

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2803

To amend the Consumer Credit Protection Act to improve disclosures made to consumers who enter into rental-purchase transactions, to set standards for collection practices, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1993

Mr. LARocco introduced the following bill; which was referred to the  
Committee on Banking, Finance and Urban Affairs

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## A BILL

To amend the Consumer Credit Protection Act to improve disclosures made to consumers who enter into rental-purchase transactions, to set standards for collection practices, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Rental-Purchase Re-  
5        form Act of 1993”.

1 **SEC. 2. REQUIREMENTS FOR RENTAL-PURCHASE TRANS-**  
2 **ACTIONS.**

3 The Consumer Credit Protection Act (15 U.S.C.  
4 1601 et seq.) is amended by adding at the end the follow-  
5 ing new title:

6 **“TITLE X—RENTAL-PURCHASE**  
7 **TRANSACTIONS**

8 **“§ 1001. Short title**

9 “This title may be cited as the ‘Rental-Purchase Re-  
10 form Act of 1993’.

11 **“§ 1002. Findings and purposes**

12 “(a) The Congress finds that a significant number  
13 of consumers engage in rental-purchase transactions.  
14 These transactions have taken place, in many instances,  
15 without provision of adequate disclosures and other pro-  
16 tections to consumers.

17 “(b) The purposes of this title are the following:

18 “(1) To assure meaningful disclosure of the  
19 terms of rental-purchase agreements, including dis-  
20 closure of all costs to consumers under those agree-  
21 ments.

22 “(2) To regulate the collection practices of rent-  
23 al-purchase merchants.

24 “(3) To provide certain substantive rights to  
25 consumers under rental purchase agreements.

1 **“§ 1002. Definitions**

2 “(a) For purposes of this title:

3 “(1) The term ‘advertisement’ means a com-  
4 mercial message in any medium intended to aid, pro-  
5 mote, or assist, directly or indirectly, a rental-pur-  
6 chase agreement.

7 “(2) The term ‘agricultural purpose’ includes—

8 “(A) the production, harvest, exhibition,  
9 marketing, transportation, processing, or manu-  
10 facture of agricultural products by a natural  
11 person who cultivates plants or propagates or  
12 nurtures agricultural products; and

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

17 “(3) The term ‘Board’ means the Board of  
18 Governors of the Federal Reserve System.

19 “(4) The term ‘consumer’ means an individual  
20 that, as a party to a rental-purchase agreement, is  
21 provided use of personal property.

22 “(5) The term ‘date of consummation’ means  
23 the date on which a consumer becomes contractually  
24 obligated under a rental-purchase agreement.

25 “(6) The term ‘merchant’ means a person who  
26 provides the use of property through a rental-pur-

1 chase agreement and to whom a consumer's initial  
2 obligation under the agreement is payable.

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

7 “(8) The term ‘rental-purchase agreement’—

8 “(A) means an agreement between a  
9 consumer and a merchant—

10 “(i) under which the merchant agrees  
11 to provide to the consumer the use of per-  
12 sonal property for an initial period of 4  
13 months or less,

14 “(ii) that is automatically renewable  
15 with each payment by the consumer, and

16 “(iii) that permits but does not obli-  
17 gate the consumer to become the owner of  
18 the property; and

19 “(B) does not include any credit sale (as  
20 that term is defined in section 103(g)).

21 “(9) The term ‘State’ means any State, the  
22 District of Columbia, the Commonwealth of Puerto  
23 Rico, and any territory or possession of the United  
24 States.

1       “(b) REFERENCES TO REGULATIONS.—Any ref-  
2       erence to any provision of this title shall be considered  
3       to include reference to the regulations prescribed by the  
4       Board under this title.

5       **“§ 1004. Exempted transactions**

6       “‘This title does not apply to rental-purchase agree-  
7       ments primarily for business, commercial, or agricultural  
8       purposes, or those made with government agencies or in-  
9       strumentalities or with organizations.

10      **“§ 1005. General disclosure requirements**

11      “(a) The merchant under a rental-purchase agree-  
12      ment shall disclose to the consumer under the agreement  
13      the information required by this title. In a transaction in-  
14      volving more than 1 merchant, only 1 merchant is required  
15      to make the disclosures.

16      “(b) The disclosures required under this title shall  
17      be made—

18              “(1) at or before the date of consummation of  
19              the rental-purchase agreement;

20              “(2) clearly and conspicuously in writing, in a  
21              form that the consumer may keep; and

22              “(3) in the case of disclosures required under  
23              section 1006, segregated from all other terms, data,  
24              or information provided to the consumer.

1       “(c) If a disclosure required to be made by a mer-  
2 chant under this title becomes inaccurate as the result of  
3 any act, occurrence, or agreement occurring after delivery  
4 of the required disclosure, the resulting inaccuracy is not  
5 a violation of this title.

6       **“§ 1006. Rental-purchase disclosures**

7       “For each rental-purchase agreement, the merchant  
8 shall disclose to the consumer under the agreement the  
9 following, as applicable:

10           “(1) The amount of the initial rental payment,  
11 including any fees, taxes, or other charges which  
12 may be required at or before the date of consumma-  
13 tion of the agreement.

14           “(2) The amount and timing of rental renewal  
15 payments.

16           “(3) The total number and the total dollar  
17 amount of rental payments and other charges nec-  
18 essary to acquire ownership of the property.

19           “(4) A statement that the consumer will not  
20 own the property until the consumer has made the  
21 total dollar amount necessary to acquire ownership.

22           “(5) A statement that the total dollar amount  
23 of payments does not include other charges, such as  
24 late payment or reinstatement fees, and that the  
25 consumer should examine the rental-purchase agree-

1       ment for an explanation of these charges, if applica-  
2       ble.

3               “(6) A statement that the consumer may be re-  
4       sponsible for the fair market value of the property  
5       if it is lost, stolen, damaged, or destroyed.

6               “(7) A statement indicating whether the prop-  
7       erty is new or used, except that a statement that in-  
8       dicates that new property is used property is not a  
9       violation of this title.

10              “(8) A statement of—

11                      “(A) the manufacturer’s suggested retail  
12              price, where applicable, or

13                      “(B) the price for which the property is  
14              available from the merchant in a cash sale.

15              “(9) A clear statement of the terms of the con-  
16       sumer’s option to purchase.

17              “(10) A statement—

18                      “(A) identifying the party that is respon-  
19              sible for maintaining or servicing the property  
20              while it is being rented;

21                      “(B) describing that responsibility; and

22                      “(C) disclosing that if any part of a manu-  
23              facturer’s express warranty covers the property  
24              at the time the consumer acquires ownership of  
25              the property, the warranty will be transferred

1 to the consumer if allowed by the terms of the  
2 warranty.

3 “(11) The date of consummation of the trans-  
4 action and the identities of the merchant and  
5 consumer.

6 **“§ 1007. Point-of-sale disclosures**

7 “Each item of property displayed or offered pursuant  
8 to a rental-purchase agreement shall have affixed to it a  
9 point-of-sale card, tag, or label that clearly and conspicu-  
10 ously discloses only the following:

11 “(1) Whether the property is new or used.

12 “(2) The price of the property in a cash sale.

13 “(3) The amount of each rental payment under  
14 the agreement.

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

18 “(5) The total dollar amount of rental pay-  
19 ments necessary to acquire ownership of the prop-  
20 erty under the agreement.

21 **“§ 1008. Prohibited practices**

22 “(a) A rental-purchase agreement may not contain—

23 “(1) a confession of judgment;

24 “(2) a negotiable instrument;

1           “(3) a security interest or any other claim of a  
2           property interest in any goods except those goods  
3           the use of which is provided by the merchant pursu-  
4           ant to the agreement;

5           “(4) a wage assignment; or

6           “(5) a waiver by the consumer of a claim or de-  
7           fense.

8           “(b) Each rental-purchase agreement shall—

9           “(1) provide a statement of any obligation of  
10          the consumer and the merchant under the agree-  
11          ment to repair any defect or malfunction of the  
12          property covered by the agreement, and any limita-  
13          tion of those obligations;

14          “(2) provide that the consumer may terminate  
15          the agreement without penalty by voluntarily surren-  
16          dering or returning the property covered by the  
17          agreement upon expiration of any rental term; and

18          “(3) contain a provision for reinstatement of  
19          the agreement, which at a minimum—

20                  “(A) permits a consumer who fails to make  
21                  a timely rental renewal payment to reinstate  
22                  the agreement, without losing any rights or op-  
23                  tions which exist under the agreement, by the  
24                  payment of all past due rental charges and any  
25                  late fee, within 7 days after the renewal date;

1           “(B) if the consumer returns or voluntarily  
2 surrenders the property covered by the agree-  
3 ment, other than through judicial process, dur-  
4 ing the applicable reinstatement period set forth  
5 in subparagraph (A), permits the consumer to  
6 reinstate the agreement during a period of at  
7 least 30 days after the date of the return or  
8 surrender of the property by the payment of all  
9 past due rental charges, and any applicable re-  
10 delivery, repair, or late fees; and

11           “(C) if the consumer has paid 60 percent  
12 or more of the total dollar amount of payments  
13 necessary to acquire ownership of the property  
14 under the agreement and returns or voluntarily  
15 surrenders the property, other than through ju-  
16 dicial process, during the applicable reinstate-  
17 ment period set forth in subparagraph (A), per-  
18 mits the consumer to reinstate the agreement  
19 during a period of at least 90 days after the  
20 date of the return of the property by the pay-  
21 ment of all past due rental charges, and any  
22 applicable redelivery, repair, or late fees.

23           “(c) Subsection (b) shall not be construed to prevent  
24 a merchant from attempting to repossess property during  
25 the reinstatement period, but such a repossession does not

1 affect the consumer's right to reinstate. Upon reinstatement,  
2 ment, the merchant shall provide the consumer with the  
3 same property, or substitute property of comparable quality  
4 and condition.

5 **“§ 1009. Collection practices**

6 “(a) A merchant under a rental-purchase agreement,  
7 in communicating with any person other than the  
8 consumer for the purpose of acquiring information as to  
9 the location of a consumer—

10 “(1) shall identify himself or herself and state  
11 that he or she is confirming or correcting location  
12 information concerning the consumer;

13 “(2) shall not communicate with any person  
14 more than once, unless—

15 “(A) requested to do so by the person, or

16 “(B) the merchant reasonably believes that  
17 the earlier response is erroneous or incomplete  
18 and that the person now has correct or complete  
19 location information;

20 “(3) shall not communicate by postcard;

21 “(4) shall not use any language or symbol on  
22 any envelope or in the contents of any communication  
23 which indicates that the communication relates  
24 to the recovery or repossession of property; and

1           “(5) shall not communicate with any person  
2           other than the consumer’s attorney, after the mer-  
3           chant knows the consumer is represented by an at-  
4           torney with regard to the rental-purchase agreement  
5           and has knowledge of, or can readily ascertain, the  
6           attorney’s name and address, unless the attorney  
7           fails to respond within a reasonable period of time  
8           to communication from the merchant or unless the  
9           attorney consents to direct communication with the  
10          consumer.

11          “(b)(1) Without the prior consent of the consumer  
12          given directly to the merchant or the express permission  
13          of a court of competent jurisdiction, a merchant shall not  
14          communicate with a consumer in connection with the re-  
15          covery or repossession of property—

16                 “(A) at the consumer’s place of employment;

17                 “(B) at any unusual time or place or a time; or

18                 “(C) at any place known or which should be  
19          known to be inconvenient to the consumer.

20          “(2) In the absence of knowledge of circumstances  
21          to the contrary, a merchant shall assume that the conven-  
22          ient time for communicating with a consumer is after 8:00  
23          a.m. and before 9:00 p.m., local time at the consumer’s  
24          location.

1 “(c) A merchant may not communicate, in connection  
2 with a rental-purchase agreement, with any person other  
3 than the consumer, the consumer’s attorney, or the mer-  
4 chant’s attorney, except—

5 “(1) as reasonably necessary to acquire location  
6 information concerning the consumer in accordance  
7 with subsection (a);

8 “(2) after receiving prior consent from the  
9 consumer given directly to the merchant;

10 “(3) after receiving express permission of a  
11 court of competent jurisdiction; or

12 “(4) as reasonably necessary to effectuate a  
13 post-judgment judicial remedy.

14 “(d) If a consumer notifies the merchant in writing  
15 that the consumer desires the merchant to cease further  
16 communication with the consumer, the merchant shall not  
17 communicate further with the consumer with respect to  
18 the rental-purchase agreement, except—

19 “(1) to advise the consumer that the mer-  
20 chant’s further efforts to communicate are being ter-  
21 minated;

22 “(2) to notify the consumer that the merchant  
23 may invoke specified remedies allowable under law  
24 which are ordinarily invoked by the merchant; or

1           “(3) as necessary to effectuate any post-judg-  
2           ment remedy.

3           “(e) A merchant shall not—

4           “(1) use or threaten to use violence or criminal  
5           means to harm the physical person, reputation, or  
6           property of any person;

7           “(2) use obscene, profane, or abusive language;

8           “(3) cause a telephone to ring, or engage any  
9           person in telephone conversation, repeatedly or con-  
10          tinuously with intent to annoy, abuse, or harass any  
11          person;

12          “(4) place any telephone call without disclosing  
13          the caller’s identity; or

14          “(5) perform any other act intended to harass  
15          or abuse a consumer.

16       **“§ 1010. Receipts and accounts**

17          “A merchant shall provide the consumer a written re-  
18          ceipt for each payment made by cash or money order.

19       **“§ 1011. Renegotiations and extensions**

20          “A renegotiation of a rental-purchase agreement is  
21          deemed to be a new agreement for purposes of this title,  
22          requiring new disclosures. A renegotiation shall be consid-  
23          ered to occur when an existing rental-purchase agreement  
24          is satisfied and replaced by a new agreement undertaken

1 by the same merchant. Events such as the following shall  
2 not be treated as renegotiations:

3           “(1) The addition or return of property in a  
4           multiple-item agreement or the substitution of prop-  
5           erty, if in either case the average payment allocable  
6           to a payment period is not changed by more than 25  
7           percent.

8           “(2) A deferral or extension of one or more  
9           periodic payments, or portions of a periodic pay-  
10          ment.

11          “(3) A reduction in charges in the agreement.

12          “(4) An agreement involving a court proceed-  
13          ing.

14          “(5) Any other event described in regulations  
15          prescribed by the Board.

16 **“§ 1012. Rental-purchase advertising**

17          “(a) If an advertisement refers to or states the  
18          amount of any payment or the right to acquire ownership,  
19          the merchant that makes the advertisement shall also  
20          clearly and conspicuously state in the advertisement the  
21          following items, as applicable:

22                 “(1) That the transaction advertised is to occur  
23                 under a rental-purchase agreement.

1           “(2) The total number and total dollar amount  
2 of rental payments necessary to acquire ownership  
3 under the agreement.

4           “(3) That the consumer acquires no ownership  
5 rights in the property if the total dollar amount of  
6 rental payments necessary to acquire ownership is  
7 not paid.

8           “(b) The owner or personnel of any medium in which  
9 an advertisement appears or through which it is dissemi-  
10 nated shall not be liable for a violation of this section.

11          “(c) Subsection (a) does not apply to an advertise-  
12 ment which—

13           “(1) does not refer to or state the amount of  
14 any payment,

15           “(2) is published in the yellow pages of a tele-  
16 phone directory or in any similar directory of busi-  
17 nesses, or

18           “(3) is displayed in the merchant’s place of  
19 business.

20 **“§ 1013. Administrative enforcement**

21          “(a) The requirements imposed by this title shall be  
22 enforced by the Board.

23          “(b) All of the functions and powers of the Board  
24 under this Act are available to the Board to enforce com-

1 pliance by any person with the requirements imposed by  
2 this title.

3 **“§ 1014. Civil liability**

4 “(a) Except as otherwise provided in this title, a mer-  
5 chant who willfully violates this title with respect to a  
6 consumer is liable to the consumer in an amount equal  
7 to the following:

8 “(1) In an action by an individual consumer,  
9 the sum of—

10 “(A) actual damages sustained by the  
11 consumer as a result of the violation; and

12 “(B) not less than \$100.

13 “(2) In a class action, the amount the court de-  
14 termines to be appropriate with no minimum recov-  
15 ery as to each member.

16 “(b)(1) An action under this section may be brought  
17 in any United States district court of competent jurisdic-  
18 tion, by not later than one year of the date of the occur-  
19 rence of the violation.

20 “(2) This subsection does not bar a consumer from  
21 asserting a violation of this title in an action to collect  
22 a debt brought more than one year after the date of the  
23 occurrence of the violation as a matter of defense by  
24 recoupment or set off, except as otherwise provided by  
25 State law.

1       “(c)(1) A consumer may not take any action to offset  
2 any amount for which a merchant is potentially liable  
3 under subsection (a) against any amount owed by the  
4 consumer, unless the amount of the merchant’s liability  
5 has been determined by judgment of a court of competent  
6 jurisdiction in an action in which the merchant was a  
7 party.

8       “(2) This subsection does not bar a consumer who  
9 is in default on the obligation from asserting a violation  
10 of this title as an original action, or as a defense or coun-  
11 terclaim to an action brought by the merchant to collect  
12 amounts owed by the consumer.

13       **“§ 1015. Defenses**

14       “(a) A merchant is not liable under section 1014 for  
15 a violation of the requirements of section 1006 if within  
16 15 days after first having knowledge of the violation, and  
17 before an action under section 1014 is filed or written no-  
18 tice of the violation is received from the consumer, the  
19 merchant notifies the consumer of the violation and makes  
20 whatever adjustments in the account are necessary to as-  
21 sure that the consumer will not be required to pay an  
22 amount in excess of the amounts actually disclosed.

23       “(b)(1) A merchant is not liable under this title for  
24 any act done or omitted in good faith in conformity with  
25 any rule, regulation, interpretation, or approval promul-

1 gated by the Board or by an official duly authorized by  
2 the Board.

3 “(2) Paragraph (1) applies even if, after the act or  
4 omission has occurred, the rule, regulation, interpretation,  
5 or approval is amended, rescinded, or determined by judi-  
6 cial or other authority to be invalid for any reason.

7 “(c) A merchant is not liable under this title for a  
8 violation if the merchant establishes, and at the time of  
9 the violation is implementing, procedures reasonably cal-  
10 culated to prevent the violation.

11 **“§ 1016. Liability of assignees**

12 “(a) For purposes of sections 1014 and 1015, the  
13 term ‘merchant’ includes an assignee of a merchant. How-  
14 ever, an action under section 1014 for a violation of this  
15 title may be brought against an assignee only if the viola-  
16 tion is apparent on the face of the rental-purchase agree-  
17 ment to which it relates. A violation apparent on the face  
18 of a rental-purchase agreement includes a disclosure that  
19 can be determined to be incomplete or inaccurate from the  
20 face of the agreement. An assignee has no liability in a  
21 case in which the assignment is involuntary.

22 “(b) In an action by or against an assignee, the con-  
23 sumer’s written acknowledgement of receipt of a disclosure  
24 shall be conclusive proof that the disclosure was made, if  
25 the assignee had no knowledge that the disclosure had not

1 been made when the assignee acquired the rental-purchase  
2 agreement to which it relates.

3 **“§ 1017. Regulations**

4 “(a) The Board shall issue regulations to carry out  
5 the purposes of this title, to prevent its circumvention, and  
6 to facilitate compliance with its requirements. The regula-  
7 tions may contain classifications and differentiations and  
8 may provide for adjustments and exceptions for any class  
9 of transaction.

10 “(b) The Board shall publish model disclosure forms  
11 and clauses to facilitate compliance with the disclosure re-  
12 quirements of this title and to aid consumers in under-  
13 standing transactions under rental-purchase agreements.  
14 In designing forms, the Board shall consider the use by  
15 merchants of data processing or similar automated equip-  
16 ment. Use of the models shall be optional. A merchant  
17 who properly uses the model disclosure forms shall be  
18 deemed to be in compliance with the disclosure require-  
19 ments.

20 “(c) Any regulation issued by the Board, or any  
21 amendment or interpretation thereof, that requires a dis-  
22 closure different from the disclosures previously required  
23 by regulations of the Board shall not be effective before  
24 the October 1 that follows the date of promulgation by  
25 at least 6 months. The Board may at its discretion length-

1 en that period of time to permit merchants to adjust their  
2 forms to accommodate new requirements. The Board may  
3 also shorten that period of time, notwithstanding the first  
4 sentence, if it makes a specific finding that such action  
5 is necessary to comply with the findings of a court or to  
6 prevent unfair or deceptive practices. In any case, mer-  
7 chants may comply with any newly promulgated disclosure  
8 requirement prior to its effective date.

9 **“§ 1018. Relation to state laws**

10 “This title does not annul, alter, affect, or exempt  
11 any person subject to this title from complying with the  
12 laws of any State with respect to a matter covered by this  
13 title, except to the extent that those laws—

14 “(1) are inconsistent with this title; and

15 “(2) provide a lesser degree of protection for  
16 consumers.

17 **“§ 1019. Effect on government agencies**

18 “No civil liability under this title may be imposed on  
19 the United States or any of its departments or agencies,  
20 any State or political subdivision, or any agency of a State  
21 or political subdivision.”.

○

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