

S.73

An act relating to State regulation of rent-to-own agreements for merchandise

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 9 V.S.A. § 41b is amended to read:

§ 41b. RENT-TO-OWN AGREEMENTS; DISCLOSURE OF TERMS

~~(a) The attorney general shall adopt by rule standards for the full and conspicuous disclosure to consumers of the terms of rent to own agreements. For purposes of this section a rent to own agreement means an agreement for the use of merchandise by a consumer for 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 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 a security interest as defined in section 1-201(37) of Title 9A.~~

~~(b) The attorney general, or an aggrieved person, may enforce a violation of the rules adopted pursuant to this section as an unfair or deceptive act or practice in commerce under section 2453 of this title.~~

(a) Definitions. In this section:

(1) “Advertisement” means a commercial message that solicits a consumer to enter into a rent-to-own agreement for a specific item of merchandise that is conveyed:

(A) at a merchant’s place of business;

(B) on a merchant’s website;

(C) on television or radio.

(2) “Cash price” means the price of merchandise available under a rent-to-own agreement that the consumer may pay in cash to the merchant at the inception of the agreement to acquire ownership of the merchandise.

(3) “Clear and conspicuous” means that the statement or term being disclosed is of such size, color, contrast, or audibility, as applicable, so that the nature, content, and significance of the statement or term is reasonably apparent to the person to whom it is disclosed.

(4) “Consumer” has the same meaning as in subsection 2451a(a) of this title.

(5) “Merchandise” means an item of a merchant’s property that is available for use under a rent-to-own agreement. The term does not include:

(A) real property;

(B) a mobile home, as defined in section 2601 of this title;

(C) a motor vehicle, as defined in 23 V.S.A. § 4;

(D) an assistive device, as defined in section 41c of this title; or

(E) a musical instrument intended to be used primarily in an elementary or secondary school.

(6) “Merchant” means a person who offers, or contracts for, the use of merchandise under a rent-to-own agreement.

(7) “Merchant’s cost” means the documented actual cost, including actual freight charges, of 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.

(8)(A) “Rent-to-own agreement” means a contract under which a consumer agrees to pay a merchant for the right to use merchandise until:

(i) the consumer returns the merchandise to the merchant;

(ii) the merchant retakes possession of the merchandise; or

(iii) the consumer pays the total cost and acquires ownership of

the merchandise.

(B) A “rent-to-own agreement” as defined in subdivision (7)(A) of this subsection is not:

(i) a sale subject to 9A V.S.A. Article 2;

(ii) a lease subject to 9A V.S.A. Article 2A;

(iii) a security interest as defined in section 9A V.S.A.

§ 1-201(a)(35); or

(iv) a retail installment contract or retail charge agreement as defined in chapter 61 of this title.

(9) "Rent-to-own charge" means the difference between the total cost and the cash price of an item of merchandise.

(10) "Total cost" means the sum of all payments, charges, fees, and taxes that a consumer must pay to acquire ownership of merchandise under a rent-to-own agreement. The term does not include charges for optional services or charges due only upon the occurrence of a contingency specified in the agreement.

(b) General requirements.

(1) Prior to execution, a merchant shall give a consumer the opportunity to review a written copy of a rent-to-own agreement that includes all of the information required by this section for each item of merchandise covered by the agreement and shall not refuse a consumer's reasonable request to review the agreement with a third party, either inside the merchant's place of business or at another location.

(2) A disclosure required by this section shall be clear and conspicuous.

(3) In an advertisement or rent-to-own agreement, a merchant shall state a numerical amount or percentage as a figure and shall print or legibly handwrite the figure in the equivalent of 12-point type or greater.

(4) A merchant may supply information not required by this section with the disclosures required by this section, but shall not state or place additional information in such a way as to cause the required disclosures to be misleading or confusing, or to contradict, obscure, or detract attention from the required disclosures.

(5) A merchant shall preserve an advertisement, or a digital copy of the advertisement, for not less than two years after the date the advertisement appeared. In the case of a radio, television, or Internet advertisement, a merchant may preserve a copy of the script or storyboard.

(6) A merchant shall make merchandise available to all consumers on the terms and conditions that appear in the advertisement.

(7) A rent-to-own agreement that is substantially modified, including a change that increases the consumer's payments or other obligations or diminishes the consumer's rights, shall be considered a new agreement subject to the requirements of this chapter.

(8) For each item of merchandise available under a rent-to-own agreement, a merchant shall keep an electronic or hard copy for a period of six years following the date the merchant ceases to own the merchandise:

(A) each rent-to-own agreement covering the item; and

(B) a record that establishes the merchant's cost for the item.

(9) A rent-to-own agreement executed by a merchant doing business in Vermont and a resident of Vermont shall be governed by Vermont law.

(10) If a rent-to-own agreement includes a provision requiring mediation or arbitration in the event of a dispute, the mediation or arbitration shall occur within Vermont.

(c) Cash price; total cost; maximum limits.

(1) The maximum cash price for an item of merchandise shall not exceed:

(A) for an appliance, 1.75 times the merchant's cost;

(B) for an item of electronics that has a merchant's cost of less than \$150.00, 1.75 times the merchant's cost;

(C) for an item of electronics that has a merchant's cost of \$150.00 or more, 2.00 times the merchant's cost;

(D) for an item of furniture or jewelry, 2.50 times the merchant's cost; and

(E) for any other item, 2.00 times the merchant's cost.

(2) The total cost for an item of merchandise shall not exceed two times the maximum cash price for the item.

(d) Disclosures in advertising. An advertisement shall state:

(1) the cash price of the item;

(2) that the merchandise is available under a rent-to-own agreement;

(3) the amount, frequency, and total number of payments required for ownership;

(4) the total cost for the item;

(5) the rent-to-own charge for the item; and

(6) that the consumer will not own the merchandise until the consumer pays the total cost for ownership.

(e) Disclosures on site. In addition to the information required in subsection (d) of this section, an advertisement at a merchant's place of business shall include:

(1) whether the item is new or used;

(2) when the merchant acquired the item; and

(3) the number of times a consumer has taken possession of the item under a rent-to-own agreement.

(f) Disclosures in rent-to-own agreement.

(1) The first page of a rent-to-own agreement shall include:

(A) a heading in bold-face type that reads: "IMPORTANT

INFORMATION ABOUT THIS RENT-TO-OWN AGREEMENT.

Do Not Sign this Agreement Before You Read It or If It Contains any Blank Spaces"; and

(B) the following information in the following order:

(i) the name, address, and contact information of the merchant;

(ii) the name, address, and contact information of the consumer;

(iii) the date of the transaction;

(iv) a description of the merchandise sufficient to identify the merchandise to the consumer and the merchant, including any applicable model and identification numbers;

(v) a statement whether the merchandise is new or used, and in the case of used merchandise, a description of the condition of, and any damage to, the merchandise.

(2) A rent-to-own agreement shall include the following cost disclosures, printed and grouped as indicated below, immediately preceding the signature lines:

(1) Cash Price: _____ \$ _____

(2) Payments required to become owner:

\$ _____ / (weekly)(biweekly)(monthly) × (# of payments) = \$ _____

(3) Mandatory charges, fees, and taxes required to become owner (itemize):

_____ \$ _____

_____ \$ _____

_____ \$ _____

Total required taxes, fees, and charges: _____ \$ _____

(4) Total cost: _____ (2) + (3) = \$ _____

(5) Rent-to-Own Charge: _____ (4) - (1) = \$ _____

(g) Required provisions of rent-to-own agreement. A rent-to-own agreement shall provide:

(1) a statement of payment due dates;

(2) a line-item list of any other charges or fees the consumer could be charged or have the option of paying in the course of acquiring ownership or during or after the term of the agreement;

(3) that the consumer will not own the merchandise until he or she makes all of the required payments for ownership;

(4) that the consumer has the right to receive a receipt for a payment and, upon reasonable notice, a written statement of account;

(5) who is responsible for service, maintenance, and repair of an item of merchandise;

(6) that, except in the case of the consumer's negligence or abuse, if the merchant must retake possession of the merchandise for maintenance, repair, or service, or the item cannot be repaired, the merchant is responsible for providing the consumer with a replacement item of equal quality and comparable design;

(7) the maximum amount of the consumer's liability for damage or loss to the merchandise in the case of the consumer's negligence or abuse;

(8) a description of a manufacturer's warranty or other warranty on the merchandise, which may be in a separate document furnished to the consumer;

(9) a description of any insurance required of the consumer, or a statement that the consumer is not required to purchase insurance and a description of any insurance purchased by the consumer;

(10) an explanation of the consumer's options to purchase the merchandise;

(11) an explanation of the merchant's right to repossess the merchandise; and

(12) an explanation of the parties' respective rights to terminate the agreement, and to reinstate the agreement.

(h) Prohibited provisions of rent-to-own agreement. A rent-to-own agreement shall not contain a provision:

(1) requiring a confession of judgment;

(2) requiring a garnishment of wages;

(3) authorizing a merchant or its agent to enter unlawfully upon the consumer's premises or to commit any breach of the peace in the repossession of property;

(4) requiring the consumer to waive any defense, counterclaim, or right of action against the merchant or its agent in collection of payment under the agreement or in the repossession of property; or

(5) requiring the consumer to purchase insurance from the merchant to cover the property.

(i) Option to purchase. Notwithstanding any other provision of this section, at any time after the first payment a consumer who is not in violation of a rent-to-own agreement may acquire ownership of the merchandise covered by the agreement by paying an amount equal to the cash price of the merchandise minus 50 percent of the value of the consumer's previous payments.

(j) Collections; repossession of merchandise; prohibited acts. When attempting to collect a debt or enforce an obligation under a rent-to-own agreement, a merchant shall not:

(1) call or visit a consumer's workplace after a request by the consumer or his or her employer not to do so;

(2) use profanity or any language to abuse, ridicule, or degrade a consumer;

(3) repeatedly call, leave messages, knock on doors, or ring doorbells;

(4) ask someone, other than a spouse, to make a payment on behalf of a consumer;

(5) obtain payment through a consumer's bank, credit card, or other account without authorization;

(6) speak with a consumer more than six times per week to discuss an overdue account;

(7) engage in violence;

(8) trespass;

(9) call or visit a consumer at home or work after receiving legal notice that the consumer has filed for bankruptcy;

(10) impersonate others;

(11) discuss a consumer's account with anyone other than a spouse of the consumer;

(12) threaten unwarranted legal action; or

(13) leave a recorded message for a consumer that includes anything other than the caller's name, contact information, and a courteous request that the consumer return the call.

(k) Reinstatement of agreement.

(1) A consumer who fails to make a timely payment may reinstate a rent-to-own agreement without losing any rights or options that exist under the agreement by paying all past-due charges, the reasonable costs of pickup, redelivery, and any refurbishing, and any applicable late fee:

(A) within five business days of the renewal date of the agreement if the consumer pays monthly; or

(B) within three business days of the renewal date of the agreement if the consumer pays more frequently than monthly.

(2) If a consumer promptly returns or voluntarily surrenders merchandise upon a merchant's request, the consumer may reinstate a rent-to-own agreement during a period of not less than 180 days after the date the merchant retakes possession of the merchandise.

(3) In the case of a rent-to-own agreement that is reinstated pursuant to this subsection, the merchant is not required to provide the consumer with the identical item of merchandise and may provide the consumer with a replacement item of equal quality and comparable design.

(l) Reasonable charges and fees. Any charge or fee assessed under a rent-to-own agreement shall be reasonably related to the actual cost to the merchant of the service or hardship for which it is charged.

(m) Prohibition on rent-to-own businesses and licensed lenders. A person engaged in the business of selling merchandise under a rent-to-own agreement subject to this section shall not engage in any conduct or business at the same physical location that would require a license under 8 V.S.A. chapter 73 (licensed lenders).

(n) Enforcement; remedies; damages. A person who violates this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2015.