

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

'13 JUL 15 P4:18

SENATE
S. No. 729

RECEIVED BY: *ja*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 2, Section 5 provides:

The maintenance of peace and order, the protection of life, liberty and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.

There are a significant number of consumers engaged in rental-purchase transactions. Unfortunately, in many instances, these transactions have taken place without adequate disclosures and other protections to consumers.

Hence, this bill seeks to protect consumers by requiring meaningful disclosure of the terms of rental-purchase agreements and providing certain substantive rights to consumers who enter into these agreements.¹

acc.
Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

¹ This bill was originally filed during the Fourteenth Congress, First Regular Session.



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SENATE
S. No. **729**

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Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 TO ASSURE MEANINGFUL DISCLOSURES OF THE TERMS OF RENTAL
3 PURCHASE AGREEMENTS, INCLUDING DISCLOSURES OF ALL COSTS TO
4 CONSUMERS UNDER SUCH AGREEMENTS AND TO PROVIDE CERTAIN
5 SUBSTANTIVE RIGHTS TO CONSUMERS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

6 SECTION 1. *Short Title.* - This Act shall be known as the "Consumer Disclosure and
7 Rental Purchase Agreement Act."

8 SECTION 2. *Definition of Terms.* - For purposes of this Act, the term -

9 (A) "Advertisement" means a commercial message in any medium that promotes,
10 directly or indirectly, a rental-purchase agreement but does not include price tags, window
11 signs, or other in-store merchandising aids;

12 (B) "Agricultural purpose" includes:

13 (1) the production, harvest, exhibition, marketing, transformation, processing,
14 or manufacture of agricultural products by a natural person who cultivates plants or
15 propagates or nurtures agricultural products; and

16 (2) the acquisition of farmlands, real property with a farm residence, or
17 personal property and services used primarily in farming;

18 (C) "Consumer" means a natural person who is offered or enters into a rental
19 purchase agreement;

20 D) "Date of consummation" means the date on which a consumer becomes
21 contractually obligated under a rental-purchase agreement;

1 (E) "Merchant" means a person who provides the use of property through a rental-
2 purchase agreement in the ordinary course of business and to whom a consumer's initial
3 obligation under the agreement is payable;

4 (F) "Rental-purchase agreement" means a contract between a consumer and a
5 merchant—

6 (1) under which the merchant agrees to provide the consumer the use of the
7 personal property for an initial period of four (4) months or less;

8 (2) that is automatically renewable with each payment by the consumer; and

9 (3) that permits but does not obligate the consumer to become the owner of
10 the property.

11 SECTION 3. *Exempted Transactions.* - This Act does not apply to rental-purchase
12 agreements primarily for business, commercial, or agricultural purposes, or those made with
13 government agencies or instrumentalities.

14 SECTION 4. *General Disclosure Requirements.* -

15 (A) IN GENERAL – The merchant under a rental-purchase agreement shall disclose
16 to the consumer under the agreement the information required by Sections 5, 6, and 7. In an
17 agreement involving more than one (1) merchant, only one (1) merchant is required to make
18 the disclosures.

19 (B) DISCLOSURE - The disclosures required under Sections 5 and 6 and the
20 agreement provisions required to be included under Section 7 shall be made or included -

21 (1) at or before the date of consummation of the rental-purchase agreement;

22 (2) clearly and conspicuously in writing and in a form that the consumer may
23 keep; and

24 (3) in a case of disclosures required under Section 5, segregated from all
25 other terms, data, or information provided to the consumer.

26 (C) INACCURACY- If a disclosure required to be made by a merchant to a
27 consumer under Section 5 becomes inaccurate as the result of any mutual written agreement

1 between the merchant and such consumer occurring after delivery of the required disclosure
2 to such consumer under this Act, the resulting inaccuracy is not a violation of this Act.

3 SECTION 5. *Rental-Purchase Agreement Disclosures.* - For each rental-purchase
4 agreement, the merchant shall disclose to the consumer, to the extent applicable under the
5 agreement, the following:

6 (A) The amount of the first payment and the total amount of fees, taxes, or other
7 charges which may be required at or before the date of consummation of the agreement;

8 (B) The amount and timing of rental payments;

9 (C) The total number and total amount of rental payments necessary to acquire
10 ownership of the property;

11 (D) A statement that the consumer will not own the property until the consumer has
12 paid the total amount necessary to acquire ownership;

13 (E) A disclosure, to the extent applicable, that the total dollar amount of payments
14 does not include other fees or charges, such as a delivery fee, an initial processing fee, taxes,
15 or other fees or charges which may be payable under the agreement. Such fees and charges
16 shall be separately identified in the agreement;

17 (F) A statement that the consumer may be responsible for the fair market value of the
18 property if it is lost, stolen, damaged, or destroyed;

19 (G) A statement indicating whether the property is new or used, except a statement
20 indicating that new property is not a ;

21 (H) A statement of-

22 (1) the manufacturer's suggested retail price, where applicable; or

23 (2) the price for which the property is available from the merchant in a cash
24 sale.

25 (I) A clear statement of the terms of the consumer's option to acquire ownership;

26 (J) A statement-

27 (1) identifying the party responsible for maintaining or servicing the property
28 while it is being rented;

1 (2) describing the responsibility for maintenance or service; and

2 (3) disclosing that if any part of a manufacturer's express warranty covers the
3 property at the time the consumer acquires ownership of the property, the warranty
4 will be transferred to the consumer if allowed by the terms of the warranty.

5 (K) The date of consummation of the transaction and the identities of the merchant
6 and consumer;

7 (L) Late fees for past due rental charges.

8 SECTION 6. *Point-of Rental Disclosures.* –

9 (A) IN GENERAL - Except as provided in subsection (B), each item of property or
10 each set of items, if offered as a set or displayed or offered in connection with a rental-
11 purchase agreement, shall have displayed on or next to it a card, tag, or label that clearly and
12 conspicuously discloses only the following:

13 (1) A brief description of the property;

14 (2) Whether the property is new or used;

15 (3) The cash price of the property;

16 (4) The amount of each rental payment;

17 (5) The total number of rental payments necessary to acquire ownership of
18 the property;

19 (6) The total amount of rental payments necessary to acquire ownership of
20 the property;

21 (B) EXCEPTION - A merchant may make the disclosure required by subsection (A)
22 in the form of a list or catalogue which is readily available to the customer if the
23 merchandise is not displayed in the merchant's showroom or if displaying a tag would be
24 impractical due to the size of the merchandise.

25 SECTION 7. *Agreement Provisions.* –

26 (A) IN GENERAL - Each rental-purchase agreement shall -

1 (1) provide a statement of any obligation of the consumer and the merchant
2 under the agreement to repair any defect or malfunction of the property covered by
3 the agreement, and any limitation of those obligations;

4 (2) provide that the consumer may terminate the agreement without penalty
5 by voluntarily surrendering or returning the property covered by the agreement upon
6 expiration of any term; and

7 (3) contain a provision for reinstatement of the agreement, which at a
8 minimum-

9 (a) permits a consumer who fails to make a timely rental renewal
10 payment to reinstate the agreement, without losing any rights or options
11 which exist under the agreement, by the payment of all past due rental
12 charges and any late fee and a payment for the next rental term within seven
13 (7) business days after the renewal date if the consumer pays monthly, or
14 within 3 business days after the renewal date if the consumer pays more
15 frequently than monthly;

16 (b) if the consumer returns or voluntarily surrenders the property
17 covered by the agreement, other than through judicial process, during the
18 applicable reinstatement period set forth in paragraph (1), permits the
19 consumer to reinstate the agreement during a period of at least thirty (30)
20 days after the date of the return or surrender of the property by the payment
21 of all past due rental charges, and any applicable redelivery, repair, or late
22 fees and a payment for the next rental term; and

23 (c) if the consumer has paid sixty (60) percent or more of the total
24 amount of payments necessary to acquire ownership of the property, other
25 than due to judicial process, during the applicable reinstatement period set
26 forth in paragraph (1), permits the consumer to reinstate the agreement during
27 a period of at least nine (9) days after the date of the return of the property by
28 the payment of all past due rental charges and any applicable redelivery,
29 repair, or late fees and a payment for the next rental term.

1 (B) CONSTRUCTION - Subsection (A) shall not be construed to prevent a merchant
2 from attempting to repossess property during the reinstatement period pursuant to subsection
3 (A)(3)(a), but such a repossession does not affect the consumer's right to reinstate. Upon
4 reinstatement, the merchant shall provide the consumer with the same property, if available;
5 if it is not available the merchant shall substitute property of comparable quality and
6 condition.

7 SECTION 8. *Prohibited Inclusion.* - A rental-purchase agreement may not contain
8 the following:

9 (A) a confession of judgment;

10 (B) a negotiable instrument;

11 (C) a security interest or any other claim of a property interest in any goods, except
12 those goods the use of which is provided by the merchant pursuant to the agreement;

13 (D) a wage assignment; or

14 (E) a waiver by the consumer of a claim or defense.

15 SECTION 9. *Statement of Accounts.* - A merchant shall be required upon request by
16 the consumer to provide a quarterly statement.

17 SECTION 10. *Renegotiations and Extensions.* - A renegotiation of a rental-purchase
18 agreement is deemed to be a new agreement for purposes of this Act, requiring new
19 disclosures under Section 5. A renegotiation shall be considered to occur when an existing
20 rental purchase agreement is satisfied and replaced by a new agreement undertaken by the
21 same merchant. Events such as the following shall not be treated as renegotiations:

22 (A) The addition or return of property in a multiple-item agreement or the
23 substitution of property, if in either case the average payment allocable to a payment period
24 is not changed by more than twenty-five percent (25%).

25 (B) A deferral or extension of one or more periodic payments, or portions of a
26 periodic payment.

- 1 (C) A reduction in charges in the agreement.
- 2 (D) An agreement involving a court proceeding.
- 3 (E) Any other event described in regulations prescribed by the Secretary of Trade
4 and Industry.

5 SECTION 11. *Rental-Purchase Advertising.* -

6 (A) ADVERTISEMENTS - If an advertisement refers to or states the amount of any
7 payment and the right to acquire ownership for any specific item, the merchant that makes
8 the advertisement shall also clearly and conspicuously state in the advertisement the
9 following items:

10 (1) The transaction advertised is a rental-purchase agreement.

11 (2) The total number and total amount of rental payments necessary to
12 acquire ownership under the agreement.

13 (3) The consumer acquires no owner ship rights in the property if the total
14 amount of rental payments necessary to acquire owner ship is not paid.

15 (B) LIABILITY - The owner or personnel of any medium in which an advertisement
16 appears or through which it is disseminated shall not be liable for a violation of subsection
17 (A).

18 (C) CONSTRUCTION - Subsection (A) does not apply to an advertisement which
19 (1) is published in the yellow pages of a telephone directory or in any similar directory of
20 businesses; or (2) is displayed in the merchant's place of business.

21 SECTION 12. *Civil Liability.* -

22 (A) LIABILITY AMOUNT - Except as otherwise provided in this Act, a merchant
23 who willfully violates this Act with respect to the consumer is liable to the consumer in an
24 action by an individual consumer, the sum of-

25 (1) actual damages sustained by the consumer as a result of the violation; and

26 (2) not less than Five thousand Pesos (P5,000.00).

27 (B) STATUTE OF LIMITATIONS -

1 (1) ACTIONS - an action may be brought in a court of competent jurisdiction
2 at any time but not later than one (1) year of the date of the occurrence of the
3 violation.

4 (2) CONSTRUCTION - This subsection does not bar a consumer from
5 asserting a claim in an action to collect a debt brought more than one (1) year after
6 the date of the occurrence of the violation as a matter of defense by recoupment or
7 set off, except otherwise provided by law.

8 (C) OFFSET -

9 (1) LIMITATION - A consumer may not take any action to offset any
10 amount for which a merchant is potentially liable under subsection (1) against any
11 amount owed by the consumer, unless the amount of the merchant's liability has been
12 determined by judgment of a court of competent jurisdiction in an action which the
13 merchant was a party.

14 (2) CONSTRUCTION - This subsection does not bar a consumer who is in
15 default on the obligation from asserting a violation of this Act as an original action,
16 or as a defense of counterclaim to an action brought by the merchant to collect
17 amounts owed by the consumer.

18 SECTION 13. *Defenses.* -A merchant is not liable-

19 (A) Under Section 12 for a violation of the requirements of Section 5 if within fifteen
20 (15) days after first having knowledge of the violation, and before an action under Section
21 12 is filed or written notice of the violation and makes whatever adjustments in the account
22 are necessary to assure that the consumer will not be required to pay an amount in excess of
23 the amounts actually disclosed;

24 (B) Under this Act for a violation if the merchant establishes, and at the time of the
25 violation is implementing, procedures reasonably calculated to prevent the violation.

26 SECTION 14. *Liability of Assignees.* -

1 (A) ASSIGNEES - For purposes of Sections 12 and 13 and this Section, the term
2 "merchant" includes an assignee of a merchant. However, an action under Section 12 for a
3 violation of this Act may be brought against an assignee only if the violation is apparent on
4 the face of the rental-purchase agreement to which it relates. A violation apparent in the face
5 of a rental-purchase agreement includes a disclosure that can be determined to be incomplete
6 or inaccurate from the face of the agreement. An assignee has no liability in a case in which
7 the assignment is involuntary.

8 (B) CONSUMER ACKNOWLEDGEMENT - In any action by or against an
9 assignee, the consumer's written acknowledgment of receipt of a disclosure shall be
10 conclusive proof that the disclosure was made, if the assignee had no knowledge that the
11 disclosure had not been made when the assignee acquired the rental-purchase agreement to
12 which it relates.

13 SECTION 15. *Regulation and Enforcement.* -

14 (A) IN GENERAL - The Secretary of Trade and Industry shall issue regulations to
15 carry out the purposes of this Act, to prevent its circumvention, and to facilitate compliance
16 with its requirements. The regulations may contain classification and differentiations and
17 may provide for adjustments and exceptions for any class of transaction.

18 (B) MODELS - The Department of Trade and Industry shall publish model
19 disclosure forms and clauses to facilitate compliance with the disclosure requirements of this
20 Act and to aid consumers in understanding transactions under rental-purchase agreements.
21 In designing forms, the Department shall consider the use by merchants of data processing
22 of similar automated equipment. Use of the models shall be optional. A merchant who
23 properly uses the model disclosure forms shall be deemed to be in compliance with the
24 disclosure requirements.

25 (C) EFFECTIVE DATE OF REGULATIONS - Any regulation issued, or any
26 amendment or interpretation thereof, shall not be effective before the October 1 that follows
27 the date of promulgation by at least six (6) months. The Secretary may lengthen that period
28 of time to permit merchants to adjust their forms to accommodate new requirements. The

1 Secretary may also shorten that period of time, notwithstanding the first sentence, if it makes
2 a specific finding that such action is necessary to comply with the findings of a court or to
3 prevent unfair or deceptive practices. In any case, merchants may comply with any newly
4 promulgated disclosure requirement prior to its effective date.

5 (D) The Department shall enforce the provisions of this Act.

6 SECTION 16. *Effect on Government Agencies.* - No civil liability or criminal penalty
7 under this Act may be imposed on the government or any of its departments, agencies, or
8 political subdivision.

9 SECTION 17. *Separability Clause.* - If any provision or part hereof is held invalid or
10 unconstitutional, the remainder of the law or the provision not otherwise affected shall
11 remain valid and subsisting.

12 SECTION 18. *Repealing Clause.* - Any law, presidential decree or issuance,
13 executive order, letter of instruction, administrative order, rule, or regulation contrary to or
14 inconsistent with the provisions of this act is hereby repealed, modified or amended
15 accordingly.

16
17 SECTION 19. *Effectivity Clause.*, - This Act shall take effect fifteen (15) days after
18 its publication in at least two (2) newspapers of general circulation.

Approved,