S T A T E O F N E W Y O R K

557--C

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sens. ADAMS, PARKER, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- 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:

Section 1. Legislative findings and intent. The legislature finds and declares that merchants that lease personal property pursuant to rental-purchase agreements, commonly referred to as rent-to-own agreements, provide a unique transaction that is popular with many consumers. The legislature also finds that rent-to-own merchants provide credit-constrained consumers with the ability to obtain high quality goods and the flexibility to terminate agreements at any time without further obligation.

The legislature also finds that article 11 of the personal property law fails to provide rent-to-own merchants with appropriate regulatory guidance with respect to how such merchants are to set cash prices. The legislature further finds and declares that there is a need to clarify article 11 of the personal property law to ensure that rent-to-own merchants set cash prices at fair and reasonable levels.

The legislature also finds that consumers need clear and useful disclosures in order to make informed decisions regarding rent-to-own agreements.

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

LBD03472-20-0

Therefore, it is the intent of the legislature to require rent-to-own merchants to provide consumers with enhanced disclosures and to implement fair and reasonable methods 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. 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 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 COOK TOP OR OVEN, MICROWAVE OVEN, WASHER, DRYER, DISHWASHER, OR ROOM AIR CONDITIONER OR AIR PURIFIER OR OTHER MACHINE FOR ROUTINE HOUSEHOLD TASKS.

10. "ELECTRONIC SET" MEANS AND INCLUDES ANY TELEVISION, RADIO, CAMERA, VIDEO GAME, COMPUTER SYSTEM OR ANY TYPE OF DEVICE FOR THE RECORDING, STORAGE, COPYING, PRINTING, TRANSMISSION, DISPLAY, OR PLAYBACK OF ANY SOUND OR IMAGE.

11. "MERCHANT'S COST" MEANS THE DOCUMENTED ACTUAL COST, INCLUDING ACTUAL FREIGHT CHARGES, OF THE RENTAL MERCHANDISE TO THE MERCHANT FROM A WHOLESALER, DISTRIBUTOR, SUPPLIER, OR MANUFACTURER AND NET OF ANY DISCOUNTS, REBATES, AND INCENTIVES THAT ARE VESTED AND CALCULABLE AS TO A SPECIFIC ITEM OF MERCHANDISE AT THE TIME THE MERCHANT ACCEPTS DELIVERY OF THE MERCHANDISE.

12. "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.

13. "PERIODIC PAYMENT" MEANS A PAYMENT TO BE MADE BY A CONSUMER FOR THE RIGHT OF THE POSSESSION AND USE OF MERCHANDISE FOR A SPECIFIC RENTAL PERIOD, BUT DOES NOT INCLUDE TAXES IMPOSED ON SUCH PAYMENT.

S 3. Subdivisions 5, 6 and 7 of section 501 of the personal property law, as added by chapter 792 of the laws of 1986, are amended and a new subdivision 8 is added to read as follows:

5. A rental-purchase agreement must provide that:

(a) a charge in addition to periodic payments, if any, must be reasonably related to the cost of a service performed;

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

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

6. This section does not prevent a merchant from attempting to repossess merchandise during the reinstatement period[,] provided in paragraph (b) of subdivision five of this section. The consumer's right to reinstate an agreement does not expire because of such a repossession. IF THE CONSUMER IS ENTITLED TO REINSTATEMENT AFTER REPOSSESSION, THEN, WITHIN FIFTEEN DAYS OF THE REPOSSESSION, THE MERCHANT SHALL PROVIDE WRITTEN NOTICE TO THE CONSUMER OF THE CONSUMER'S RIGHT TO REINSTATE THE AGREEMENT PURSUANT TO PARAGRAPH (C) OF SUBDIVISION FIVE OF THIS SECTION. 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 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 CASH PRICE OF THE MERCHANDISE SUBJECT TO THE RENTAL PURCHASE AGREEMENT;

(6) THE COST OF RENTAL;

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

(8) 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, SUCH AS LATE PAYMENT FEES, AND THAT THE CONSUMER SHOULD READ THE RENTAL-PURCHASE AGREEMENT FOR AN EXPLANATION OF ANY APPLICABLE ADDITIONAL FEES;

(9) 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;

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

(11) 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.

(12) A STATEMENT OF THE CONSUMER'S RIGHT TO ACQUIRE OWNERSHIP AS PROVIDED IN SECTION FIVE HUNDRED FOUR OF THIS ARTICLE, INCLUDING SUBSTANTIALLY THE FOLLOWING STATEMENT: "THE ATTACHED CHART SHOWS THE AMOUNT REQUIRED TO EXERCISE YOUR EARLY PURCHASE OPTION AFTER EACH RENEWAL PAYMENT, ASSUMING YOU MAKE EACH PERIODIC PAYMENT ON TIME." THE RENTAL-PURCHASE AGREEMENT SHALL BE ACCOMPANIED BY A CHART SHOWING THE AMOUNT REQUIRED TO EXERCISE THE CONSUMER'S EARLY PURCHASE OPTION AFTER EACH PERIODIC PAYMENT IF PAYMENTS ARE MADE AS SCHEDULED;

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

(14) A DESCRIPTION OF THE CONSUMER'S RIGHT TO LOWER PERIODIC PAYMENT AMOUNTS AS PROVIDED IN SECTION FIVE HUNDRED FOUR-A OF THIS ARTICLE.

(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; AND

(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-B OF THIS ARTICLE.

(B) (1) THE DISCLOSURES REQUIRED BY SUBPARAGRAPHS THREE, FOUR, FIVE, AND SIX 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 CONSUMER'S SIGNATURE.

(C) THE DISCLOSURES REQUIRED BY SUBPARAGRAPHS THREE, FOUR, FIVE, AND SIX 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. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO PHOTOGRAPHIC DEPICTIONS OF MERCHANDISE THAT COMPLY WITH THE PROVISIONS OF SECTION FIVE HUNDRED FIVE OF THIS ARTICLE.

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

8. (A) (1) SUBJECT TO FEDERAL LAW AND REGULATION, NO RENTAL-PURCHASE AGREEMENT SHALL CONTAIN A MANDATORY ARBITRATION CLAUSE. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO PROHIBIT A MERCHANT FROM INCORPORATING A PROVISION WITHIN SUCH CONTRACT THAT SUCH MERCHANT AGREES THAT THE DECISION OF THE ARBITRATOR OR PANEL OF ARBITRATORS SHALL BE FINAL IN ITS APPLICATION TO SUCH MERCHANT AND NOT SUBJECT TO COURT REVIEW.

(2) THE PROVISIONS OF A MANDATORY ARBITRATION CLAUSE SHALL BE NULL AND VOID BUT SHALL NOT CONSTITUTE A VIOLATION OF THIS ARTICLE. THE INCLUSION OF SUCH CLAUSE IN A RENTAL-PURCHASE AGREEMENT SHALL NOT SERVE TO IMPAIR THE ENFORCEABILITY OF ANY OTHER PROVISION OF SUCH CONTRACT.

(B) FOR THE PURPOSES OF THIS SUBDIVISION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANING:

(1) "MANDATORY ARBITRATION CLAUSE" SHALL MEAN A TERM OR PROVISION CONTAINED IN A RENTAL-PURCHASE AGREEMENT WHICH REQUIRES THE CONSUMER TO SUBMIT ANY CONTROVERSY THEREAFTER ARISING UNDER SUCH AGREEMENT TO ARBITRATION PRIOR TO THE COMMENCEMENT OF ANY LEGAL ACTION TO ENFORCE THE PROVISIONS OF SUCH AGREEMENT AND WHICH ALSO FURTHER PROVIDES LANGUAGE TO THE EFFECT THAT THE DECISION OF THE ARBITRATOR OR PANEL OF ARBITRATORS IN ITS APPLICATION TO THE CONSUMER SHALL BE FINAL AND NOT SUBJECT TO COURT REVIEW.

(2) THE TERM "ARBITRATION" SHALL MEAN THE USE OF A DECISION MAKING FORUM CONDUCTED BY AN ARBITRATOR OR PANEL OF ARBITRATORS WITHIN THE MEANING AND SUBJECT TO THE PROVISIONS OF ARTICLE SEVENTY-FIVE OF THE CIVIL PRACTICE LAW AND RULES.

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:

S 502. Availability. Every rental purchase agreement shall indicate that a consumer at his or her [written] request shall be permitted to review a completed rental-purchase agreement for up to [twenty-four] FORTY-EIGHT hours prior to signing. A COPY OF THE FULLY COMPLETED RENTAL-PURCHASE AGREEMENT AND ALL OTHER DOCUMENTS WHICH THE MERCHANT

REQUESTS THE CONSUMER TO SIGN SHALL BE GIVEN TO THE CONSUMER AT THE TIME THEY ARE SIGNED. THE RENTAL-PURCHASE AGREEMENT SHALL NOT BE ENFORCEABLE AGAINST THE CONSUMER UNTIL THE CONSUMER HAS RECEIVED A SIGNED COPY. IN ADDITION TO ANY OTHER RIGHT OF CANCELLATION, A CONSUMER HAS THE RIGHT TO CANCEL A RENTAL-PURCHASE AGREEMENT, WITHOUT PENALTY OR OBLIGATION IF THE CONSUMER HAS NOT TAKEN POSSESSION OF THE PROPERTY.

S 5. Section 503 of the personal property law is REPEALED and a new section 503 is added to read as follows:

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

2. THE MAXIMUM CASH PRICE FOR THE MERCHANT'S FIRST RENTAL OF THE MERCHANDISE THAT IS THE SUBJECT OF THE RENTAL-PURCHASE AGREEMENT MAY NOT EXCEED 1.75 TIMES THE MERCHANT'S COST FOR APPLIANCES, 1.75 TIMES THE MERCHANT'S COST FOR ELECTRONIC SETS HAVING MERCHANT COST LESS THAN ONE HUNDRED FIFTY DOLLARS, 2.0 TIMES THE MERCHANT'S COSTS FOR ELECTRONIC SETS HAVING MERCHANT COST GREATER THAN OR EQUAL TO ONE HUNDRED FIFTY DOLLARS, 2.15 TIMES THE MERCHANT'S COST FOR FURNITURE, 2.0 TIMES THE MERCHANT'S COST FOR AUTOMOTIVE ACCESSORIES, JEWELRY, AND MUSICAL INSTRUMENTS, AND 1.75 TIMES THE MERCHANT'S COST FOR ALL OTHER ITEMS.

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

4. THE MAXIMUM TOTAL OF PAYMENTS FOR THE MERCHANT'S SECOND AND SUBSEQUENT RENTAL OF THE MERCHANDISE THAT IS THE SUBJECT OF THE RENTAL-PURCHASE AGREEMENT MAY NOT EXCEED THE MAXIMUM TOTAL OF PAYMENTS PERMITTED UNDER THE TERMING MATRIX CONTAINED IN SUBDIVISION FIVE OF THIS SECTION.

5. (A) THE TERMING MATRIX PROVIDED FOR IN PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE USED TO LOWER THE NUMBER OF PERIODIC PAYMENTS, WHICH SHALL RESULT IN A LOWER TOTAL OF PAYMENTS AND A LOWER MAXIMUM CASH PRICE FOR THE USED MERCHANDISE BASED ON ITS AGE AND CONDITION, OR, IN THE EVENT THAT THE MERCHANT CHOOSES TO MAINTAIN THE NUMBER OF PERIODIC PAYMENTS OF THE ORIGINAL TERM WHEN NEW, THE MERCHANT SHALL LOWER THE TOTAL OF PAYMENTS AND MAXIMUM CASH PRICE ON A PRO-RATA BASIS. THE MERCHANT SHALL KEEP IN ELECTRONIC OR HARD COPY FORM, THE MATRIX USED, TOGETHER WITH A RECORD OF THE NUMBER OF PERIODIC PAYMENTS PROVIDED IN THE FIRST AGREEMENT FOR THE ITEM WHEN IT WAS OFFERED AS NEW, AS WELL AS A RECORD OF THE ITEM'S CONDITION AS DETERMINED BY THE MERCHANT PURSUANT TO SUCH MATRIX EACH TIME IT IS PRICED AS USED. THIS REQUIREMENT SHALL BE SATISFIED BY A RECORD OF THE NUMBER OF PERIODIC PAYMENTS AND CASH PRICE FROM EACH RENTAL-PURCHASE AGREEMENT UNDER WHICH MERCHANDISE WAS RENTED. THESE RECORDS SHALL BE MAINTAINED AS LONG AS THE ITEM IS OWNED BY THE MERCHANT. NO MERCHANT SHALL PRICE USED GOODS IN EXCESS OF THE PRICES DICTATED BY THE MATRIX.

(B) THE ATTORNEY GENERAL SHALL MAKE AVAILABLE IN PRINTED FORM TO MERCHANTS AND PUBLISH ON THE WEBSITE OF THE DEPARTMENT OF LAW A TERMING MATRIX IN CHART FORM TO BE USED BY MERCHANTS AS REQUIRED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION. THE CHART SHALL HAVE AS ITS TITLE "TERMING MATRIX FOR USED MERCHANDISE". THE MATRIX CHART SHALL CONFORM TO THE EXAMPLE SET FORTH IN THIS PARAGRAPH AND SHALL CONSIST OF FIVE ROWS AND FIVE COLUMNS AND SHALL BE PRINTED IN AT LEAST TEN POINT TYPE.

TERMING MATRIX FOR USED MERCHANDISE

ORIGINAL TERM IN WEEKS WHEN NEW	34 WEEKS OR LESS	35 - 38 WEEKS	39 - 90 WEEKS	91 WEEKS OR MORE
EXCELLENT CONDITION	SUBTRACT A MINIMUM OF 1 WEEK FROM ORIGINAL TERM	SUBTRACT A MINIMUM OF 2 WEEKS FROM ORIGINAL TERM	SUBTRACT A MINIMUM OF 3 WEEKS FROM ORIGINAL TERM	SUBTRACT A MINIMUM OF 4 WEEKS FROM ORIGINAL TERM
GOOD CONDITION	SUBTRACT A MINIMUM OF 3 WEEKS FROM ORIGINAL TERM	SUBTRACT A MINIMUM OF 5 WEEKS FROM ORIGINAL TERM	SUBTRACT A MINIMUM OF 7 WEEKS FROM ORIGINAL TERM	SUBTRACT A MINIMUM OF 9 WEEKS FROM ORIGINAL TERM
FAIR CONDITION	SUBTRACT A MINIMUM OF 4 WEEKS FROM ORIGINAL TERM	SUBTRACT A MINIMUM OF 7 WEEKS FROM ORIGINAL TERM	SUBTRACT A MINIMUM OF 10 WEEKS FROM ORIGINAL TERM	SUBTRACT A MINIMUM OF 13 WEEKS FROM ORIGINAL TERM
POOR CONDITION	SUBTRACT A MINIMUM OF 6 WEEKS FROM ORIGINAL TERM OR CASH SALE	SUBTRACT A MINIMUM OF 10 WEEKS FROM ORIGINAL TERM OR CASH SALE	SUBTRACT A MINIMUM OF 15 WEEKS FROM ORIGINAL TERM OR CASH SALE	SUBTRACT A MINIMUM OF 20 WEEKS FROM ORIGINAL TERM OR CASH SALE

(C) IMMEDIATELY BELOW THE TERMING MATRIX, THE FOLLOWING LANGUAGE SHALL BE PRINTED IN TEN POINT TYPE.

NEW = FULL TERM

EXCELLENT = IN GREAT SHAPE. REFURBISHED TO LOOK LIKE NEW.

GOOD = IN GOOD WORKING ORDER. REFURBISHED, BUT IMPERFECTIONS STILL EXIST.

FAIR = COMPLETELY OPERATIONAL, BUT REFURBISHMENT HAS NOT CONCEALED OBVIOUS WEAR AND TEAR.

POOR = RIPPED, FADED, CRACKED OR BROKEN AND REFURBISHMENT DID NOT CHANGE IT.

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

7. UPON THE WRITTEN REQUEST OF THE ATTORNEY GENERAL A MERCHANT SHALL PROVIDE COPIES OF THE RECORDS DESCRIBED IN THIS SECTION.

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

S 6. Section 504 of the personal property law is REPEALED and a new section 504 is added to read as follows:

S 504. EARLY PURCHASE OPTION. 1. THE CONSUMER HAS THE RIGHT TO ACQUIRE OWNERSHIP OF THE MERCHANDISE AT ANY TIME BY TENDERING TO THE

MERCHANT ALL PAST DUE PAYMENTS AND FEES AND AN AMOUNT EQUAL TO THE CASH PRICE STATED IN THE RENTAL-PURCHASE AGREEMENT MULTIPLIED BY A FRACTION THAT HAS AS ITS NUMERATOR THE NUMBER OF PERIODIC PAYMENTS REMAINING UNDER THE AGREEMENT AND THAT HAS AS ITS DENOMINATOR THE TOTAL NUMBER OF PERIODIC PAYMENTS. A CONSUMER MUST AFFIRMATIVELY ELECT TO EXERCISE AN EARLY PURCHASE OPTION. IN NO EVENT SHALL THE CONSUMER'S EARLY PURCHASE OPTION BE LESS THAN THE AMOUNT OF ONE PERIODIC PAYMENT.

2. IN A CLEAR AND CONSPICUOUS MANNER ON THE CONSUMER'S RECEIPT FOR EVERY PERIODIC PAYMENT, THE MERCHANT SHALL, IN CONNECTION WITH A CONSUMER'S RIGHTS UNDER THIS SECTION, PROVIDE THE CONSUMER WITH A WRITTEN STATEMENT OF:

(A) THE TOTAL AMOUNT THE CONSUMER WOULD HAVE TO PAY TO ACQUIRE OWNERSHIP OF THE RENTAL MERCHANDISE IF THE CONSUMER MAKES ALL REGULARLY SCHEDULED PAYMENTS REMAINING UNDER THE RENTAL-PURCHASE AGREEMENT; AND

(B) THE TOTAL AMOUNT THE CONSUMER WOULD HAVE TO PAY TO ACQUIRE OWNERSHIP OF THAT MERCHANDISE PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

S 7. The personal property law is amended by adding a new section 504-a to read as follows:

S 504-A. INTERRUPTION OR REDUCTION OF INCOME IN CERTAIN INSTANCES. 1. IF ANY CONSUMER WHO HAS SIGNED A RENTAL-PURCHASE AGREEMENT EXPERIENCES AN INTERRUPTION OR REDUCTION OF TWENTY-FIVE PERCENT OR MORE OF INCOME DUE TO INVOLUNTARY JOB LOSS, INVOLUNTARY REDUCED EMPLOYMENT, ILLNESS, PREGNANCY OR DISABILITY AFTER ONE-HALF OR MORE OF THE TOTAL AMOUNT OF THE RENTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP UNDER THE AGREEMENT HAS BEEN PAID, AND SUCH CONSUMER PROVIDES TO THE MERCHANT SOME EVIDENCE OF THE AMOUNT AND CAUSE OF THE INTERRUPTION OR REDUCTION OF INCOME, THE MERCHANT SHALL REDUCE THE AMOUNT OF EACH RENTAL PAYMENT BY (A) THE PERCENTAGE OF THE REDUCTION IN THE CONSUMER'S INCOME OR (B) FIFTY PERCENT, WHICHEVER IS LESS, FOR THE PERIOD DURING WHICH THE CONSUMER'S INCOME IS INTERRUPTED OR REDUCED.

2. IF PAYMENTS ARE REDUCED, THE TOTAL DOLLAR AMOUNT OF PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP SHALL NOT BE INCREASED, PROVIDED, HOWEVER, THAT THE NUMBER OF PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP MAY BE INCREASED ACCORDINGLY AND THE RIGHTS AND DUTIES OF THE MERCHANT AND THE CONSUMER SHALL NOT OTHERWISE BE AFFECTED.

3. WHEN THE CONSUMER'S INCOME IS RESTORED, THE MERCHANT MAY INCREASE THE AMOUNT OF RENTAL PAYMENTS, BUT IN NO EVENT SHALL RENTAL PAYMENTS EXCEED THE ORIGINALLY DISCLOSED AMOUNT OF RENTAL PAYMENTS.

S 8. The personal property law is amended by adding a new section 504-b to read as follows:

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

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

3. IF A REPAIR OR REPLACEMENT CANNOT BE IMMEDIATELY EFFECTED, THE MERCHANT SHALL TEMPORARILY SUBSTITUTE PROPERTY OF COMPARABLE QUALITY AND CONDITION WHILE REPAIRS ARE BEING EFFECTED. IF REPAIRS CANNOT BE COMPLETED TO THE REASONABLE SATISFACTION OF THE CONSUMER WITHIN THIRTY DAYS AFTER THE MERCHANT RECEIVES NOTICE FROM THE CONSUMER OR WITHIN A

LONGER PERIOD VOLUNTARILY AGREED TO BY THE CONSUMER, THE MERCHANT SHALL PERMANENTLY REPLACE THE PROPERTY.

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

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

6. THE CONSUMER SHALL NOT BE CHARGED, OR HELD LIABLE FOR, ANY PRO RATA PORTION OF A PERIODIC PAYMENT FOR ANY PERIOD OF TIME GREATER THAN ONE FULL DAY AND EACH FULL DAY THEREAFTER DURING WHICH THE PROPERTY THAT IS THE SUBJECT OF THE RENTAL-PURCHASE AGREEMENT OR ANY PROPERTY SUBSTITUTED FOR IT PURSUANT TO THIS SECTION IS NOT IN GOOD WORKING ORDER.

7. THIS SECTION SHALL NOT APPLY TO REPAIRS OR DAMAGE FOR WHICH THE CONSUMER IS LIABLE UNDER THE RENTAL-PURCHASE AGREEMENT AS PERMITTED BY THIS ARTICLE.

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

S 9. Subdivision 1 of section 505 of the personal property law, as added by chapter 792 of the laws of 1986, is amended to read as follows:

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

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

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

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

(D) WHETHER THE ADVERTISED TERMS ARE FOR NEW OR USED MERCHANDISE.

S 10. The personal property law is amended by adding a new section 508 to read as follows:

S 508. ADMINISTRATION BY THE ATTORNEY GENERAL. THE ATTORNEY GENERAL MAY MAKE RULES AND REGULATIONS NECESSARY FOR THE ADMINISTRATION OF THIS ARTICLE; PROVIDED, HOWEVER, THAT SUCH RULES AND REGULATIONS SHALL NOT ATTEMPT TO REGULATE OR CHARACTERIZE RENTAL-PURCHASE AGREEMENTS AS A SECURITY INTEREST, CREDIT SALE, RETAIL INSTALLMENT SALE, CONDITIONAL SALE OR ANY OTHER FORM OF CONSUMER CREDIT THAT IMPUTES TO A RENTAL-PURCHASE AGREEMENT THE CREATION OF A DEBT OR EXTENSION OF CREDIT, NOR SHALL SUCH RULES AND REGULATIONS REQUIRE THE DISCLOSURE OF A PERCENTAGE RATE CALCULATION, INCLUDING A TIME-PRICE DIFFERENTIAL, AN ANNUAL PERCENTAGE RATE, OR AN EFFECTIVE ANNUAL PERCENTAGE RATE.

S 11. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to all agreements entered into or offered on or after such date.