

STATE OF NEW YORK

6559--A

2023-2024 Regular Sessions

IN ASSEMBLY

April 19, 2023

Introduced by M. of A. FALL -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to business protection for point-of-sale equipment leases

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new article
2 42 to read as follows:

ARTICLE 42

CREDIT CARD TERMINAL LEASES

3 Section 1100. Solicitation; material misrepresentation.

4 1101. Credit card terminal; lease provisions.

5 1102. Violations.

6 § 1100. Solicitation; material misrepresentation. 1. As used in this
7 article, "credit card terminal" means physical equipment used at the
8 point of sale to accept payment by a payment card, including a credit
9 card, debit card, EBT card, prepaid card, or gift card.

10 2. A person who solicits a finance lease for the use of a credit card
11 terminal shall accurately disclose, orally and prior to the presentation
12 of a specific offer for a finance lease:

13 (a) the nature and scope of his or her relationship to the person or
14 persons who own, lease, service, and finance the credit card terminal
15 and to the person or persons, if known, who provide services related to
16 the credit card terminal, including whether he or she is an employee,
17 independent contractor, or agent of one or more of those persons; and

18 (b) whether the person who solicits the finance lease has the authori-
19 ty to negotiate terms of a finance lease with a prospective lessee.
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21

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

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1 3. The written disclosure should be in no less than twelve point font.
2 The disclosure should be written in the primary language used to commu-
3 nicate with the prospective lessee and worded in the same or similar
4 language used by the person soliciting the finance lease.

5 § 1101. Credit card terminal; lease provisions. The following
6 provisions apply to a finance lease for the use of a credit card termi-
7 nal:

8 1. The finance lease shall be written in no less than twelve point
9 font, in the primary language used to communicate with the lessee and
10 shall be worded in the same or similar language used by the person
11 soliciting the finance lease.

12 2. The finance lease shall specify: (a) the terms; (b) the total
13 price; (c) the total monthly payment due, including any recurring month-
14 ly fees or charges; (d) any other penalties, charges, or fees and the
15 conditions under which they may be incurred; (e) the make and model of
16 the credit card terminal being leased; (f) whether the lessee has the
17 option to purchase the credit card terminal, and if so, the purchase
18 price and terms; and (g) if the lessor does not offer the option to
19 purchase the credit card terminal, a disclaimer that the lessee may be
20 able to purchase the same or a similar credit card terminal from another
21 source.

22 3. (a) If the lessor of a credit card terminal or an affiliated busi-
23 ness also provides payment processing services for the terminal, includ-
24 ing credit card processing services, the delivery of such processing
25 services shall be the subject of a service agreement between the service
26 provider and the business that is separate from the finance lease.

27 (b) If the lessor or its affiliated business offers a discount for
28 bundling the credit card terminal finance lease with the delivery of
29 payment processing services, the lessor shall state that information in
30 the finance lease.

31 4. The finance lease shall clearly and conspicuously identify the
32 lessor of the credit card terminal and the name, mailing address, tele-
33 phone number, e-mail address or website, and relationship to the lessor
34 of:

35 (a) the person to whom the lessee is required to make payments for the
36 credit card terminal;

37 (b) the person to whom the lessee should contact with questions or
38 problems concerning the credit card terminal; and

39 (c) the person to whom the lessee should deliver the credit card
40 terminal for return or repair.

41 5. If at any time the contact information provided to the lessee
42 changes, a notification of such change shall be provided to the lessee
43 within five business days.

44 6. (a) A lessor shall provide a copy of the executed finance lease to
45 the lessee and shall retain a written or electronic copy of such finance
46 lease and proof of delivery of the executed lease for not less than four
47 years after the lease terminates.

48 (b) A lessee shall have the right to cancel a finance lease not later
49 than three days after the lessor provides a copy of the executed finance
50 lease to the lessee.

51 (c) If the lessee exercises his or her right to cancel: (i) the lessor
52 may retain any payments made by the lessee after the lessor delivered a
53 copy of the executed finance lease; and (ii) the lessor may impose a
54 reasonable cancellation fee, not to exceed the total monthly payment
55 amount specified in paragraph (c) of subdivision two of this section. A

1 lessee is not required to pay a cancellation fee if there is evidence of
2 fraud or illegality.

3 7. (a) If the judicial forum chosen by the parties to the lease is a
4 forum that would not otherwise have jurisdiction over the lessee, the
5 choice is not enforceable.

6 (b) A lessor shall not collect any charge or fee for business personal
7 property tax on the credit card terminal unless the tax is actually
8 imposed.

9 § 1102. Violations. Any person, firm, corporation or association or
10 agent or employee thereof who violates this article shall be liable for
11 a civil penalty of five thousand dollars for each violation. The attor-
12 ney general or the district attorney of any county may bring an action
13 in the name of the people of the state to restrain or prevent any
14 violation of this article or any continuance of any such violation.

15 § 2. The attorney general is authorized to promulgate any rule or
16 regulation necessary for the implementation of this act.

17 § 3. This act shall take effect immediately.