

## **New York**

S 500. Definitions. For the purposes of this article:

1. "Advertisement" means a commercial message in any medium that directly or indirectly promotes or assists a rental-purchase agreement.
2. "Cash price" means the price at which a merchant, in the ordinary course of business, would offer to sell the merchandise to the consumer for cash on the date of the rental-purchase agreement.
3. "Consumer" means an individual who leases personal property under a rental-purchase agreement.
4. "Merchandise" means the personal property that is the subject of a rental-purchase agreement.
5. "Merchant" means a person who, in the ordinary course of business, regularly leases, offers to lease, or acts as an agent for the leasing of merchandise under a rental-purchase agreement.
6. "Rental-purchase agreement" means an agreement for the use of merchandise by a consumer for personal, family, or household purposes, for an initial period of four months or less, that is renewable with each payment after the initial period and that permits the lessee to become the owner of the property. An agreement that complies with this article is not a retail installment sales contract, agreement or obligation as defined in this chapter or a security interest as defined in subdivision thirty-seven of section 1-201 of the uniform commercial code.

S 501. Form. 1. A rental-purchase agreement must be written in plain English and in any other language used by the merchant in an advertisement

related to the rental-purchase agreement. Numerical amounts must be stated in figures.

2. Disclosures required by this section must be printed or typed in each rental-purchase agreement in a size equal to at least ten-point bold-faced type.

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

(a) requiring a confession of judgment;

(b) authorizing a merchant or an agent of the merchant to commit a breach

of the peace in the repossession of merchandise;

(c) waiving a defense, counterclaim, or right the consumer may have against

the merchant or an agent of the merchant;

(d) requiring the purchase of insurance from the merchant to cover the merchandise;

(e) requiring the payment of a late charge or reinstatement fee unless a periodic payment is delinquent for more than three days for agreements that are renewed on week by week terms and seven days for agreements that are renewed on month by month terms, and the charge or fee is in an amount not more than the greater of ten percent of the delinquent amount or three dollars for agreements that are renewed on week by week terms and not more than the greater of ten percent of the delinquent amount or five dollars for agreements that are renewed on month by month terms. In the event that multiple items are leased to a consumer pursuant to more than one rental-purchase agreement, any late fee imposed pursuant to this section shall not exceed ten percent of the total of the periodic payments that are delinquent.

(f) requiring a payment in addition to regular periodic payments in order to acquire ownership of the merchandise or requiring periodic payments totalling more than the cost to acquire ownership, as provided in section five hundred three of this article.

4. Only one late charge or reinstatement fee may be assessed for a delinquent periodic payment regardless of the period during which it remains in default. No merchant shall assess a late charge for a periodic payment made in full on its due date or within three days for agreements that are renewed on week by week terms or seven days for agreements that are renewed on month by month terms when the only delinquency is attributable to late fees assessed on earlier periodic payments. With respect to payments accepted by mail or by store deposit box, no merchant shall assess a late fee for payments which are post-marked or received before the expiration of the applicable delinquency periods.

5. A rental-purchase agreement must provide that:

(a) a charge in addition to periodic payments, if any, must be reasonably related to the cost of a service performed;

(b) a consumer who fails to make a timely payment may reinstate an agreement without losing rights or options previously acquired and without incurring any charges, other than rental charges for the time he possessed the property, except for those charges provided for in paragraph (e) of subdivision three of section five hundred one of this article by making the required payment before the later of seven days or half the number of days in a regular payment period after the due date of the payment; and

(c) if the merchandise is returned or voluntarily surrendered by the consumer, other than through judicial process, during the applicable

reinstatement period set forth in paragraph (b) of this subdivision, the consumer's right to reinstate the agreement as set forth in paragraph (b) of this subdivision shall be extended for a period of not less than thirty days after the date of the return of the merchandise. If a consumer has paid one-half the total of payments necessary to acquire ownership, the right to reinstate the agreement shall be extended for a period of not less than sixty days after the date of the return of the merchandise. If a consumer has paid three-quarters of the total of payments necessary to acquire ownership, the consumer's rights to reinstate the agreement shall be extended for a period of not less than one hundred eighty days after the return of the merchandise.

6. This section does not prevent a merchant from attempting to repossess merchandise during the reinstatement period, provided in paragraph (b) of subdivision five of this section. The consumer's right to reinstate an agreement does not expire because of such a repossession. On reinstatement, the merchant shall provide the consumer with the same merchandise or substitute merchandise of comparable quality and condition. If substitute merchandise is provided, the merchant shall provide the consumer with the disclosures required in subdivision seven of this section.

7. A rental-purchase agreement must disclose in a conspicuous and informative fashion:

- (a) a description of the merchandise provided;
- (b) whether the merchandise is new or used, provided however, that it shall not be a violation of this section to indicate that the merchandise is used if it is actually new;
- (c) the amount and timing of rental-purchase payments;
- (d) the total number of payments and the total amount that must be paid to acquire ownership of the merchandise, which amount shall be explicitly labelled "total cost";
- (e) the amount and purpose of any payment, charge, or fee, in addition to the regular periodic payments;
- (f) whether the consumer is liable for loss or damage to the merchandise and, if so, the maximum amount for which the consumer may be liable, which in the case of loss shall in no event be greater than the price the consumer would have paid to exercise an early purchase option pursuant to this article. In the case of damage to the merchandise, other than normal wear and tear the consumer shall be liable for the lesser of the price the consumer would have paid to exercise an early purchase option pursuant to this article or the cost of the repair as determined by the merchant;

(g) that the consumer does not acquire ownership rights unless the consumer has complied with the ownership terms of the agreement;

(h) the cash price of the merchandise; and

(i) a statement of the conditions under which a consumer may exercise an early purchase option and under which the merchant or consumer may otherwise terminate the lease.

S 502. Availability. Every rental purchase agreement shall indicate that a consumer at his or her written request shall be permitted to review a completed rental-purchase agreement for up to twenty-four hours prior to signing.

S 503. Total cost. No merchant shall offer a rental-purchase agreement requiring periodic payments totalling more than an amount, fifty percent of which equals the cash price of merchandise. When periodic payments made by a consumer total an amount, fifty percent of which equals the cash price of the merchandise, the consumer shall acquire ownership of the merchandise and the rental-purchase agreement shall terminate.

S 504. Early purchase option. At any time, after the initial payment, the consumer may acquire ownership of the property by tendering an amount equal to the cash price of the merchandise minus fifty percent of all previous rental-purchase payments made.

S 505. Advertisement. 1. An advertisement for a rental-purchase agreement that refers to or states the amount of a payment or the right to acquire ownership of any one particular item under the agreement shall clearly and conspicuously state:

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

(b) the total number of payments and the total amount to be paid to acquire ownership, which amount shall be explicitly labeled "total cost"; and

(c) the circumstances under which the consumer can acquire ownership rights.

2. An advertisement for personal property available through rental-purchase agreements that refers to more than one appliance or particular item and includes information on periodic payment amounts shall include a representative item available at that amount and shall conspicuously state:

- (a) that the merchandise offered may be new or used;
- (b) that transaction advertised is a rental-purchase agreement; and
- (c) that the consumer does not acquire ownership rights unless the consumer

complies with the ownership terms of the agreement.

3. Every item displayed or offered under a rental-purchase agreement shall have clearly and conspicuously indicated in arabic numerals, so as to be readable and understandable by visual inspection, each of the following affixed to the item:

- (a) the cash price of the merchandise;
- (b) the amount of the periodic payment and the total number of periodic payments required for ownership; and
- (c) the total amount that must be paid to acquire ownership of merchandise,

which amount shall be explicitly labeled total cost.

S 506. Exempted transactions. This article does not apply to:

1. Agreements for the rental of merchandise in which the person who rents the merchandise has no legal right to become the owner of the property at the end of the rental period;
2. A lease of a safe deposit box; and
3. Retail installment sales agreements, contracts, or obligations.

S 507. Enforcement. 1. A consumer who has suffered a loss due to a violation of this article by a merchant is entitled to recover from the merchant actual damages, reasonable attorney`s fees and court costs.

2. Whenever a court finds that a consumer has been injured because a merchant acted in bad faith in its performance under this article, the merchant shall be subject to a penalty of not less than one hundred dollars nor more than one thousand dollars as determined by the court.

3. A violation of this article is a deceptive trade practice under section three hundred forty-nine of the general business law.

4. Whenever there shall be a violation of this article an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice, that the defendant has, in fact, violated this section an injunction may be issued by such court or justice enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this article has

occurred, the court may impose a civil penalty of not more than five hundred dollars for each violation. In connection with any such proposed application the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

5. Nothing in this article shall be construed so as to nullify or impair any right or rights which a consumer may have against a merchant at common law, by statute, or otherwise.

6. A merchant or assignee may not be held liable in an action brought under this article for a violation of this article that was unintentional and resulted from a bona fide or clerical error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

7. An action shall not be brought under this article more than four years after the occurrence of the act, method or practice which is the subject of the action or more than one year after the last payment in a transaction involving the method, act or practice which is the subject of the action, whichever is later.