQUIRE OWNERSHIP OF THE MERCHANDISE WITHIN THREE MONTHS OF THE DATE ON
8 WHICH THE CONSUMER EXECUTED THE RENTAL-PURCHASE AGREEMENT BY TENDERING
9 TO THE MERCHANT AN AMOUNT EQUAL TO THE CASH PRICE AND ANY PAST DUE FEES
10 LESS ALL PERIODIC PAYMENTS THAT THE CONSUMER HAS PAID.

11 (B) AT LEAST THIRTY, BUT NOT MORE THAN SIXTY DAYS BEFORE A CONSUMER'S
12 RIGHT UNDER PARAGRAPH (A) OF THIS SUBDIVISION EXPIRES, THE MERCHANT
13 SHALL PERSONALLY DELIVER OR SEND BY FIRST-CLASS MAIL TO THE CONSUMER A
14 NOTICE INFORMING THE CONSUMER OF THE RIGHT DESCRIBED IN PARAGRAPH (A) OF
15 THIS SUBDIVISION, INCLUDING THE AMOUNT THE CONSUMER MUST PAY TO ACQUIRE
16 OWNERSHIP AND THE DATE BY WHICH PAYMENT MUST BE MADE. THE STATEMENT
17 SHALL NOT BE ACCOMPANIED BY ANY OTHER WRITTEN INFORMATION INCLUDING
18 SOLICITATIONS FOR OTHER RENTAL-PURCHASE AGREEMENTS.

19 2. AFTER THE EXPIRATION OF THE THREE-MONTH PERIOD FOLLOWING THE
20 EXECUTION OF THE RENTAL-PURCHASE AGREEMENT, THE CONSUMER HAS THE RIGHT
21 TO ACQUIRE OWNERSHIP OF THE MERCHANDISE AT ANY TIME BY TENDERING TO THE
22 MERCHANT ALL PAST DUE PAYMENTS AND FEES AND AN AMOUNT EQUAL TO THE CASH
23 PRICE STATED IN THE RENTAL-PURCHASE AGREEMENT MULTIPLIED BY A FRACTION
24 THAT HAS AS ITS NUMERATOR THE NUMBER OF PERIODIC PAYMENTS REMAINING
25 UNDER THE AGREEMENT AND THAT HAS AS ITS DENOMINATOR THE TOTAL NUMBER OF
26 PERIODIC PAYMENTS.

27 3. (A) THE MERCHANT SHALL, IN CONNECTION WITH A CONSUMER'S RIGHTS
28 UNDER SUBDIVISION TWO OF THIS SECTION, PROVIDE THE CONSUMER WITH A WRIT-
29 TEN STATEMENT IN THE MANNER SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVI-
30 SION THAT CLEARLY STATES:

31 (1) THE TOTAL AMOUNT THE CONSUMER WOULD HAVE TO PAY TO ACQUIRE OWNER-
32 SHIP OF THE RENTAL MERCHANDISE IF THE CONSUMER MAKES ALL REGULARLY SCHE-
33 DULED PAYMENTS REMAINING UNDER THE RENTAL-PURCHASE AGREEMENT; AND

34 (2) THE TOTAL AMOUNT THE CONSUMER WOULD HAVE TO PAY TO ACQUIRE OWNER-
35 SHIP OF THAT MERCHANDISE PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

36 (B) THE STATEMENT REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION SHALL
37 BE PERSONALLY DELIVERED OR SENT BY FIRST-CLASS MAIL TO THE CONSUMER
38 WITHIN SEVEN DAYS AFTER:

39 (1) THE DATE THE CONSUMER REQUESTS INFORMATION ABOUT THE AMOUNT
40 REQUIRED TO PURCHASE THE RENTAL MERCHANDISE; AND

41 (2) THE DATE THE CONSUMER HAS MADE ONE-HALF OF THE TOTAL NUMBER OF
42 PERIODIC PAYMENTS REQUIRED TO ACQUIRE OWNERSHIP OF THE RENTAL MERCHAN-
43 DISE. THE STATEMENT SHALL NOT BE ACCOMPANIED BY ANY OTHER WRITTEN INFOR-
44 MATION INCLUDING SOLICITATIONS FOR OTHER RENTAL-PURCHASE AGREEMENTS.

45 S 6. The personal property law is amended by adding a new section
46 504-a to read as follows:

47 S 504-A. MAINTENANCE OF MERCHANDISE. 1. THE MERCHANT SHALL MAINTAIN
48 THE PROPERTY SUBJECT TO THE RENTAL-PURCHASE AGREEMENT IN GOOD WORKING
49 ORDER WHILE THE AGREEMENT IS IN EFFECT WITHOUT CHARGING ANY FEE TO THE
50 CONSUMER IN ADDITION TO THE REGULARLY SCHEDULED RENTAL PAYMENTS SET
51 FORTH IN THE RENTAL-PURCHASE AGREEMENT.

52 2. BY THE END OF THE SECOND BUSINESS DAY FOLLOWING THE DAY ON WHICH
53 THE MERCHANT RECEIVED NOTICE FROM THE CONSUMER THAT THE PROPERTY IS NOT
54 OPERATING PROPERLY, THE MERCHANT SHALL REPAIR OR REPLACE THE PROPERTY
55 WITHOUT ANY FEE TO THE CONSUMER IN ADDITION TO THE REGULARLY SCHEDULED
56 RENTAL PAYMENTS SET FORTH IN THE RENTAL-PURCHASE AGREEMENT.

1 3. IF A REPAIR OR REPLACEMENT CANNOT BE IMMEDIATELY EFFECTED, THE
2 MERCHANT SHALL TEMPORARILY SUBSTITUTE PROPERTY OF COMPARABLE QUALITY AND
3 CONDITION WHILE REPAIRS ARE BEING EFFECTED. IF REPAIRS CANNOT BE
4 COMPLETED TO THE REASONABLE SATISFACTION OF THE CONSUMER WITHIN THIRTY
5 DAYS AFTER THE MERCHANT RECEIVES NOTICE FROM THE CONSUMER OR WITHIN A
6 LONGER PERIOD VOLUNTARILY AGREED TO BY THE CONSUMER, THE MERCHANT SHALL
7 PERMANENTLY REPLACE THE PROPERTY.

8 4. ALL REPLACEMENT PROPERTY SHALL BE THE SAME BRAND, IF AVAILABLE, AND
9 COMPARABLE IN QUALITY, AGE, CONDITION, AND WARRANTY COVERAGE TO THE
10 REPLACED PROPERTY. IF THE SAME BRAND IS NOT AVAILABLE, THE BRAND OF THE
11 REPLACEMENT PROPERTY SHALL BE AGREEABLE TO THE CONSUMER, PROVIDED,
12 HOWEVER THAT ANY REQUEST BY THE CONSUMER SHALL NOT BE UNREASONABLE.

13 5. ALL OF THE CONSUMER'S AND MERCHANT'S RIGHTS AND OBLIGATIONS UNDER
14 THE RENTAL-PURCHASE AGREEMENT AND THIS TITLE THAT APPLIED TO THE PROPER-
15 TY ORIGINALLY SUBJECT TO THE RENTAL-PURCHASE AGREEMENT SHALL APPLY TO
16 ANY REPLACEMENT PROPERTY.

17 6. THE CONSUMER SHALL NOT BE CHARGED, OR HELD LIABLE FOR, ANY RENTAL
18 FEE FOR ANY PERIOD OF TIME DURING WHICH THE PROPERTY THAT IS THE SUBJECT
19 OF THE RENTAL-PURCHASE AGREEMENT OR ANY PROPERTY SUBSTITUTED FOR IT
20 PURSUANT TO THIS SECTION IS NOT IN GOOD WORKING ORDER.

21 7. THIS SECTION DOES NOT APPLY TO THE REPAIR OF DAMAGE RESULTING FROM
22 THE CONSUMER'S INTENTIONAL, WILLFUL, WANTON, RECKLESS, OR NEGLIGENT
23 CONDUCT. IF THE MERCHANT DOES NOT COMPLY WITH THIS SECTION BECAUSE OF
24 THIS SUBDIVISION, THE MERCHANT HAS THE BURDEN OF PROOF TO ESTABLISH THAT
25 NONCOMPLIANCE WAS JUSTIFIED AND IN GOOD FAITH.

26 8. A MERCHANT SHALL NOT DELIVER TO A CONSUMER ANY PROPERTY WHICH THE
27 MERCHANT KNOWS OR HAS REASON TO KNOW IS DEFECTIVE.

28 S 7. Subdivision 1 of section 505 of the personal property law, as
29 added by chapter 792 of the laws of 1986, is amended to read as follows:

30 1. An advertisement for a rental-purchase agreement that refers to or
31 states the amount of a payment or the right to acquire ownership of any
32 one particular item under the agreement shall clearly and conspicuously
33 state:

34 (a) that the transaction advertised is a rental-purchase agreement;

35 (b) the total number of payments and the total amount to be paid to
36 acquire ownership, which amount shall be explicitly labeled "total
37 cost"; [and]

38 (c) the circumstances under which the consumer can acquire ownership
39 rights; AND

40 (D) THAT THE MERCHANDISE OFFERED MAY BE NEW OR USED.

41 S 8. This act shall take effect on the one hundred eightieth day after
42 it shall have become a law and shall apply to all agreements entered
43 into or offered on or after such date.