STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 1813 BY: HEFNER

AS INTRODUCED

AN ACT RELATING TO PROFESSIONS AND OCCUPATIONS; AMENDING 59 O.S. 1991, SECTION 1954, WHICH RELATES TO THE OKLAHOMA RENTAL-PURCHASE ACT; AUTHORIZING THE OFFER OF INSURANCE OR WAIVER OF LIABILITY COVERAGE AT ANY TIME DURING THE TERM OF THE AGREEMENT; PROVIDING FOR PAYMENT OF CERTAIN CHARGES; MODIFYING RENTAL-PURCHASE AGREEMENT REINSTATEMENT RIGHTS; AUTHORIZING SEPARATE AGREEMENTS UNDER CERTAIN CONDITIONS; PROVIDING FOR PAYMENT OF CERTAIN REPAIR CHARGES; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1954, is amended to read as follows:

Section 1954 A. The disclosures required by the Oklahoma Rental-Purchase Act:

1. Shall be made clearly and conspicuously;

2. Shall be in writing, a copy of which shall be delivered to the lessee;

3. May use terminology different from that employed in the Oklahoma Rental-Purchase Act if it conveys substantially the same meaning;

4. May be supplemented by additional information or explanations supplied by the lessor;

5. Shall comply with the provisions of the Oklahoma Rental-Purchase Act although rendered inaccurate by any act, occurrence, or agreement, subsequent to the required disclosure;

6. Shall be made to the person who signs the rental-purchase agreement, except that in a transaction involving more than one lessee, a disclosure statement or a copy of the agreement need not be given to more than one of the lessees;

7. Shall be made by the lessor specified on the rental-purchase license.

B. A rental-purchase agreement shall disclose the following items, as applicable:

1. Whether the property is new or used;

2. The period and amount of payments;

3. The total number of payments necessary and the total amounts to be paid to acquire ownership of the merchandise;

4. The amount and purpose of any other payment, charge or fee in addition to the regular periodic payments;

5. Whether the consumer is liable for loss or damage to the rental property, and if so, the maximum amount for which the consumer may be liable;

6. The amount of any ~~security~~ deposit required by lessor and the conditions under which it shall be ~~returned~~ refundable or nonrefundable;

7. If applicable, that the lessee may purchase from the lessor insurance to cover the property or a waiver of liability for damage to or destruction of the property, and the amount of any such ~~charges~~ charge or fee. The insurance or waiver of liability coverage may be offered to the lessee at any time during the term of the rental-purchase agreement;

8. That the consumer does not acquire ownership rights unless the consumer has complied with the ownership terms of the agreement.

C. A rental-purchase agreement may not contain a provision:

1. Requiring a confession of judgment;

2. Authorizing a lessor or an agent of the lessor to commit a breach of the peace in the repossession of rental property;

3. Waiving any defense, counterclaim, or right the lessee may have against the lessor or an agent of the lessor;

4. Requiring the purchase of insurance from the lessor to cover the rental property; provided, however, that the lessor may offer to the lessee any such insurance if it is clearly and conspicuously disclosed on the face of the agreement of insurance, in print not less than 8 point bold face type, that the purchase of any such insurance by the lessee from the lessor is optional. Lessors offering any such insurance must comply with the rules and regulations governing the offering for sale and sale of insurance in the State of Oklahoma, and the offering for sale and sale of such insurance shall be governed and regulated by the State of Oklahoma Commissioner of Insurance;

5. Requiring the purchase of a waiver of liability from the lessor for damage to or destruction of the property; provided, however, that the lessor may offer to the lessee any such waiver of liability ~~if it is clearly and conspicuously disclosed on the face of the waiver of liability agreement~~, in print not less than 8 point bold face type, that the purchase of any such waiver of liability by the lessee from the lessor is optional. The charge for any waiver of liability shall not exceed ~~the greater of~~ five percent (5%) of the rental payment or One Dollar ($1.00)<u>, whichever is greater</u>;

6. Requiring the payment of a late charge or reinstatement fee of more than Five Dollars ($5.00). ~~Nothing herein shall prevent a lessor from charging a lesser amount, including daily late charges not exceeding One Dollar ($1.00) per day, as long as~~<u>; provided,</u> the

total of both the late charge and the reinstatement fee for any one payment missed does not exceed Five Dollars ($5.00) if payments are monthly, or Three Dollars ($3.00) if payments are weekly ~~or bi-weekly;~~. If the payment is not paid by the close of business on the due date, such payment shall be considered missed. Late charges, pickup charges, delivery charges, rent due and reinstatement fees may be held from the payment or may be accrued and collected when possible.

7. Requiring the payment of a delivery charge of more than Fifteen Dollars ($15.00) for delivery of an item or items within fifteen (15) miles of the business location, or Thirty Dollars ($30.00) for delivery of an item or items more than fifteen (15) miles from the business location. However, in the event a lessor delivers more than five (5) items to a lessee's dwelling, the delivery charge shall not exceed Forty-five Dollars ($45.00) regardless of the delivery distance. Delivery charges are allowed only if the lessor actually delivers merchandise to the dwelling of the lessee;

8. Requiring the payment of a charge exceeding Fifteen Dollars ($15.00) on any insufficient funds check;

9. Requiring a nonrefundable initial fee exceeding Ten Dollars ($10.00). An initial fee may be charged only once on an agreement;

10. Requiring a pickup charge exceeding Ten Dollars ($10.00) on late payments. If payments are monthly, a maximum of three pickup charges may be assessed in a six-month period. If payments are more frequent than monthly, a maximum of six pickup charges may be assessed in a six-month period. ~~A pickup charge is in lieu of any delinquency or reinstatement fee;~~ The pickup charges may be assessed and paid when the consumer makes the next scheduled payment or such charges may be accrued; and

11. Requiring the payment of any other additional charges of any nature whatsoever, other than those specified.

D. A rental-purchase agreement shall provide reinstatement rights as follows:

1. A consumer who fails to make a timely payment may reinstate a rental-purchase agreement without losing rights or options previously acquired, by ~~making all~~ arranging with the lessor to make the past due payments, ~~paying any reinstatement fees or returning the property to the lessor, if the lessor so requests,~~ within two (2) days after the due date of the payment and by arranging to pay any fees due or by returning the property within two (2) days if the lessor so requests. Provided, nothing herein shall prevent the lessor from modifying payment arrangements to allow the consumer to make the account current and to accrue any charges due or any rent due to be paid at some future agreed upon date. Partial payment agreements shall provide for the rent to be prorated with notice to the consumer of the next due date.

2. If the rental property is returned during the reinstatement period, other than through judicial process, the right to reinstate the agreement shall be extended for a period of not less than thirty (30) days after the date of the return of the property. Upon reinstatement, the lessor shall provide the lessee with the same rental property or substitute property of comparable quality and condition. If substitute property is provided, the lessor shall provide the lessee with the disclosures required in subsection B of this section. Notice of the right to reinstate shall be disclosed in the agreement.

E. An advertisement for a rental-purchase agreement that states the amount of a payment and the right to acquire ownership of any one particular item must clearly and conspicuously state:

1. That the transaction advertised is a rental-purchase agreement; and

2. The total amount and the number of payments necessary to acquire ownership.

F. A lessor may enter into separate agreements on items transacted separately by a lessee; provided, matching or companion items, such as living room suites or bedroom suites, shall be included in one rental-purchase agreement.

G. Any consumer neglect of the merchandise resulting in repairs will be the responsibility of the consumer and charges for such repair may be received in payments agreed upon by the lessor according to an agreed upon payment schedule.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-7092 DDL