

CS FOR HOUSE BILL NO. 128(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE

Offered: 3/31/99

Referred: Today's Calendar

Sponsor(s): REPRESENTATIVES MURKOWSKI, Croft, Kemplen

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to lease-purchases of personal property."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** SHORT TITLE. This Act may be cited as the Lease-Purchases Act.

4 * **Sec. 2.** AS 45 is amended by adding a new chapter to read:

5 **Chapter 35. Lease-Purchases of Personal Property.**

6 **Sec. 45.35.010. Disclosure of information.** (a) A lessor shall disclose clearly
7 and conspicuously in writing in a lease-purchase agreement each of the following items
8 that applies to the lease-purchase agreement or to the personal property leased under
9 the agreement:

10 (1) the total number of payments, the total monetary amount of all
11 payments, and the timing of all payments that are to be made before the consumer
12 acquires ownership of the personal property;

13 (2) a statement that the consumer will not own the personal property
14 until the consumer makes all of the payments necessary to acquire ownership;

15 (3) a statement that the consumer must pay the lessor the fair market

1 value of the personal property if, and as of the date, the personal property is lost,
2 stolen, damaged, or destroyed;

3 (4) a brief description, including an identification number if available,
4 of the personal property that is sufficient to identify the property to the consumer and
5 the lessor;

6 (5) a statement whether the personal property is new or used;

7 (6) a brief description of any existing damage to the leased personal
8 property;

9 (7) the cash price of the property, except that, if the agreement involves
10 a lease of more than one item as a set, the aggregate cash price of all items is
11 sufficient;

12 (8) the total initial payment made or required when or before an
13 individual becomes liable on the agreement or when the personal property is delivered,
14 whichever event is later;

15 (9) a statement that the total monetary amount of the lease payment
16 does not include other charges under the agreement, including late fees, processing
17 fees, default charges, pick-up charges, and reinstatement fees, and a list of these other
18 charges;

19 (10) a statement clearly summarizing the terms of the consumer's
20 option to purchase the personal property, including a statement that the consumer has
21 the right to exercise an early purchase option, and the price, formula, or method to be
22 used to determine the price at which the property may be purchased;

23 (11) a statement describing the lessor's responsibilities under
24 AS 45.35.020;

25 (12) the date that the lease-purchase agreement is entered into;

26 (13) the names, street addresses, and mailing addresses of the lessor
27 and consumer;

28 (14) a statement that the consumer may terminate the agreement
29 without penalty by voluntarily surrendering or returning the personal property in good
30 repair, ordinary wear and tear excepted, when the agreement expires and by paying any
31 payment past due under the agreement; and

(15) notice of the right of the consumer to reinstate the agreement under AS 45.35.050.

(b) The disclosures under (a) of this section must appear on the face of the document containing the lease-purchase agreement and above the line for the consumer's signature. The lessor shall provide the consumer with a copy of the lease-purchase agreement after the consumer signs the agreement.

(c) If a disclosure under (a) of this section becomes inaccurate as the result of an act, occurrence, or agreement by the consumer after receiving a copy of the lease-purchase agreement, the resulting inaccuracy is not a violation of this chapter.

(d) If a lessor complies with the disclosure requirements under 15 U.S.C. 1601 - 1693r (Consumer Credit Protection Act) that are applicable to a lease-purchase agreement, the lessor's compliance satisfies the disclosure requirements of this section.

Sec. 45.35.020. Maintenance and warranties. (a) A lessor is responsible for making all normal repairs that may be required for the personal property during the lease-purchase agreement, but the lessor is not responsible for any unauthorized repairs or damage caused by improper use.

(b) If a manufacturer's warranty covers the personal property when the consumer acquires ownership of the property and if a transfer of the warranty is allowed under the terms of the warranty, the lessor shall transfer warranty to the consumer.

Sec. 45.35.030. Late fees. (a) A lessor may not charge a consumer more than \$5 for each payment that is late under a lease-purchase agreement.

(b) When calculating time for the purpose of determining whether a lease payment is late and subject to a late fee under a lease-purchase agreement, a lessor may not include any period of time when the personal property has been repossessed by the lessor or voluntarily surrendered by the consumer.

Sec. 45.35.040. Prohibited provisions. A lease-purchase agreement may not contain

- (1) a confession of judgment;
- (2) a negotiable instrument;
- (3) a security interest in, or another claim on, real or personal property

1 that is not the subject of the agreement;

2 (4) a wage assignment;

3 (5) an assignment of an Alaska permanent fund dividend;

4 (6) a waiver by the consumer of claims or defenses relating to the

5 agreement;

6 (7) a provision authorizing the lessor or a person acting on the lessor's

7 behalf to enter the consumer's premises or to commit a breach of the peace in the

8 repossession of personal property.

9 (8) an agreement by the consumer to pay attorney fees and costs,

10 except as allowed under court rules.

Sec. 45.35.050. Reinstatement of contract by consumer; repossession. (a)

If a consumer fails to make a payment under a lease-purchase agreement by the time required for the payment and the lessor terminates the agreement due to the consumer's failure to make the payment, the consumer may reinstate the agreement by paying the items identified under (b) of this section before the end of the grace period.

(b) The following are the items that must be paid by the consumer in order to reinstate a lease-purchase agreement under (a) of this section:

- (1) all scheduled payments that are past due under the agreement;
- (2) the next scheduled payment;
- (3) the reasonable costs of picking up and redelivering the property if the lessor has picked up the property from the consumer; and
- (4) any applicable late fee.

(c) A consumer who reinstates a lease-purchase agreement under (a) of this section does not lose any rights or options the consumer had under the agreement before the failure to make the payment when due.

(d) Notwithstanding (a) of this section, if a consumer has made less than two-thirds of the total amount of payments necessary to acquire ownership of the personal property that is the subject of a lease-purchase agreement and if the consumer has returned or voluntarily surrendered the personal property to the lessor before the end of the grace period other than as a result of a court action, the consumer has 21 days after returning the property to the lessor to reinstate the lease-purchase agreement.

15 (g) In this section,

16 (1) "grace period" means

17 (A) two days after the agreement's renewal date if, under the
18 agreement, the payments are to be made more often than monthly; or

19 (B) five days after the agreement's renewal date if, under the
20 agreement, the payments are to be made monthly or less frequently;

21 (2) "renewal date" means the date when a payment is to be made that
22 would automatically renew the agreement.

29 (1) the addition of personal property to or the return or substitution of
30 personal property already covered by a lease-purchase agreement that covers more than
31 one item of personal property if the average lease payment allocable to a payment

period is not changed by more than 25 percent of the average lease payment before the change;

(2) a deferral or extension of a lease payment or portion of a payment;

(3) a reduction in the amount of the payments or other charges in the

lease-purchase agreement; or

(4) a lease-purchase agreement that is the subject of a court action.

(b) The lessor is not required to make the disclosures under AS 45.35.010 when the lessor and the consumer extend the length of a lease-purchase agreement.

Sec. 45.35.070. Advertisement. (a) If an advertisement for a lease-purchase

agreement refers to or states the dollar amount of a payment and the right to acquire ownership of a specific item of personal property, the advertisement must also clearly and conspicuously state each of the following items that is applicable:

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

(2) the total amount to be paid to acquire ownership of the item; and

(3) that the consumer will not acquire ownership rights in the item until pays the total amount to be paid to acquire ownership of the item.

(b) The owner and the employees of a communications medium in which an advertisement covered by (a) of this section appears or through which the advertisement is disseminated is not liable for a failure of a lessor to comply with (a) of this section.

(c) The requirements of (a) of this section do not apply to an advertisement that is published in the yellow pages of a telephone directory or another similar business directory.

Sec. 45.35.080. Written receipts. On request, a lessor shall provide the consumer with a written receipt for each payment made by cash or money order.

Sec. 45.35.090. Coordination with other laws. (a) If there is a conflict between this chapter and AS 45.12 (Uniform Commercial Code-Leases), this chapter governs.

(b) If there is a conflict between this chapter and 15 U.S.C. 1601 - 1693r (Consumer Credit Protection Act), 15 U.S.C. 1601 - 1693r govern.

Sec. 45.35.099. Definitions. In this chapter,

(1) "advertisement" means a commercial message in a communications medium that directly or indirectly promotes entering into a lease-purchase agreement or provides information about a lease-purchase agreement, but does not include a price tag, window sign, or other merchandising aid used on the physical premises of a store;

(2) "cash price" means the price, calculated as of the date a lease-purchase agreement is entered into, at which the lessor would sell to a person the personal property that is the subject of the lease-purchase agreement;

(3) "consumer" means an individual who leases personal property under a lease-purchase agreement;

(4) "lease-purchase agreement"

(A) means an agreement for the use of personal property primarily for personal, family, or household purposes if the agreement is for an initial period of four months or less, is automatically renewable with each payment after the initial period, does not obligate or require the consumer to continue leasing or using the property beyond the initial period, and permits the consumer to become the owner of the property;

(B) does not include

(i) an agreement primarily for commercial or agricultural purposes;

(ii) a lease or bailment of personal property if the lease or bailment is incidental to the lease of real property and provides that the consumer does not have an option to purchase the leased personal property;

(iii) a lease of a motor vehicle;

(iv) a security interest as defined under AS 45.01.201;

(v) a retail installment transaction under AS 45.10;

(vi) a lease under AS 45.12;

(5) "lessor" means a person who, in the ordinary course of business, regularly provides to consumers the use of property through lease-purchase agreements and to whom payments are initially payable on the face of the lease-purchase agreement.

1 * **Sec. 3.** AS 45.50.471(b) is amended by adding a new paragraph to read:
2 (42) violating AS 45.35 (lease-purchase agreements).

3 * Sec. 4. APPLICABILITY. This Act does not apply to a lease-purchase agreement unless
4 the lease-purchase agreement is entered into on or after the effective date of this Act. In this
5 section, "lease-purchase agreement" has the meaning given in AS 45.35.099, added by sec. 2
6 of this Act.