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Source

CSHB 128(RLS)

Chapter No.

10

AN ACT

Relating to lease-purchases of personal property.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: May 6, 1999

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AN ACT

1 Relating to lease-purchases of personal property.

2

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

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- 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

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

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

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

10 (d) If a lessor complies with the disclosure requirements under 15 U.S.C. 1601
11 - 1693r (Consumer Credit Protection Act) that are applicable to a lease-purchase
12 agreement, the lessor's compliance satisfies the disclosure requirements of this section.

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

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

21 **Sec. 45.35.030. Late fees.** (a) A lessor may not charge a consumer more than
22 \$5 for each payment that is late under a lease-purchase agreement.

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

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

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

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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.

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

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

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

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

19 (2) the next scheduled payment;

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

22 (4) any applicable late fee.

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

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

1 (c) Notwithstanding (a) of this section, if a consumer has made two-thirds or
2 more of the total amount of payments necessary to acquire ownership of the personal
3 property that is the subject of a lease-purchase agreement and if the consumer has
4 returned or voluntarily surrendered the personal property to the lessor before the end
5 of the grace period other than as a result of a court action, the consumer has 45 days
6 after returning the personal property to the lessor to reinstate the lease-purchase
7 agreement.

8 (f) This section does not prohibit a lessor from attempting to repossess
9 personal property during the period when the consumer may reinstate the lease-
10 purchase agreement under this section, and repossession does not affect the consumer's
11 right to reinstate the agreement. If the lessor repossesses the personal property, upon
12 reinstatement of the agreement by the consumer under this section, the lessor shall
13 provide the consumer with the same personal property that was repossessed or with
14 personal property of comparable quality and condition.

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.

23 **Sec. 45.35.060. Application of disclosure requirements upon occurrence of**
24 **subsequent events.** (a) When a lessor and a consumer replace an existing lease-
25 purchase agreement between the lessor and consumer with a new lease-purchase
26 agreement, the lessor shall make the disclosures required by AS 45.35.010 for the new
27 lease-purchase agreement. In this subsection, "new lease-purchase agreement" does
28 not include

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

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

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

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

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

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

9 **Sec. 45.35.070. Advertisement.** (a) If an advertisement for a lease-purchase
10 agreement refers to or states the dollar amount of a payment and the right to acquire
11 ownership of a specific item of personal property, the advertisement must also clearly
12 and conspicuously state each of the following items that is applicable:

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

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

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

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

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

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

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

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

31 **Sec. 45.35.099. Definitions.** In this chapter,

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

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

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

10 (4) "lease-purchase agreement"

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

17 (B) does not include

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

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

24 (iii) a lease of a motor vehicle;

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

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

27 (vi) a lease under AS 45.12;

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

