

HOUSE BILL NO. 128

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MURKOWSKI

Introduced: 3/5/99

Referred: Labor and Commerce

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; a
7 statement that property is used even if it is new satisfies this paragraph;

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

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

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

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

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

24 (11) a statement identifying the person responsible for maintaining or
25 servicing the personal property while the property is being leased, a description of that
26 responsibility, and a statement that, if a manufacturer's express warranty covers the
27 personal property when the consumer acquires ownership of the property and if
28 allowed under the terms of the warranty, the warranty will be transferred to the
29 consumer;

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

31 (13) the names, street addresses, and mailing addresses of the lessor

1 and consumer;

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

6 (15) notice of the right of the consumer to reinstate the agreement
7 under AS 45.35.030.

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

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

15 (d) If a lessor complies with the disclosure requirements under 15 U.S.C. 1601
16 - 1693r (Consumer Credit Protection Act) that are applicable to a lease-purchase
17 agreement, the lessor's compliance satisfies the disclosure requirements of this section.

18 **Sec. 45.35.020. Prohibited provisions.** A lease-purchase agreement may not
19 contain

20 (1) a confession of judgment;

21 (2) a negotiable instrument;

22 (3) a security interest in, or another claim on, real or personal property
23 that is not the subject of the agreement;

24 (4) a wage assignment;

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

26 (6) a waiver by the consumer of claims or defenses relating to the
27 agreement;

28 (7) a provision authorizing the lessor or a person acting on the lessor's
29 behalf to enter the consumer's premises or to commit a breach of the peace in the
30 repossession of personal property.

31 **Sec. 45.35.030. Reinstatement of contract by consumer; repossession.** (a)

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

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

7 (1) all scheduled payments that are past due under the agreement;

8 (2) the next scheduled payment;

9 (3) the reasonable costs of picking up and redelivering the property if
10 the lessor has picked up the property from the consumer; and

11 (4) any applicable late fee.

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

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

21 (e) Notwithstanding (a) of this section, if a consumer has made two-thirds or
22 more of the total amount of payments necessary to acquire ownership of the personal
23 property that is the subject of a lease-purchase agreement and if the consumer has
24 returned or voluntarily surrendered the personal property to the lessor before the end
25 of the grace period other than as a result of a court action, the consumer has 45 days
26 after returning the personal property to the lessor to reinstate the lease-purchase
27 agreement.

28 (f) This section does not prohibit a lessor from attempting to repossess
29 personal property during the period when the consumer may reinstate the lease-
30 purchase agreement under this section, and repossession does not affect the consumer's
31 right to reinstate the agreement. If the lessor repossesses the personal property, upon

1 reinstatement of the agreement by the consumer under this section, the lessor shall
 2 provide the consumer with the same personal property that was repossessed or with
 3 personal property of comparable quality and condition.

4 (g) In this section,

5 (1) "grace period" means

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

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

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

12 **Sec. 45.35.040. Application of disclosure requirements upon occurrence of**
 13 **subsequent events.** (a) When a lessor and a consumer replace an existing lease-
 14 purchase agreement between the lessor and consumer with a new lease-purchase
 15 agreement, the lessor shall make the disclosures required by AS 45.35.010 for the new
 16 lease-purchase agreement. In this subsection, "new lease-purchase agreement" does
 17 not include

18 (1) the addition of personal property to or the return or substitution of
 19 personal property already covered by a lease-purchase agreement that covers more than
 20 one item of personal property if the average lease payment allocable to a payment
 21 period is not changed by more than 25 percent of the average lease payment before the
 22 change;

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

24 (3) a reduction in the amount of the payments or other charges in the
 25 lease-purchase agreement; or

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

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

29 **Sec. 45.35.050. Advertisement.** (a) If an advertisement for a lease-purchase
 30 agreement refers to or states the dollar amount of a payment and the right to acquire
 31 ownership of a specific item of personal property, the advertisement must also clearly

1 and conspicuously state each of the following items that is applicable:

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

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

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

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

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

13 **Sec. 45.35.060. Written receipts.** On request, a lessor shall provide the
14 consumer with a written receipt for each payment made by cash or money order.

15 **Sec. 45.35.070. Coordination with other laws.** (a) If there is a conflict
16 between this chapter and AS 45.12 (Uniform Commercial Code-Leases), this chapter
17 governs.

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

20 **Sec. 45.35.090. Definitions.** In this chapter,

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

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

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

30 (4) "lease-purchase agreement"

31 (A) means an agreement for the use of personal property

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

6 (B) does not include

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

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

13 (iii) a lease of a motor vehicle;

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

15 (v) a retail installment transaction under AS 45.10;

16 (vi) a lease under AS 45.12;

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

21 * **Sec. 3.** AS 45.50.471(b) is amended by adding a new paragraph to read:

22 (42) violating AS 45.35 (lease-purchase agreements).

23 * **Sec. 4. APPLICABILITY.** This Act does not apply to a lease-purchase agreement unless
 24 the lease-purchase agreement is entered into on or after the effective date of this Act. In this
 25 section, "lease-purchase agreement" has the meaning given in AS 45.35.090, added by sec. 2
 26 of this Act.