

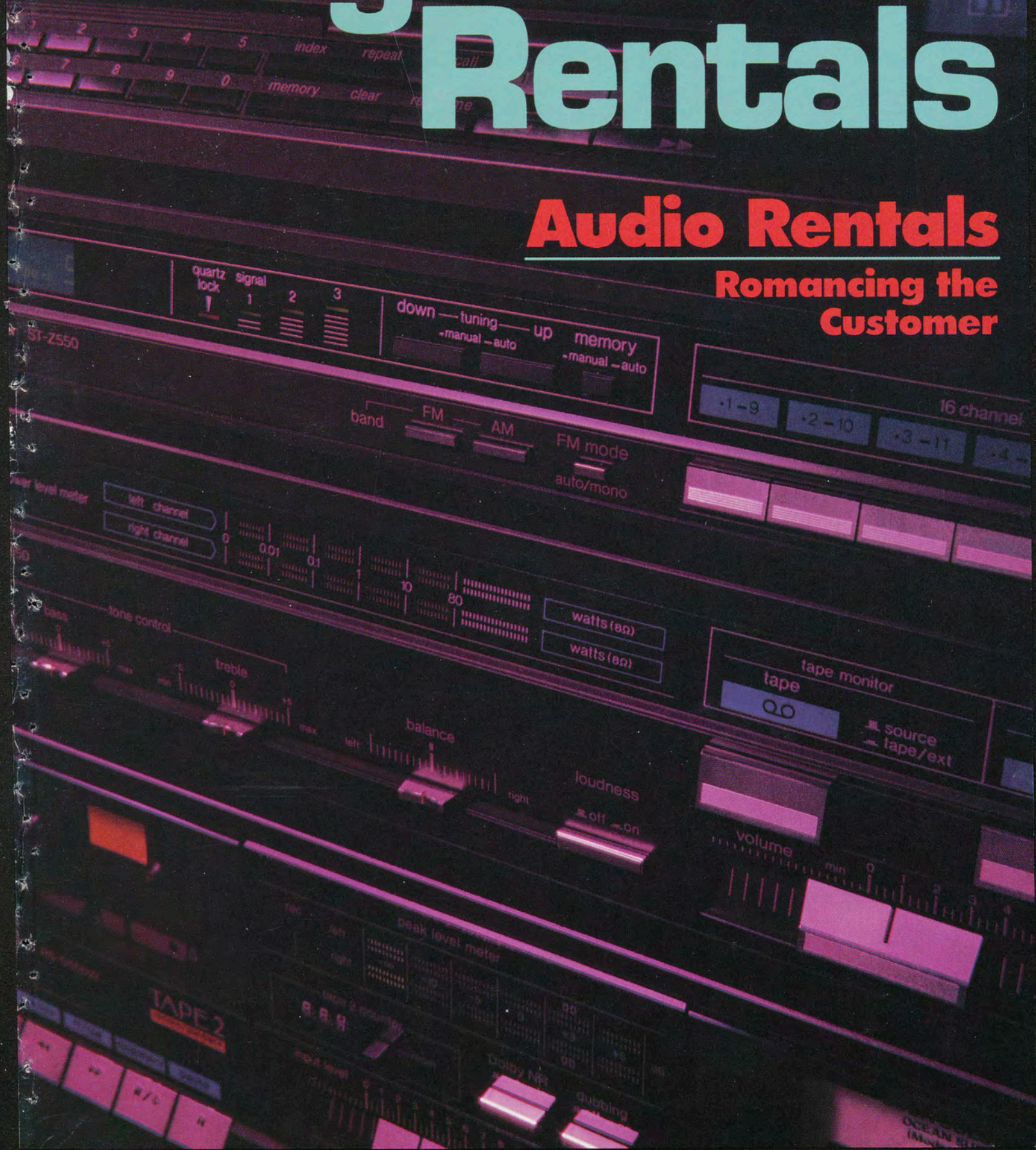
Compact Disc Player SL-PJ91

the magazine of the home electronics, appliance, and furniture rental industry

# Progressive Rentals

## Audio Rentals

### Romancing the Customer



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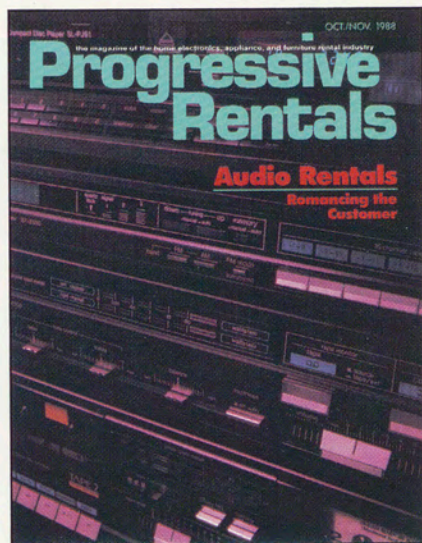
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**ON THE COVER:** Romancing the customer with the latest gadgetry is apparently what it takes to move audio in today's market. Feature begins on page 8.

COVER PHOTO BY:  
*Vernon Berger, Design2*

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## THE DIRECTOR'S DESK

The APRO Board of Directors meeting held August 31 and September 1 in Atlanta signaled a major turning point and a new direction for the association. The two-day meeting was called by APRO President Dick Grauel for the purpose of developing a mission statement, setting goals, and outlining action plans to guide the work of the association. The goals include both short-range and long-range objectives.

The mission statement, adopted during the meeting reads: "APRO is committed to being the national rent-to-own trade association by being responsive to its members, by providing responsible and effective leadership, and by promoting professionalism in the industry in a financially sound manner."

Fourteen areas of the association's work program were singled out for special emphasis, and committees were appointed in each area to set specific goals and determine steps and time frames for the achievement of the goals. New programs are being developed to meet the needs of the members in areas such as new member services, conventions, seminars, public relations, insurance, government relations, budget and finance, membership development, and publications.

A committee is examining the APRO seminar program to find ways to offer new subjects at a lower cost to participants, and in locations that are more convenient for APRO members. The board voted to open the seminars to non-members, which is expected to increase attendance and allow the association to offer more educational training programs. Another committee, appointed to develop new member services, is exploring the possibility of offering a comprehensive institute training program in conjunction with a major college. This project envisions offering three levels of training with the possibility of certification for completion of the various programs.

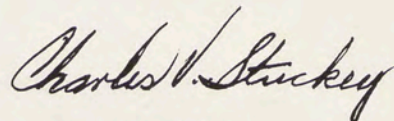
The membership committee was challenged by the board to produce a net gain of 100 new members by August 1, 1989. The committee is working on a marketing plan that will include APRO member involvement in recruiting new members.

A comprehensive public relations plan is being developed to enhance the image of the industry in the eyes of legislators, consumers, and the general public. The public relations plan will include programs to educate the public on the rental-purchase concept. The plan will also concentrate on keeping APRO members better informed of the association's services and the status of all APRO projects.

Important changes in future APRO conventions and trade shows are being considered. A new committee is looking at ways to improve convention seminars, offer a larger trade show, and increase convention attendance while keeping the cost of attending the convention as low as possible. The board voted to open future conventions to non-members. Consideration is being given to changing the convention location pattern of holding the convention in Las Vegas every other year.

The board reviewed the legal and legislative program that was developed at the 1988 convention which includes plans to help organize state associations and to encourage existing states to remain active. APRO is providing administrative assistance to state rent-to-own dealer associations and coordinating the ongoing legal and legislative programs at both the state and national levels.

These are but a few of the new projects that signal a change in direction for the national trade association that represents the rent-to-own industry. The results will be a stronger, more unified association—one that is better prepared to serve its members and the industry.



—Executive Director

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# Audio Marketing— Taking Advantage Of All the Romance

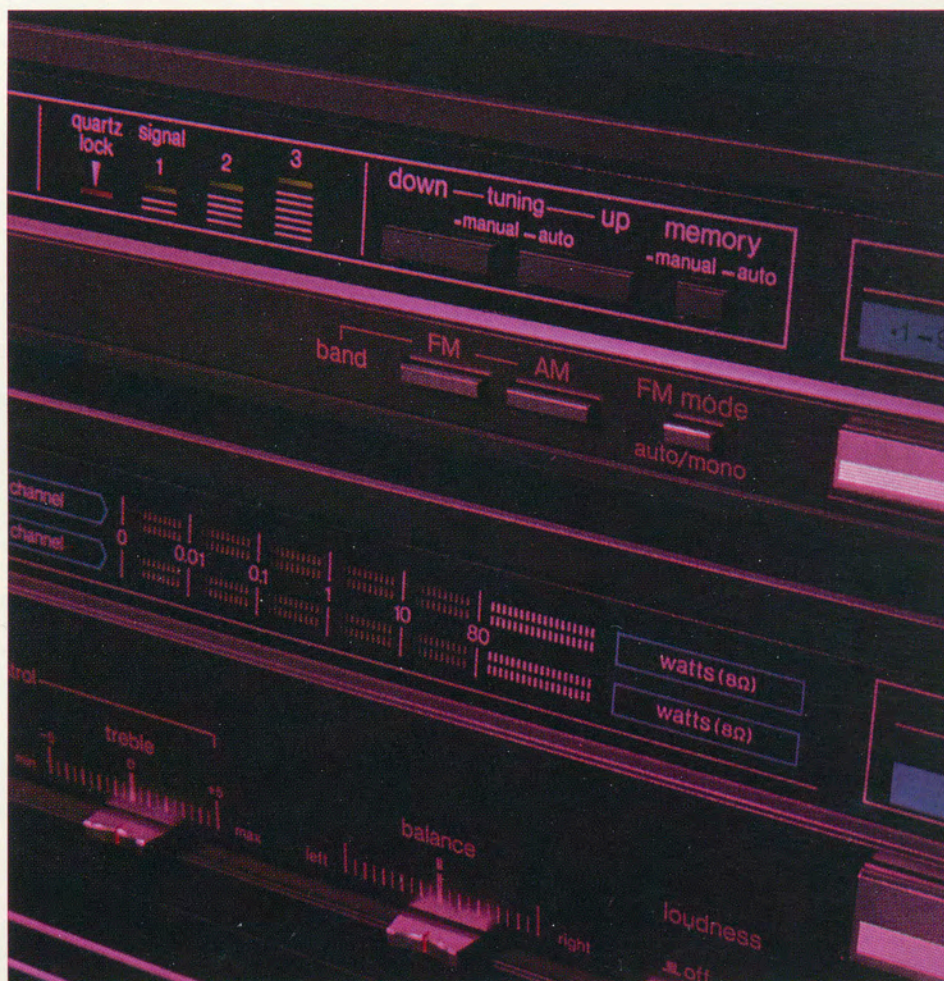
By Susan K. Elliott

For some observers, the story in audio is where it will be in a few years when all the promised technology becomes reality. Others focus on today, saying that rental dealers need to put more emphasis on romancing all of the innovations that are becoming widely available.

Until recently, features such as remote control stereos and compact disc players capable of playing up to 20 hours of non-stop music were accessible only to wealthier retail buyers, or not at all. These deluxe features have now become affordable for rent-to-own customers, although they may not know it yet.

"You couldn't find a stereo three years ago that had a remote on it unless you paid \$1,500 cost for it," says Alan Taylor, owner of 10 Michigan Rent To Own stores based in Southfield, Michigan. "Now we're getting remotes on our \$300 leader systems. I think the customers are thrilled about the extra special features they're getting on these systems today.

"That's just because technology is able to manufacture those features at



lower cost today, and they're putting all the bells and whistles on lower and middle end products. You never used to find it that way before."

## Compact Disc Players

Acceptance of compact disc players still varies widely from dealer to dealer, but most fully expect their numbers to grow. Compact discs have begun to drop in price, coming down from the standard \$30 price of a few years ago to a low of \$9.99 to \$12.99. "Now that customers can afford to buy them, just like they could afford records before, they're interested in CD players," says Taylor.

He reports only about 5 percent of his customers taking CD players, but believes he should be merchandising "better, putting it out on a separate display as an add-on for \$9.99 to an existing system. Then I'd see CDs being another source of BOR that most dealers probably aren't pushing much. But it should be done, and I'm sure we will.

"We offer compact disc players as an add-on now, but it's just not set up in the store to make it that obvious to the customers that they can get it. We've never done a mail-out to video customers saying 'For \$9.99 you can add this on.' It's all merchandising and marketing that should be done. I feel if it was done we could put more of them out," says Taylor.

## All in One

Warren Powers, an owner of Americans' Rent To Own stores in St. Louis, Atlanta, Denver, and San Diego as well as six rent-to-rent stores, believes audio customers are "becoming more educated and looking for more sophisticated equipment to rent. Customers want combination equipment with stereo and TV in an entertainment center."

Throughout the country, dealers report greater interest in entertainment centers. Quasar is one company responding to this demand with a system described as a "hybrid between the

wall unit and vertical rack unit." According to Sid Pickup, Quasar's audio marketing manager, the new system was developed specifically for the rental market and introduced at the August APRO show in Las Vegas.

"Quasar has participated in the APRO shows for a long time, and we constantly get requests from APRO dealers to 'please have some sort of a rental piece that we can create an A/V (audio/video) center with. It makes it easier for our customer to set up, it's something that we can rent easily, but give our customers a good value'."

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**. . . rental dealers need to put more emphasis on romancing all of the innovations that are becoming widely available.**

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Quasar's all-in-one low-boy style cabinet features speakers for the audio portion built into the bottom of the cabinet and will house either a 19- or 20-inch television. "We've given the dealer that flexibility to put the television he wants into it—including the television VCR monitor, our model 8220, which has a VCR player recorder built into it with a 20-inch television, so they can match up that with a remote control audio system.

"The audio system has dual tape decks and is also remote controlled by the same unified remote as on our 100-watt system. It's a five-band graphic equalizer with quartz tuning and if they want, they can also put a CD player in that cabinet.

"It creates an all-in-one cabinet that allows the dealer to offer a complete home-entertainment package at one price, everything together. That introduction has been very successful for us, and the dealers were very

pleased to see it since they have been looking for that type product from us for two or three years now," says Pickup.

Quasar has also introduced their first remote-controlled 100 watt per channel rack system with three-way speakers and 10-inch woofer for rental customers "who demand the higher power systems."

## Control in Hand

Pickup says dealers especially like the flexibility of Quasar's unified remote control device "which operates with most all of our remote control televisions. It turns them on and off, and operates all the VCRs, changes the channels, starts the play mode, stops, records. Then the same remote control turns our audio system on/off, moves the volume up or down, the preset radio stations up and down, and also chooses between functions like tape, phono, and CD if they have one in the system."

Warren Powers is one dealer who sees remote controls becoming more popular. "Stereos are all coming out with remote control, just like televisions. Thirty-five to 40 percent are remote control now, and the number is growing all the time," says Powers.

Lindsey Semon, owner of three Magic Rentals stores in Charlotte, North Carolina, finds it difficult to keep remote control units matched up with the stereos. "We offer them, but the remotes don't usually come back that many times, and we just let it ride from that point.

"The remotes are something that are popular, but it's a problem keeping up with the remotes, just like it is with televisions. Whenever you do pick-ups you have a hard time getting the remotes back. Your remotes are too expensive to keep replacing, so then the system turns into being non-remote. You just don't tell the customer that it has one.

"It is a little hard to get the replacements for remotes for stereos now because they're still new," Semon says.

# Audio Supplier Who's Who

The status of audio in rental-purchase is underscored by the number, scope, and reputation of audio suppliers working with the industry. The following list of current suppliers details not only company addresses and phone numbers, but products supplied as well. Each company listed supports APRO as an associate member, convention exhibitor, or publications advertiser.

\* = Associate Member  
 + = Advertiser  
 ‡ = Convention Exhibitor

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 Golden, CO 80401  
 (303) 279-8200  
 Telecommunications equipment

+**‡Epsilon Electronics**  
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 Los Angeles, CA 90023  
 (213) 265-2222  
 (800) 832-4647  
 Portable radios, cassettes, recorders, amplifiers

\*+**‡Hitachi Sales Corp.**  
 401 W. Artesia Blvd.  
 Compton, CA 90220  
 (213) 537-8383  
 (800) 262-1502  
 Complete audio systems, CD players, recorders

\***‡L.B.I./Monitor Electronics**  
 5601 Creek Rd.  
 Cincinnati, OH 45242  
 (800) 543-4433  
 Audio/video distributors

\***Michie Distributing Co.**  
 1408 N. Broadway  
 Carrollton, TX 75006-3817  
 (214) 245-0006  
 Audio/video distributor, Philco, Sharp, Emerson brands

+**‡Pfanstiehl Corp.**  
 3300 Washington St.  
 Waukegan, IL 60085  
 (312) 623-1360  
 Audio accessories and repair equipment

\*+**‡Philips Consumer Electronics**  
 P.O. Box 14810  
 Knoxville, TN 37914-1810  
 (615) 521-4706  
 Magnavox, Philco, Sylvania brands, audio receivers, tape decks, turntables, speakers, CD players

\*+**‡Quasar**  
 1325 Pratt Blvd.  
 Elk Grove Village, IL 60007  
 (312) 228-6366  
 Audio systems, tape decks, turntables, speakers, CD players

\***R & R Distributing**  
 1101 Gulf Breeze Pkwy. #200  
 Gulf Breeze, FL 32561  
 (904) 934-3803  
 Audio/video distributor, Sharp, Marantz, Magnavox brands

\*+**‡RES Electronics**  
 301 S. 13th St.  
 Tampa, FL 33602  
 (813) 223-7304  
 Akai audio systems

\*+**‡Sanyo Fisher Corp.**  
 21350 Lassen St.  
 Chatsworth, CA 91311  
 (818) 998-7322  
 Audio rack systems, amplifiers, turntables, speakers, receivers, tape decks, CD players

+**‡Sears Contract Sales**  
 D/732G Sears Tower, 12th Floor  
 Chicago, IL 60684  
 (312) 875-6926  
 Audio rack systems, amplifiers, turntables, speakers, receivers, tape decks, CD players

‡**Sharp Electronics**  
 Sharp Plaza  
 Mahwah, NJ 07430-2135  
 (201) 529-8200  
 Audio rack systems, amplifiers, turntables, speakers, receivers, tape decks, CD players

\***Shintom West Corp.**  
 20435 S. Western Ave.  
 Torrance, CA 90501  
 (213) 328-7200  
 Audio/video manufacturer, radios, telephones, car stereos

+**‡Soundesign Corp.**  
 Harborside Financial Center  
 400 Plaza Two  
 Jersey City, NJ 07311-3962  
 (800) 333-3092  
 Audio rack systems, amplifiers, turntables, speakers, receivers, tape decks, CD players

\***Sunbelt Sales**  
 P.O. Box 472  
 Plano, TX 75074  
 (214) 422-7176  
 Audio manufacturer's rep for Technika, Goldstar brands

\*+**‡Symphonic Corp.**  
 100 North St.  
 Teterboro, NJ 07608  
 (201) 288-2606  
 Audio equipment, telecorders, CD players, stereos

+**‡Tatung Company**  
 2850 El Presidio St.  
 Long Beach, CA 90810  
 (213) 637-2105  
 Recorders, stereos

\***‡Technika Electronics**  
 353 Rt. 46W  
 Fairfield, NJ 07006  
 (201) 575-0380  
 Audio rack systems, amplifiers, turntables, speakers, receivers, tape decks, CD players

+**Thomas Corp.**  
 122 Tices Ln.  
 E. Brunswick, NJ 08816  
 (800) 524-0160  
 (201) 238-6862  
 Harley-Davidson brand audio stereo systems

\*+**‡Thomson Consumer Electronics**  
 P.O. Box 11009  
 Indianapolis, IN 46201  
 (317) 267-5839  
 General Electric, RCA brands, audio/video systems, stereos

\*+**‡Toshiba America**  
 82 Totowa Rd.  
 Wayne, NJ 07470  
 (201) 628-8000  
 Receivers, turntables, tape decks, equalizers, speakers

+**‡Welton/Techwood**  
 2109 Luna Rd.  
 Carrollton, TX 75006  
 (214) 243-5602  
 Audio rack systems, stereo bar

‡**Yorc Electronics Corp.**  
 405 Minniskink Rd.  
 Totowa, NJ 07512  
 (201) 256-0500  
 Portable, compact stereos, rack systems, telephones

## Don't Lose Them

In Michigan, Alan Taylor finds definite enthusiasm for remote control stereos. He says, "The majority of our stereos now are remote controls and we think that's a big selling point. Customers are very interested that they are remote. It's a good selling feature.

"We feel that losses of remotes are part of the business. We run our business just like a professional retailer should, and if it's a remote stereo, we price it the way it should be, and we replace the remote and send them all out with remotes. We look at it as a cost of doing business.

"The way we cure the loss of remotes (not that we do totally), is try to do the best we can to get them back. Customers don't lose them. It's the account managers who don't repo the remote. They get the unit out of the house, and the remote's not right with it, and it never ends up back at the store," says Taylor.

Remote control is "a selling feature

and we just don't think we should discount the customer any feature they're supposed to get with the product because they're a rental customer."

## Something New

New suppliers continue to jump into audio rentals, creating competition for the dealers' attention that benefits the field as a whole.

One such company, Welton Techwood, sees itself as a "relatively small company which can move quickly to fill niches as they develop in the market, providing customer service," according to Jim Wood, senior vice-president.

"We've really just in the last year started to grow in the rental market. We introduced the Techwood label a little over a year ago, in June '87. At that time we introduced several models of fully assembled audio/video units. That's what got us off the ground in the rental market and that's proven to be a very successful category for us. A lot of people are in that field but we're one of the

few that offer fully assembled units that all come in one carton. No assembly required.

"Before that time we were a line that was sold primarily through distributors. The pricing after passing another level of distribution kind of made it prohibitive, so we introduced Techwood as our direct line at that time, and it's been doing well ever since."

Techwood has a full line of stereo rack systems and stereo console systems with six numbers in the racks ranging from 20 watts to 100 watts, fully assembled. Each carries a four-year parts warranty for extra customer protection which has been in place for several years.

Four console styles meet customer demand for different styling. "Rental dealers like them because they're fully contained," says Wood. "They don't even have a separate carton for the external speakers. The console comes in one carton and they put it on the floor and rent it with fewer security problems, and they don't have the wait

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Masterpiece Series Model 2700 CPX. 27" high resolution screen with components.



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involved with assembly.

"There are no hook-up problems: you don't have to send a technician out to the home to hook it up. In addition, there are fewer service problems because people accidentally pull a cable loose when they're moving it or something. It's all wired internally so there are very few problems with it," says Wood.

## Warranty a Must

Warranties are one factor that Truman Heddings considers carefully when selecting a new supplier for his 37 Rental Mart and ColorTyme stores in Oklahoma, Texas, Louisiana, Arkansas, and Missouri. Heddings says, "We're looking for what's hot in the market. Warranty is a very deciding factor. They've got to have some warranty.

"If you're not careful there are some

manufacturers who do not give rental merchandise any warranty. We've had that in the past, but I think most of them do now. Always be sure that there is some warranty." Heddings notes that warranty terms vary widely, with some as generous as five-year terms.

"We just want to be sure they do have some warranty. Normally, if products last a little while, they're going to last a long time," says Heddings.

## A Blow-Out

Blown speakers are one of the major problems for which dealers report needing warranty protection. "Speakers get blown out all the time," says Lindsey Semon. "To avoid that, we get damned good warranties. Technics, for instance, has a warranty that says they'll just keep replacing them for five years. Sharp systems or some other systems are built so

that if a customer starts revving them up, before they blow the stereo will shut itself down to keep from blowing.

"Hopefully, the manufacturers will go more in that direction to have a safety in there to shut them down. Sharp is already doing that."

Haskell Dighton, owner of E-Z Home Rentals in Lawton, Oklahoma, has trouble with customers adding extra speakers at home, cutting the wires and shorting out the system. "We try to ask customers not to do that and work with customers to be sure that they get a system that's big enough for them. We'd rather fit their needs to start with than have them do it when they get home."

## Custom Tailored

Knowing that dealers need repair flexibility, Philips Co.'s Magnavox, Sylvania, and Philco brands are tailored to rental dealers' needs. According to marketing manager Rocky Caldwell, "We normally make a couple of changes when we sell a system for the rental business to make it a bit more viable for them.

"If the speaker, for instance, does not have a removable grill and therefore the speakers inside are not user-replaceable by the rental dealer, we make it either a removable back or a removable grill, so if the speaker's blown during the rental, a dealer can install a new one.

"The rental dealer is looking, number one, for a bullet-proof system. We try to make sure that, even if it isn't bullet proof, he can fix it himself. No rental dealer expects a bullet proof system. They all know that the kind of customers that rent, whether it's short-term or long-term rental, there's a little more abuse than standard, and therefore you have to protect against that, so we make provisions for the later repair," says Caldwell.

## Selling Seasons

None of the dealers contacted in this informal survey reported growth in audio, although some thought their own marketing needed to be revamped to boost BOR. None were quite as blunt as North Carolina dealer Lindsey Semon, however, who said flatly, "Audio is dead. It's been flat. Even last Christmas it was not as good as it should have been. My idle in audio has been high ever since Christmas. It did not go last year. I haven't bought the first stereo system this year."

Nonetheless, Semon did say that his sales had begun to pick up within the first two weeks of September without

## Some Good Words About Rent-To-Own

*A favorable comment about rent-to-own printed in any newspaper is welcome news in the industry. The following excerpt from "Hints From Heloise" was supplied by Marty Raucher, controller for Canyon Television & Appliance Rentals in Las Vegas. It is reprinted with special permission from King Features Syndicate, Inc.*

DEAR HELOISE: I never thought much about renting furniture before my daughter went off to college. She moved 300 miles away and didn't have a stick of furniture.

We priced everything for the entire apartment—living room set, dining room and bedroom. It was so expensive, plus she didn't know if she was going to stay at that particular college after six months. We looked into renting a basic package of three rooms and found a good deal.

We were really surprised at the low cost. We could rent by the month, and if she kept the furniture 18 months the rental fees could apply to purchase it.

There are quite a few furniture rental places in all states and the prices are pretty competitive. A basic package consisting of one double bed, nightstand, four-drawer chest, dining table, chairs, sofa, easy chair, coffee table and two lamps rents from \$60 a month, or better packages for up to \$100.

My daughter was happy with it, and since she only stayed for six months, she felt the \$360 was well spent. When she moved to another college across the state, she didn't have the bother of getting a mover.

She rented furniture again and loved it. It certainly is nice having new things so soon. My furniture is old, and I'm thinking of renting some new pieces with the option of buying them 18 months later.

—Mrs. T. Packard, Houston, Texas

**That seems the perfect choice for a college student, or anyone just starting out. It's good to know you can have nice furniture, rather than hand-me-downs, and not go broke trying to buy everything for an apartment, plus be spared the hassles of moving heavy furniture!**

**I'm sure you have saved some students dealing with the big problem of what they're going to do once they're on their own. Thanks for sharing.**

—Heloise

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any apparent reason. "Tell me why," he said. "I don't know because there are no specials running for audio."

Wayne Russo, vice-president of Speedi Rentals Inc. of Cranston, Rhode Island, says "The summer months in the New England area are not a good time for rental. Business starts picking up in the fall because of everybody staying in the house. There's been a drop-off in the summer in terms of advertising, and business has slacked off a little bit."

Haskell Dighton observed that a summer promotion for a \$29.90 Quasar PS-7 low wattage stereo was very successful in his store. "We bought all we could get and were calling all over the country trying to get more. The special ran in June, which is a pick-up month for us after a slow period from January to April. We had a lot of people coming in for that."

"June is a transition month, but it was a real good month for us because of that promotion. We rent more stereos in summer than we do in winter. TVs are the other way around, of course," says Dighton.

Other promotions run this year by dealers included:

- a Monitor entertainment center with

TV, stereo, and VCR at \$19.95 a week, and a one-cent sale for the first week's rent on a two-week minimum that applied to everything in the store—Speedi Rentals;

- an entertainment center with stereo and TV at \$19.95 a week (VCR extra)—Americans' Rent To Own;

- \$5 for the first week's rent—Magic Rentals.

Alan Taylor believes that competition is making exposed pricing a necessity in advertising. Up until a year or two ago, he explains, dealers typically offered no prices in ads. It was standard practice to "put a come-on like 'First Week Free' or '99 Cents Delivers' but never talk about pricing or what the weekly rates were." Now that customers are seeing specific rates in advertising, they will expect the same approach from all dealers, says Taylor.

It should be noted that in states where rental-purchase statutes are on the books, certain advertising disclosures are required. (See PROGRESSIVE RENTALS June/July 1988, page 38.)

### More Competition

"Because of all the competition, the days are gone of the customer being

happy just to get a rental item," says Taylor. "Now they are being like higher-end retail shoppers: they can command and demand a lot of selection and top national brand names because the competition carries it. That's what's caused that."

"If you have five dealers in your market and two of them have two or three brands to select from and they're national, recognized brands, the customer knows that and they won't buy from you if they think they can get a better selection somewhere else."

### Product Incentives

Duane Stephen, Manager of Special Markets and Rental East for Thomson Consumer Electronics (General Electric and RCA), believes that dealers should be using more incentive products as closers or to encourage a customer to rent from one dealer over another.

"Things like answering machines are very good items that should be considered. Instead of continuing the price erosion of the weekly or monthly rate, why not offer them another incentive to buy from you, and it will probably cost you less money over the long run.

*continued on page 46*

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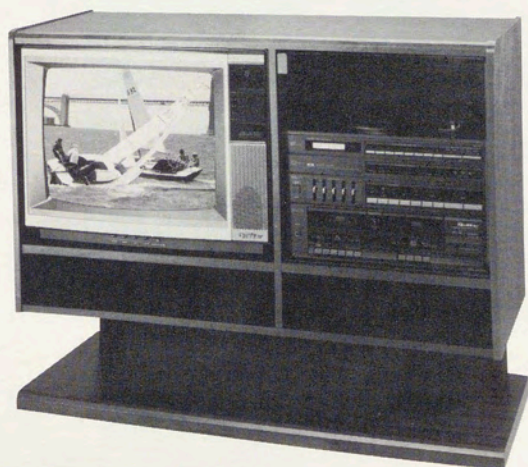
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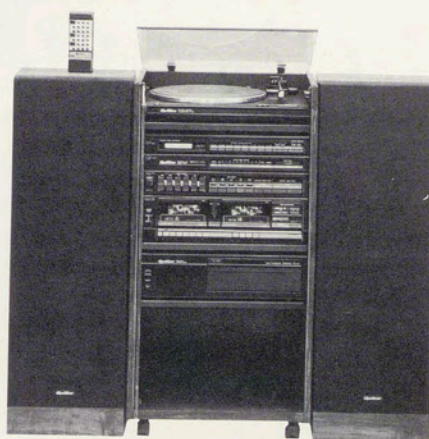


### Model: PAV5956 Audio Video System

- Includes 19" remote control color TV (#TT5956W)
- Audio system with 28-key unified remote control, AM/FM stereo receiver with quartz tuning and 16-station presets, built-in dual cassette deck with high-speed dubbing, semi-automatic belt-driven turntable, built-in 5-band graphic equalizer, CD and video inputs.
- One-piece AV cabinet (#RK1920) with two built-in 6" dual-cone speakers, easy roll casters, adjustable TV shelf, shelf for optional VCR, shelf for optional compact disc player.
- Contemporary style cabinet, simulated classic walnut finish, unassembled.

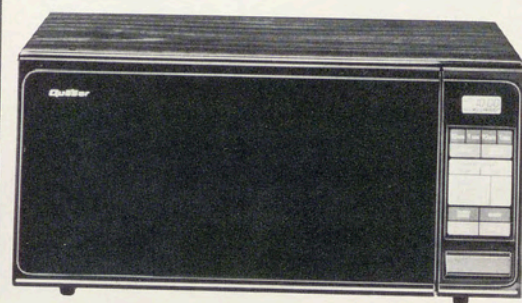


VV8220 combines a 20" diagonal monitor with a full-featured VCR that offers 155 channel autotune digital quartz tuning, CCD digital filter, on-screen programming via a 47-function wireless remote, and one-month, four-event programming.



### Model: PAS108

- 26-key A/V unified remote control
- 3-way speaker system with 10" woofer
- Quartz synthesizer AM/FM stereo tuner with 16-station random access presets
- Belt-drive semi-automatic turntable
- 3-Way speaker
- Audio Rack



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## Choices

I am concerned about something that I see rental dealers say from time to time when they are quoted in newspapers. I must assume that if some dealers are saying it in the papers then a good many more must be thinking it. It is the statement that our rental customers do business with us because they have nowhere else to go and we are willing to do business with them.

I do not think that statement is true, and the fact that some of us think and say it casts an unfair and unfavorable shadow on our business. It gives industry opponents ammunition to use when they talk to legislators.

One of the things that legislators are supposed to do is to protect the unprotected. A citizen can be more easily characterized as needing protection when he can be shown to have no choices. The homeless are a good example. To the extent there are people without shelter because there is no shelter, it is appropriate for lawmakers to step in and create some choices for these people. We are, of course, talking about economic choices, rather than the other kinds of choices—moral, social, religious, etc.—that one makes.

The fact is that rental customers always have other choices to make besides renting from a certain dealer. And as an industry, we must be careful not to let people think otherwise.

The first choice is to go down the street and find a cheaper rental rate. Our customers are already doing that, but opponents like to portray us as a noncompetitive industry able to exist because we are the only game in town.

Another choice for a certain percentage of our customers is to go to a retailer and qualify for a full-blown credit purchase for the same or similar merchandise that they are renting.

The president of the North Carolina Retail Merchants Association has insisted for at least the past five years that everybody can get credit if he or she will look for it diligently enough. While that statement may not be entirely accurate, it is certainly true that a significant percentage of our customers could be doing business with traditional credit establishments, if they chose to do so.

What about those customers who actually do not have sufficient credit to finance the purchase of a TV? They still have choices. The obvious choice available to everyone is to save money, defer gratification, and pay cash for the merchandise at some point in the future. That may be the chief choice that every single rental customer has every time he or she makes a rental payment.

Consumer advocates are fond of making a double-sided argument against the industry that sounds compelling at first blush, but is illogical when analyzed. Unfortunately, some rental dealers are helping with the argument by exaggerating the plight of their customers. On the one hand, consumer advocates argue that rental customers have no choices and therefore are in need of legislative protection from being gouged in the one avenue open to them. With the next breath, they argue that rental customers should save their money and pay cash for goods and

services, which is clearly a choice.

The problem is that such a nice-sounding, money-saving choice as paying cash may be emotionally painful. In the meantime, a customer might have to go to the laundromat or watch TV at a neighbor's, or make do with an aging sofa a while longer. I am not suggesting that a rental customer has *easy* choices to make. I personally want a big house on the ocean and a Mercedes—instead I am having to buy baby clothes.

No one except for the very rich has easy economic choices to make. But we all have choices. Every time we spend money or decide not to spend money we are making those choices. Renting TVs and appliances and furniture is one of the economic choices available in the marketplace. That is an acceptable choice to millions of American consumers and responsible legislators everywhere. It can only become unacceptable if the perception is that somehow rental customers have no other choice and are therefore being coerced into renting.


We, as an industry, must be careful not to misrepresent ourselves. There are enough people out there who do not like our business who are doing that already.

**PR**

EDWARD L. WINN III  
APRO General Counsel

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## Now the Polygraph—More Rules

By James D. Walker Jr.

We have a funny way of making rules in this country. We like a fair fight. In the never ending war between the good guys and the bad guys, the good guys have an incredible advantage. If you are a bad guy, look out. If you're a good guy and someone mistakes you for a bad guy, look out. Bad guys and good guys who look like bad guys have a hard time.

It bothers us to think about a good guy being mistaken for a bad guy. It bothered the founding fathers so much that they insisted on the Bill of Rights to guard against this abuse. It is a proud heritage we share.

In the process of protecting our good guys who might be mistaken for bad guys, we give the bad guys a real advantage. In fact, we get downright carried away.

When Sen. Orrin Hatch and Sen. Edward Kennedy introduced the Bill that has become known as the Polygraph Protection Act, which was signed into law by President Reagan on June 27, 1988, Senator Hatch observed for the Congress in the Congressional Record, "Even proponents of polygraph testing admit that there is probably a five percent rate of error in the analysis of test results. Consequently, even under the best of circumstances, some 50,000 workers may have their employment opportunities terminated, curtailed or blocked every year due not to their own work record but due to employer reliance on the results of invalid polygraph tests."

One must pause to wonder about the 950,000 other cases where workers may have lied, cheated, or stolen from the

---

### **In the never ending war between the good guys and the bad guys, the good guys have an incredible advantage.**

---

employer and been discovered through employer reliance on the results of valid polygraph tests. Some people will be better off under this new law. Most people will be much worse off. Senator Hatch's statistics are most revealing.

The way we like to make rules in the United States Congress is to make things illegal and then create exceptions. With our new polygraph law, there is an exception. Employers can require polygraph tests as a part of investigations of illegal activities in connection with the business. There must be a "reasonable suspicion" of an employee's wrongdoing. Such employees must be advised of their rights. Such an employee cannot be dismissed unless there is other evidence of wrongdoing.

It would be very hazardous to an employer to try to use a polygraph test. If, for some reason, it is determined, after the fact, that the exception did not apply, the employer will be considered to have violated the rule. The question then is whether any employer will take that chance.

This is a lot like a golf ball shot in the woods. You go in looking for the ball and suddenly, there before you, lies a golf ball. You reach down to look at the ball to see if it is yours and suddenly, a bite . . . a snake bite. The snake runs one way, and you run the other way.

Chances are good that the snake was not of the poisonous variety. Should you then continue your round or, instead, seek medical assistance? No fool would take the chance that the snake was not poisonous without certain proof of that fact.

So too will all employers discontinue the use of polygraph tests. There is the exception, to be sure. Its use, however, will always expose the employer to the hazard of a later finding that the exception did not apply. This is truly a backwards rule. Despite the exception, it is a rule that plainly prohibits the use of a polygraph, despite the exception.

If it had been a rule that was intended to permit the polygraph, it would have been constructed with the opposite emphasis. The rule would have recognized the value of the polygraph and the reliance that has been placed on it by American business. It would have recognized that the polygraph is almost always correct. It would have created certain exceptions where the polygraph would not be allowed. Those exceptions would be defined clearly so an employer could know for sure that he was offending the rule.

Again, the statistics cited by Senator Hatch tell the tale. The rule covers 50,000 cases. The exception covers 950,000 cases. As backward as that might seem, it is typical of congressional rulemaking.

With the new law now, the employee has something to argue about . . . did the exception apply? Regardless of what the answer to the question might be, the argument is a killer. The attorney's fees and resources that have to be deployed to defend against such allegations are never reimbursed regardless of the out-

come of the inquiry. Before the law, it was considerably more difficult for an employee to make a case for the improper use of a polygraph.

Consider one last aspect of this problem. If an adverse action is taken against an employee because of a polygraph examination, that employee has little to lose by alleging that the polygraph examination was administered improperly and in violation of the law. There is no penalty in the law for making such an accusation unsuccessfully. In other words, the chances are very good, if the polygraph is revealing, that there will be such an accusation. It is less likely that the employee who is vindicated by the polygraph will later complain.

It should be clear from these remarks that a rental dealer would always be well advised to seek counsel before administering any polygraph examination.

**PR**

*Editor's Note: LEGAL is a regularly featured column written by James D. Walker Jr. of Surret, Walker, Creson & Colley, for rental dealers with legal questions. Please address questions for this column to James D. Walker Jr., Surret, Walker, Creson & Colley, Box 1497, Augusta, GA 30903.*

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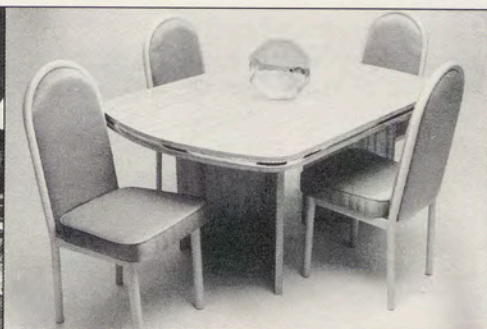


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# Pennsylvania: BIG Government Vs. small Business

By Edward L. Winn III

The State of Pennsylvania continues to be a cloud that looms over rent-to-own. Since the sneak attack by the legislature there last February, dealers have alternately felt angry, frustrated, and disappointed with a system seemingly unresponsive to their point of view and that of their customers.

The original sponsor of the bill that outlawed rent-to-own in the state, Rep. Charles Laughlin, died last spring, but others were quick to jump into the fray. The chief anti-industry spokesman for the moment is Rep. Peter Wombach from Harrisburg. Many dealers who attended the Las Vegas convention heard an excerpt from a taped interview with Mr. Wombach and Bill Morgenstern when Morgenstern related the course of events in Pennsylvania.

Here is what a state representative says about the rent-to-own business:

*"I am going to call a large part of your industry 'loan-sharking,' okay? . . . The biggest problem (the industry has) is (that) you want to lure my consumers into your shop under the guise of being able to eventually own that product.*

---

**"I am going to call a large part of your industry 'loan-sharking,' okay?" —  
Rep. Peter Wombach**

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*"Let me tell you, from (the industry's figures) that 82 percent—82 people out of 100—that walk into a rent-to-own store will never own the product. Only 18 out of the 100 will, okay? I am saying the bottom line to me is that you are pulling the wool over 82 people's eyes to get them into your operation, to load them up with as much equipment as they want. Because, let's face it, you know statistically that 82 out of the 100 people will be bringing the merchandise back or you will be having to pay for large collection staffs that you just admitted that you have, and repossession staffs, you know, to come and reclaim the merchandise.*

*"So, what are you going to do with it? You're not going to warehouse it because it's been used, you're going to put it out on the market again. You're going to churn it over and over. That's what the churning process is all about."*

In the interview, Morgenstern calmly

explained the increased costs of doing business for a rent-to-own dealer which justifies rental rates higher than finance rates. He also explained how other states have dealt with the rent-to-own issue, but Wombach was not listening.

Such is the debate that continues to rage in Pennsylvania.

## **Headline: Attorney General Launches Attack**

No sooner did the Pennsylvania law come into effect on March 1 than the attorney general's office got in on the prosecution of the industry. On March 2, 1988, Deputy Attorney General and Chief of the Bureau of Consumer Protection Doug Yauger sent a letter to all rental companies in the state, which read in part:

*"It is the position of this office that all contracts generally known as 'rent-to-own' contracts are now covered by GSISA. This places significant disclosure requirements plus an interest rate limit of 18 percent upon your business."*

The deputy attorney general's letter went on to demand that all companies,

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**"If the rent-to-own industry dries up, so be it. While it may sound hard, most customers would be better off to save money and make a purchase outright. It's for their own good that we don't want to see them being charged these ridiculous interest rates."**

**—Doug Yaeger, deputy attorney general**

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within nine days, send a copy of all contract forms for the purpose of determining compliance with the law. Yaeger's letter went on to state that even renewals of pre-existing contracts would be considered transactions covered by the new law.

Response to the legislation from dealers in the state was mixed. Originally, Pennsylvania rental dealers, as a group, decided to simply delete the purchase option from their contracts and offer rent-to-rent programs only. This was in an effort to bring political pressure to bear and to create a public outcry for the rent-to-own program. Quickly, however, market pressures forced dealers to consider alternatives.

Some dealers began using rebate programs. Others began using point systems. Still others attempted to comply with the GSISA even though it meant also complying with the Uniform Commercial Code's Article 9 requirements concerning repossession and disposal of repossessed merchandise. Still others found success with the rent-to-rent program. A few dealers simply did nothing in the hope that the legislature would see the error of its ways and pass more responsible rent-to-own legislation.

Most recently, in the absence of any meaningful activity in the legislature, the attack on the industry has escalated. By Pennsylvania law, the attorney general has subpoena power similar to that of a court. That means the attorney general's office can legally require Pennsylvania citizens to disclose information to that office which otherwise could only be obtained by court action with all of the protections that system provides.

What follows is a list of items from the attorney general's office demanding information from rental companies in the state. Notice that the subpoena does not demand information about business practices, but probes deeply into the internal financial workings of the company (items J, I).

(a) Proof of current registration within the Commonwealth of Pennsylvania;

(b) names and addresses of any and all owners, partners or individuals who have pecuniary interest in the company;

(c) if a corporation, names and business addresses of all officers and directors;

(d) if owned by a parent company, the name, address, and telephone number of said parent company;

(e) copies of all contracts, receipts, payment books, statements, literature, advertisements, brochures, printed materials, and lease application forms of any kind used in business;

(f) copies of 1986 and 1987 IRS and PA Department of Revenue tax returns;

(g) statement of monthly rent or mortgage (if space is shared, other tenants' names and amount of rent or mortgage they pay);

(h) names, addresses, length of employment, and job descriptions of all employees;

(i) costs incurred for all employee training, benefits, salaries, wages, and bonuses since Jan. 1, 1988;

(j) for period from Jan. 1, 1988, to present, identify all of the following: office maintenance costs; insurance costs; pick-up or delivery costs for pick-up and delivery of goods; and all administrative costs not set forth in above paragraphs, including, but not limited to, all

shipping and handling costs, advertising, storage, office supplies, and utilities;

(k) current list of inventory with corresponding stock or serial number together with purchase price and name and address of the supplier;

(l) current list of all items in inventory *not* covered by some form of manufacturer's warranty;

(m) current list of the rental prices of all items in inventory;

(n) copies of all sales tax records since Jan. 1, 1988;

(o) copies of all records of service calls since Jan. 1, 1988;

(p) copy of all records of issuance of loaner equipment since Jan. 1, 1988;

(q) copy of all records of defaults and repossessions since Aug. 1, 1987, together with corresponding stock or serial numbers for the items repossessed;

(r) copies of all agreements where purchase options have been exercised since Aug. 1, 1987;

(s) records of all items returned at the end of the lease term where the purchase option was *not* exercised since Aug. 1, 1987;

(t) copies of all lease agreements in effect that were entered into since March 1, 1988;

(u) criteria used, factors considered, and reasons relied upon for disapproving a lease application.

Pennsylvania dealers who have received such subpoenas are faced with an enormous problem. They are either put to the considerable time and expense of attempting to comply with this subpoena or else spend considerable time and expense seeking a protective

*continued on page 50*

# Tax Planning Time Is Here Again

*Here's help for lowering your tax bill*

By Edward M. Gardner

With election day approaching, it's not too soon to begin reviewing your tax position for the current tax year. There is a general feeling from Washington that if Bush is elected taxes will increase to a top bracket of 30-35 percent; a Dukakis win could raise that to 35-45 percent.

In either case, taxes most likely will increase in 1989 over the current rates applicable in 1988. This year is one of the lowest tax rates we have had in years and careful planning is needed to take advantage of these rates.

Here are some tips that may help you save on your taxes for the current year.

## **Review Income and Expenses**

Take a few moments to get a copy of your 1987 federal income tax return. In the righthand margin, go down line by line and estimate your various items of income and expenses for 1988 so that you can estimate your taxable income. Changes have been made through both the Tax Reform Act of 1986 and the Revenue Act of 1987 that change deductions allowable for 1988.

Tax brackets for 1988 are detailed in the box on page 24. Check those numbers to see where you stand.

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**This year is one of the lowest tax rates we have had in years and careful planning is needed to take advantage of these rates.**

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With the increase in the rates for 1988, it is important to see if your itemized deductions are greater than the limits shown. If you find they will fall short, you might consider deferring payment of expenses until 1989 so that they may be deductible in the future.

## **Deferred Income—To Be or Not To Be?**

In the past, it was a common year-end tax planning procedure to defer income into the next year. It is important to note that this may not be the best strategy for many taxpayers in 1988.

We currently are in one of the lowest tax bracket rates in years. With this being an election year, there is every indication that the rates will rise in 1989. Take a hard look at possibly locking into the lower rates in 1988. Where possible, you might want to accelerate income into 1988. At the same time, you might want to defer certain expenses into 1989 to get a higher benefit if and when the rates go up.

## **IRA Deduction**

The IRA rules remain the same as they were in 1987. Individuals who are active participants in a qualified pension plan will phase out their IRA deduction, between \$25,000 and \$35,000 if they are single and between \$40,000 and \$50,000 if they are married, filing jointly.

For those who are not active pension plan participants, a single person can still deduct up to \$2,000; \$4,000 if both spouses work and are not active participants (either) in a plan; or \$2,250 in a spousal plan (where one spouse does not work).

Is the IRA still a good investment even if there is no deduction? The answer depends on an individual's particular situation, but the answer is most likely "yes." However, if an individual is in a company-sponsored salary reduction plan—401(k)—it is strongly recommended that they take the funds they would have put into an IRA and place those in the 401(k) plan, which will allow them to reduce their taxable income. It would have the same net tax benefit as the old rules on IRAs.

For those taxpayers who still contribute to a nondeductible IRA, the interest will accrue tax deferred. The interest earned will not require you to pay tax on it until you take the funds out of your IRA. In essence, this has the same benefit as investing in tax-free municipals.

However, keep a record of the IRA contributions, when made, where,



deductible or nondeductible contribution. This will assist you with computing the taxability of any withdrawals at a later date.

A financial tip: Don't wait until April 15 to put in your IRA contribution. If you were to contribute to an IRA the first of January each year, over 30 years at 10 percent interest, you would have approximately \$50,000 extra in an IRA than by contributing the following year on April 15.

## Underpayment Penalties

The Tax Reform Act of 1986 now requires that you pay in taxes at least 90 percent of your 1988 tax liability. However, if last year's tax is less, you are allowed to pay in the amount of tax you owed last year without any penalty (provided you pay the balance by April 15, 1989). If, after estimating your tax bill, you find you owe additional taxes, either increase your withholding out of your wages or make estimated tax payments (Form 1040-ES).

## Medical Expenses

As in past years, you have a floor on deductible medical expenses in the amount of 7.5 percent of adjusted gross income. If you find that your medical expenses will fall short, hold off paying them until the beginning of 1989. If your company has a Cafeteria Plan, consider

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**The government has in essence created a flat tax rate to make sure that everyone pays their fair share of income tax.**

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utilizing the funds you can get reimbursed with medical expenses.

## Other Taxes

On local, state, and property taxes, if you want the deduction for 1988, then make sure all taxes are paid before year end. If you have your real estate taxes paid through your mortgage company, make sure that those taxes are paid in December.

## Interest Expenses

With the passage of the Tax Reform Act of 1986 and the Revenue Act of 1987, there are now five types of interest expense. Each type has its own specific rules and a close watch on your mix of interest expense is now required.

The types of interest and their allowances are as follows:

- Personal: 40 percent.
- Investment: Not to exceed net investment income plus \$4,000.
- Qualified residence: 100 percent.

- Trade or business: 100 percent.
- Passive: To the extent of net passive income; 40 percent of net passive losses.

## Charitable Contributions

If you elect to lower your income in 1988, then consider giving your 1989 pledges to charity in 1988. Consider giving appreciated property; you will get the deduction of the fair value and will not be taxed on the appreciation. However, if the amount is sizable, review the alternative minimum tax as the untaxed appreciation is a preference item.

If you do volunteer work for charity, be sure to keep a record of your mileage. You are allowed 12 cents a mile as a deduction.

If you have items to give to charity (clothing, household furnishings), be sure to give before the end of the year. Make a list of the items (i.e., description, original cost, fair market value). It is also a good idea to take a picture of the items given.

## Employee Business Expenses

The Tax Reform Act of 1986 (TRA 86) now limits your deduction of nonreimbursed employee business expenses to the extent those expenses, plus your miscellaneous expenses, exceed 2 percent of your adjusted gross income. You should consider asking your employer

to reimburse more of your business expenses.

## Salary Deferral Plan

Does your company have a 401(k) salary deferral plan? If so, consider putting funds into the plan. Most plans match funds from the employer in addition to the funds you put away. Your current contributions lower your taxable income, which reduces your current tax liability. The funds and any income earned on the funds are not taxed until you take money out at a later date. Currently, the tax laws allow a contribution up to \$7,313 annually.



## Business Equipment

Under TRA 86, you now can elect to deduct as a business expense up to \$10,000 of the cost of otherwise depreciable assets used in your trade or business. If you purchase over \$200,000 of eligible assets during the year, the deduction is reduced dollar for dollar on purchases in excess of \$200,000.

Should you want to increase your deductions for 1988, consider purchasing equipment needed for early 1989 in 1988.

If you want to lower your taxable income in 1988, consider ways to reduce your inventory before year end. You might consider contributing certain inventory to a charity or year-end close-out sales.

If your equipment will need maintenance in early 1989, consider repairing it before the end of 1988.

## Passive Loss Rules

TRA 86 created three major types of income: passive, active, and portfolio. Passive income (limited partnerships, rental activities, activities where you do not materially participate) may now be offset only by passive losses. Any unused losses are carried forward and applied against income from passive activities in later years.

In 1988, only 40 percent of the excess losses will be allowed to be taken as a deduction against other taxable income. An exception is made for rental losses. If your adjusted gross income is less than \$100,000, then you can take a loss up to \$25,000 if you actively participate. Careful review of the type of investment you are currently in or considering is imperative to establish how the potential deduction will be taken on your tax return.

## Interest Income

With the top brackets in 1988 being 28 percent and 33 percent, you might consider converting your investments to tax-free municipal bonds. Below is a chart showing tax-exempt and taxable yield comparisons.

Tax-Exempt Yield	Taxable Yield Equivalent	
	28%	33%
5.0%	6.9%	7.5%
5.5	7.6	8.2
6.0	8.3	9.0
6.5	9.0	9.7
7.0	9.7	10.4
7.5	10.4	11.2
8.0	11.1	11.9
8.5	11.8	12.7
9.0	12.5	13.4

## Alternative Minimum Tax

The government has in essence created a flat tax rate to make sure that everyone pays their fair share of income tax. This tax is only payable if it exceeds your regular income tax. TRA 86 raised the rate to 21 percent.

Be sure to check any items you have in deductions that may be considered tax preference items. A close review will enable you to utilize certain strategies

## Tax Brackets for 1988

Rate	Married Joint	Head of Household	Single	Married, Separate
15%	\$0-29,750	\$0-23,900	\$0-17,850	\$0-\$14,875
28%	\$29,751-71,900	\$23,901-61,650	\$17,851-43,150	\$14,876-35,950
33%	\$71,901-149,250	\$61,651-123,790	\$43,151-89,560	\$35,951-113,300
Exemption phase-out				
33%	\$149,251*	\$123,791*	\$89,561*	\$113,301*
After exemption phase-out, 28% rate resumes on all taxable income remaining.				

\*The exemption phase-out rules now cause a taxpayer who has earnings above the amounts listed to lose their personal exemption. For every \$10,920 of taxable income over the amounts listed above, you lose your personal exemption. This is done by having you pay the extra 5% tax rate on taxable income. The 5% on \$10,920 equates to an additional \$546 in tax. If you did not deduct the personal exemption of \$1,950 and you are in the 28% bracket, you lose a tax savings of \$546. This additional 5% is why this calculation is being made. After all personal exemptions you are eligible for are used, the rate reverts to 28%.

### Standard Deduction

The amount has increased for 1988 to:

Married Filing Jointly	\$5,000	Single	\$3,000
Head of Household	\$3,000	Married Filing Separately	\$2,500

Note: You are allowed an additional \$600 if you are age 65 or older for married individuals, \$750 for single. If you are blind, you are entitled to an additional \$600 (\$750 single). If you are both age 65 or older and blind you receive both deductions.

MAYBE YOU SHOULDN'T PUT IT OFF ANY LONGER.

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that will be useful in minimizing or avoiding the alternative minimum tax.

## 401(K) Plan

If your employer has a 401(k) plan and you are not taking advantage of it, review the plan and consider making a contribution. The funds that you put into the plan will reduce your federal income tax (you will still pay social security on the amount up to the limit).

You will be able to put as high as 15 percent of your income up to a maximum of \$7,313 (less if the plan in your company so states). At the same time, your employer will be putting additional money away for your retirement. All earnings will be tax deferred and you will only be taxed upon distribution of the funds to you.

## Moving in 1988

You now have to itemize your deductions before you can deduct for moving expenses. Keep track of both your travel and meal expenses, including premove expenses. If you sell a home when you move, you may be able to deduct part of the commission and closing costs as a moving expense.



**Remember to plan early and constantly review how you can lower your federal income tax bill.**

## Hire Your Child

You business owners might consider hiring your child, or children. They can

earn up to \$3,000 in 1988 before they pay any federal income tax. This way, you will get a deduction for their services as long as you pay them a reasonable wage, and they will not have to pay federal income taxes.

## Review Your Child's Earnings

A child under 14 years of age who is claimed as a dependent on a parent's return will lose their personal exemption of \$1,950 in 1988. They will still get the standard deduction of \$3,000.

If the child's earned income is less than the standard deduction, they will be limited to \$3,000 in 1988 or \$500, whichever is lesser. The first \$500 is untaxed, the next \$500 is taxed at the child's rate. More than \$1,000 of unearned income will cause the child to be taxed at the parent's rate. Thus, you will have to prepare your return before you finish your child's return. If your child earns more than \$1,000 in income, you might look into switching the type of investments the child has into the following: Series EE Savings Bonds (when they mature, you can roll them over to Series HH Bonds), growth stocks, single premium life insurance products.

If you do not have a social security number for your child, you will need to get one. Social security numbers must be listed on your return for all children five and older, regardless of whether they earned an income.

## Nondeductible Items

Several items are no longer deductible. You may not take deductions for the following:

- Dividend exclusion
- Two-earner deduction
- Nonitemizer charitable deduction
- Sales tax
- Income averaging

## A Final Word

Remember to plan early and constantly review how you can lower your federal income tax bill. I hope the suggestions given here are helpful, and I wish you many happy returns.

**PR**

*Edward M. Gardner, CPA and CFP, heads his own accounting firm, Gardner & Company, in Houston. He is a regular contributor to PROGRESSIVE RENTALS and an APRO seminar leader.*

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# A Look at APRO's New State Legislative Program

By Edward L. Winn III

Eight years ago, 40 rent-to-own dealers banded together to form the Association of Progressive Rental Organizations (APRO). Since then APRO has grown to be the national trade association representing rent-to-own dealers throughout the country.

Today, APRO offers its 500 plus members a variety of programs including a national trade show and convention, a trade journal, seminars, insurance programs, instructional tapes, and a host of other services. It has actively pursued federal rent-to-own legislation since 1983.

With all of its activities aimed at improving the industry, the association finds itself at a crossroads. As the industry and the association have matured, new needs have arisen. One of the biggest changes seen in the last four years has been the advent of state rent-to-own laws. Before Michigan enacted its Rental Purchase Agreement Act in December 1984, there were no state laws specifically regulating rent-to-own. Since then a total of 17 states have enacted such laws.

APRO has been involved at different levels in many of those state legislative efforts. It has helped dealers organize themselves to work on state legislation. It has been a resource for information about the industry for presentation to state legislatures. However successful these state legislative efforts have been, though, the current scene, when viewed from afar, is a precarious one.

Seventeen states have laws, but the dealers in those states are not generally organized to maintain a continuing voice in the legislative process. Already

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## An important function of the APRO State Legislative Program is to enhance the image of the industry generally.

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in several of those states, dealers are faced with the prospect of legislators rethinking their position on rent-to-own. Legislatures in at least two states have attempted to amend existing rent-to-own statutes with ruinous interest rate limits. Another six states have rent-to-own legislation pending that could go either way. Those states need focused legislative efforts to insure satisfactory results.

Moreover, at least five states have legal environments that demand quick action to preserve the viability of the rent-to-own industry in the state. These states all have either comprehensive consumer legislation that throws the legality of rent-to-own transactions into doubt, or lawsuits pending against dealers challenging the essence of the rent-to-own agreement, or full-scale attorney general investigations into the industry. Some states have all three.

Then there remain 22 states with no rent-to-own regulation and a relatively quiet and stable legal environment. However, the legal winds in any one of those states could change overnight.

Finally, there is rent-to-own legislation pending at the federal level, which has made slow but steady progress since 1983. Consumer advocates in the House of Representatives, at least one

of whom is a former legal aid attorney, have protested vehemently against federal recognition of rent-to-own transactions. Without the continuing efforts by APRO in Washington, rent-to-own transactions would surely have been recharacterized by now.

The national association, when it reviewed this legal and political patchwork in 1987 and 1988, was faced with a choice. It could have continued its course of providing needed member services and benefits and let the legal and political chips fall where they may. After all, the industry has either been awfully good or awfully lucky to get 17 state laws passed in three years. On the other hand, the association could seize the initiative, organize the overall legal and political strategy of the industry, and vastly increase its strength and voice at all levels.

After serious debate and much soul searching about levels of commitments, expertise, and funding, the association board unanimously voted to move forward aggressively by launching the APRO State Legislative Program. The membership formally approved the decision at the annual convention in August.

The purpose of the plan is to give the rent-to-own industry a voice at all levels of government and to insure that a true and accurate picture of the business is presented to the country's lawmakers. The plan in a nutshell is to organize rent-to-own dealers in every state and create a network among the state groups for increased communication and political activity at all levels. The plan breaks down into five parts.

## 1. Organizing the States

The first state association was formed in Connecticut in 1982. Since then, state associations were formed in response to a specific need for legislation. Dealers either joined together to combat a bad bill or to support a good one. Most often, after the legislation was passed, the state groups lost their purpose and many ceased to exist altogether.

The first part of the APRO State Legislative Program is to revitalize all inactive state associations and to assist with their maintenance and administration. APRO has already scheduled meetings in 22 states including several where legislation is pending. In addition, APRO will help organize annual state meetings, circulate political, legislative and litigation news at the state level to state members, and provide administrative support to the state groups to keep them informed and actively involved in the political affairs of their state.

APRO is preparing master lists of dealers by states, with a grid showing state representatives. The purpose of this list is to let rent-to-own dealers know, first of all, who their friends are in the legislature, and secondly, when they are up for re-election.

In several states with rent-to-own laws, the industry made good friends and bitter enemies during the political process. It is important that the state groups maintain close ties with industry friends, and that they stay alert to the activities of their foes. The APRO State Legislative Program will provide this information to the state groups on a timely basis, so that dealers can participate in state politics more effectively.

Once the state groups are up and running, APRO will develop a program for state leaders to interact on a regular basis. The industry has learned the hard way that what happens in one state has an impact far beyond that state's borders. Consumer protection attorneys in West Virginia and North Carolina are kept well informed about developments in Pennsylvania. Our industry can afford to do no less.

## 2. Creating and Utilizing a Network

Among the states without rent-to-own legislation, there are differing degrees of legal exposure to dealers depending upon the political environ-

ment, how the consumer protection laws are written, and the level of interest of legal aid attorneys, attorneys general, and other consumer advocates.

To date, there has been no cohesive strategy for targeting states with dangerous environments. The approach has been hit and miss. Most often a bad bill has exploded into view and dealers have quickly organized to kill it or amend it more to their liking. Or a dealer with political connections has worked on legislation getting the assistance of some fellow dealers in the state.

As part of the plan, APRO has developed a comprehensive scheme for targeting those states most in need of rent-to-own legislation. APRO intends to organize those states, provide a model bill to be introduced, and lay out a political strategy for getting such legislation enacted.

APRO cannot pay for the costs of actually lobbying a bill in each state, but APRO can and will fund the organizational effort to get new state groups up and running with a clear mission. APRO has committed to doing this and coordinating those efforts with all other state groups as the second part of its state legislative program.

APRO has targeted five new states to organize for the 1989 legislative session: West Virginia, Minnesota, Maryland, Rhode Island, and Washington. Meetings have been scheduled or already held in each of those states to organize the dealers and prepare them for the legislative session.

## 3. Establishing Ties with Related Associations

An important function of the APRO State Legislative Program is to enhance the image of the industry generally. Too often, those in seats of power are called upon to make decisions about an industry they know little about. The little they do know often comes from bad press clippings or stories of bad apples held out as representative of how the industry does business.

Many crucial decisions made about this industry have been made out of ignorance. In order to create a more positive image for the industry at every level, APRO is joining various national state groups whose members can affect the health of the industry. Four groups have been specifically identified so far:

A. *The National Conference of State Legislators (NCSL)*—a group whose

members are state legislators and lobbyists. The Conference meets to discuss hot state political issues, and legislators at these meetings learn how other states have dealt with different problems. APRO is going to be at these meetings to tell the rent-to-own story.

B. *The National Association of Attorneys General (NAAG)*—an association for the "peoples' lawyers." In many states, the attorney general's office is the primary enforcement mechanism for the state's consumer protection laws. In states where the industry has negotiated successfully with the attorney general, rent-to-own legislation has been passed much more easily than where the attorney general has opposed such laws. APRO's mission with this group is to stay abreast of the current attitudes toward the industry to learn of problem areas that might arise, and to help educate this group about how the business works.

C. *The National Association of Consumer Agency Administrators (NACAA)*—a group of consumer advocates from different states who meet to discuss improving and enacting state consumer protection laws. APRO intends to meet with this group and explain away the myths that surround rent-to-own.

D. *Uniform Consumer Credit Code Administrators (UCCC)*—a group whose members administer the consumer credit code in 10 states. The industry already has rent-to-own legislation in four of the UCCC states: South Carolina, Iowa, Indiana, and Oklahoma. APRO wants a good working relationship with this group in order to negotiate for successful legislation in the other six states: Colorado, Maine, Kansas, Idaho, Utah, and Wyoming.

E. *The National and State Press Associations*—groups whose members are newspapers and reporters. APRO intends to establish a relationship with press associations across the country to help defuse the colorful but misleading theme of too many articles about the industry—that rent-to-own is a new consumer rip-off scheme. Reporters need to know the whole story and often do not take the time to check when "given" a hot lead by some consumer advocate. An affiliation with press associations will help insure that the industry gets a fairer shake in the press.

## 4. Federal Legislative And Lobbying Effort

APRO is committed to continuing its efforts to amend the Federal Consumer

Credit Protection Act to include the APRO supported Lease-Purchase Agreement Act provisions.

APRO will use the communication network established in the states to support the legislative effort by contacting and working with the state dealers and their representatives in the House and Senate Banking Committees. APRO is also committed to monitoring other legislation in Congress that would affect the rent-to-own industry, especially with regard to the Tax Reform Act and to assist the industry in getting more favorable tax treatment.

## 5. Public Relations and Political Fundraising

To date the industry has been naive both in terms of an overall public relations effort and a sustained program for making political contributions.

The fact is that once a state gets a rent-to-own law, a political environment is created in which the dealers must remain active or risk adverse action later. Once a legally sensitive industry like rent-to-own becomes a player in the political process, it must continue to

play the game, and that is exactly what APRO is committed to doing at all levels of government.

This part of the plan will include developing an ongoing public relations effort on behalf of the industry as a whole by tapping the talents of experts in that field. APRO's purpose is to enhance the image of the industry in the eyes of customers, lawmakers, and the public at large. A part of this overall effort will be to use the state network to raise funds and support political candidates who will champion the industry.

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### To refuse the commitment is to keep your business at risk. To accept is to protect your investment in your business and make it more sound.

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The APRO State Legislative Program is an ambitious undertaking. There may be no industry in the country with the organization at different levels that APRO envisions for rent-to-own. There may be no industry in the country with the legal pressure against it and the desire for public recognition and esteem like rent-to-own.

The place of the rent-to-own industry in American business is unique. The debate still rages whether rent-to-own is a useful, beneficial, and necessary adjunct to consumer retailers or

whether it is simply a bad and immoral business that ought to be outlawed altogether.

The realization of APRO's State Legislative Program will insure that the industry's point of view and that of its millions of customers will be told and listened to.

Such a program is not without risks. It will cost money to fund such an effort and not all rental dealers will see fit to pay their fair share. Some dealers may actively oppose the effort, fearing the truth about how they do business.

The program will almost certainly raise the level of debate about rent-to-own. Opponents may be forced to become louder before the force of reason can silence them. Dealers may lose heart along the way.

But APRO recognizes these risks and has elected to meet them head-on. Obviously, the more industry support behind the effort, the sooner the goals of the program can be realized.

The association is asking every rental dealer in the country to make a commitment. It will cost time, money, and effort. To refuse the commitment is to keep your business at risk. To accept is to protect your investment in your business and make it more sound. Finally, to accept is to support and, at last, to prove the value of the new and unique addition to American industry that you and your industry are making.

**PR**

*Edward L. Winn III is general counsel of APRO and a regular contributor to PROGRESSIVE RENTALS.*

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## APRO State Legislative Program

### Budget

Revenues (12-month estimated)	
Regular & associate members dues increase	\$120,000
Annual convention booth space increase	\$ 60,000
Regular member pledges	\$220,000
Associate member pledges	<u>\$100,000</u>
	\$500,000

### Expenses

Organizing states and administering the state network	\$225,000
Federal lobbying (\$10,000 per month)	\$120,000
Public relations and political fundraising including administrative expenses	\$100,000
Joining other associations and attending their meetings	\$ 30,000
Organizing five new states for legislative initiative	<u>\$25,000</u>
	\$500,000

# How to buy the right rent-to-own software.

There is a lot of confusion and misinformation about Rent-To-Own software programs. To assist you in making the right choice, we've put together some tough questions you should ask before buying. Here are a few of them:

## What's it compatible with?

Protect your investment. Make sure the software program can work on a variety of hardware systems. The Rental Manager works with any IBM or IBM compatible system, giving you flexibility, dependability and economy.

## How difficult is the program to learn?

Some software programs are difficult to learn and require long hours of instruction. This learning process becomes tedious and expensive. Not so with The Rental Manager. The Rental Manager is written in clear, easily understood rental terminology. You don't have to be a computer expert to process a receipt for a customer. There's no complicated computer language to learn, and no difficult programming manuals to tackle.

## What about support?

A software program without adequate support can create untold headaches. When you have a problem, to whom do you turn? The Rental Manager is backed by a full support team made up of rental dealers, programmers and accountants. Each with years of rental store experience. Our toll free telephone is available for



prompt answers and helpful advice and we've installed an emergency 24-hour hot line for those late night disasters.

## Will my business growth outperform my computer system?

Obviously there are computer programs that simply can't keep up. As your BOR increases, your system slows down, creating delays and ultimately

eating into profits. The Rental Manager challenges you to take the 80/800 Challenge. Process a customer receipt in a store that has an 80 BOR. Then process a receipt in a store with 800 BOR. See for yourself...Volume won't slow down The Rental Manager.

## As my business and the industry grows will my system stay up to date?

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# RTO Training That Hits the Spot

By Kent Sutherland

As a boy growing up on a West Kentucky farm, I did my share of hay hauling, tobacco setting, and corn chopping. It was hot, back-breaking work, but it made me appreciate the arrival of my mother or grandmother at noon with a full course "dinner," which was gratefully shared under a big oak tree on a flatbed wagon. To a young farm boy, drinking cold iced tea from a quart fruit jar and eating fresh green beans and fried chicken with hot cornbread and fried apple pies, well, it really "hit the spot" on a hot August day.

Is your employee training hitting the spot in that same sense? Does it satisfy and refresh? Does it challenge their best and equip them to do a better job?

### **People, Machines, and Procedures**

People are the real key to the success of any business. People sell and deliver your merchandise, answer your phones, collect past due accounts, and operate your vehicles. Are they being trained to make sound business decisions?

How do your account managers know when to pick up a certain customer and when it makes good business sense to work with them? Your

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**Is your employee training hitting the spot . . . Does it satisfy and refresh? Does it challenge their best and equip them to do a better job?**

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procedures will define the parameters, but people still must make a business decision about every past due account. If they do so on the assumption that out there somewhere is an unending line of customers just waiting to do business with you, they will put you out of business in very short order.

Your customers expect you to deliver what they pay for and you must do so every time without fail. There are no excuses for poor performance.

But that always comes back to how people treat other people, and extends from the owner of the business, through every employee, to every customer. Your business must be managed by delegation, which requires training that always hits the spot.

Somehow, the idea has crept into

much of American business that people are not important because there is an inexhaustible supply of warm bodies to do the work. This attitude has created a monster in many industries which turns over employees faster than supply can line them up.

The rent-to-own industry is an exciting business environment, but it chews up people and spits them out about as rapidly as the fast food industry. An RTO career person is a rare individual.

Maybe the nature of our business demands more than most people are ready to give in the way of daily commitment over many months and years. It does indeed require a special kind of strength and maturity to essentially start over every week to do the very same things you did the previous week. However, the same can be said of thousands of jobs in many other industries.

With the right kind of training, the right person matures as a result of the repetition. However, many business owners are reluctant to invest in training because they know that a large percentage of those new hires will not be around in a month or two and money spent to train them is wasted. That's a huge consideration that we cannot ignore, but is there a sensible solution?

## Recruiting and Hiring

Obviously, we must begin with recruiting and hiring practices.

Are you hiring someone who can handle a side-by-side refrigerator, or someone who can handle an angry customer with patient understanding and preserve the account? Are you looking for someone who can post payments, or someone who can sell your merchandise and treat your customers as friends? Just what do you expect to happen as a result of hiring a certain individual for a specific job? How will you determine this person's skill and attitude?

Here is where training often becomes an exercise in futility. We make the mistake of hiring a person primarily because they have previous rent-to-own or similar experience, without any realistic determination of their attitude and skill. My experience has been that in most such instances, these are the short-term employees because they are virtually untrainable.

Take time to assess your recruiting and hiring procedure, and make sure that you not compromise on the quality of people you introduce into your system.

The primary attribute you want to look for is attitude. Job skill is easily learned if the person has a trainable attitude, but attitude cannot be taught. Motivation is something a person either has or doesn't have. If a prospective employee has the right attitude in any sense, you can usually groom and shape it, but if they don't, you are wasting valuable time and money.

Employment interviews should always be conducted by people who are trained to know the right questions to ask, and how to use those questions like a surgeon uses a scalpel. You must do some exploring into a person's value system, self image, work experience, and career plans.

New employees must be challenged

from the first day to learn something new and grow in their attitude as well as their job skill. Failure to measure attitude growth will generally produce an employee who has the skill to operate the machinery, but lacks the wisdom to know how it all applies to a customer's needs.

When you have one customer who is one day past due, you have a customer with a problem. Every such customer is a potential pick-up, and we must deal with these situations with the greatest of care. We also must recognize that every time an employee makes contact with that customer, whether by phone or in person, we have dramatically increased the potential for a pick-up. The one thing that will have the most impact on that account is the attitude of the employee and how the customer perceives it. That attitude can make or break the account in the space of just a few seconds.

Negotiating skill is more attitude than procedure. We trust employees to make some crucial business decisions daily, but do precious little to insure that they are properly equipped.

The right attitude is more important to the long-term success of your business than collecting one past due account in the wrong attitude. Hiring only mature people who have no racial, social, or gender axes to grind is a critical step in building a successful business. A person with the wrong attitude will cost you dearly in customer and employee turnover, lawsuits, LRI, and damaged merchandise.

## Create a Positive Training Environment

Everyone from the business owner (who must make a commitment to invest money in training), through every level of management (who must allow time for employee training), to every front line employee (who must

invest a lot of extra effort and time in training) is an integral element in the kind of training that hits the spot.

I am often asked what I believe the goal of training to be. It's really very simple. The goal of training is to contribute to the profits of the company. Its function is to grind, hone, and polish every employee to contribute to the profits through the acquisition and maintenance of customers. I believe that requires training every employee to be a salesman. Unless employees understand their real function, they will become too expensive to keep on the payroll.

- Challenge them to be better people who are growing in their job skills and maturing in their attitudes.

- Focus on communication skill and demonstrate how they must use it to close the sale, collect past due money, preserve accounts, prevent past dues and pick-ups, and promote good customer relations.

- Direct their attention to the little things that provide added value to the customer. Teach them to sell rent-to-own as a viable, customer oriented industry. We have a better deal for most people than they realize.

- Challenge them to think marketing at all times, and move their attitude away from so much operational thinking.

- Teach them your procedures and policies, but also train them to use these tools to serve the needs of your customers.

- Create the attitude that every delivery must be done right the first time. Make them realize that poor deliveries create most past due accounts.

- Cross train every employee to understand the job of every other employee and measure their capability and attitude at every level.

- Make sure that every employee fully understands how much is at stake when they get into one of your vehicles and start the engine.

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## Design Your Training To Meet Your Needs

I have a little cartoon in my office that confronts me daily. It simply says, "Training that brings about no change is as effective as a parachute that opens on the first bounce." To me it means my training must hit the spot, and I had better do the job of perceiving the right needs and make it challenging enough to produce the right changes.

**Companies that prepare to meet the needs of the next decade will find a veritable gold mine of employee availability.**

The competitive, challenging nature of the rent-to-own industry is what American free enterprise is all about. We compete with each other in order to do a better job and earn more profits. We also provide jobs and career opportunities to many thousands of men and women. The connection between these people and a profitable business cannot be taken lightly.

The right kind of training is an income producing investment, not a deadend expense. But training must be more than putting a BandAid on a cancer.

We are now looking at an immediate future when our available work force will be slightly older, better educated, more ethnic, and probably most significant, smaller in number. Companies that prepare to meet the needs of the next decade will find a veritable gold mine of employee availability. Those who fail to update their ideas and methods will be hard pressed to survive, even with expensive computers and merchandise.

We must begin now to design more attractive employee compensation packages, create a more exciting training environment, and mount a stronger challenge to qualified men and women to make a career commitment. If you are weary with the time and expense of shifting poorly performing employees from one company to another, get busy and create the system to attract and grow the ones you want.

**PR**

*Kent Sutherland is director of human resources development at Action TV & Appliance Rental in Mesquite, Texas.*

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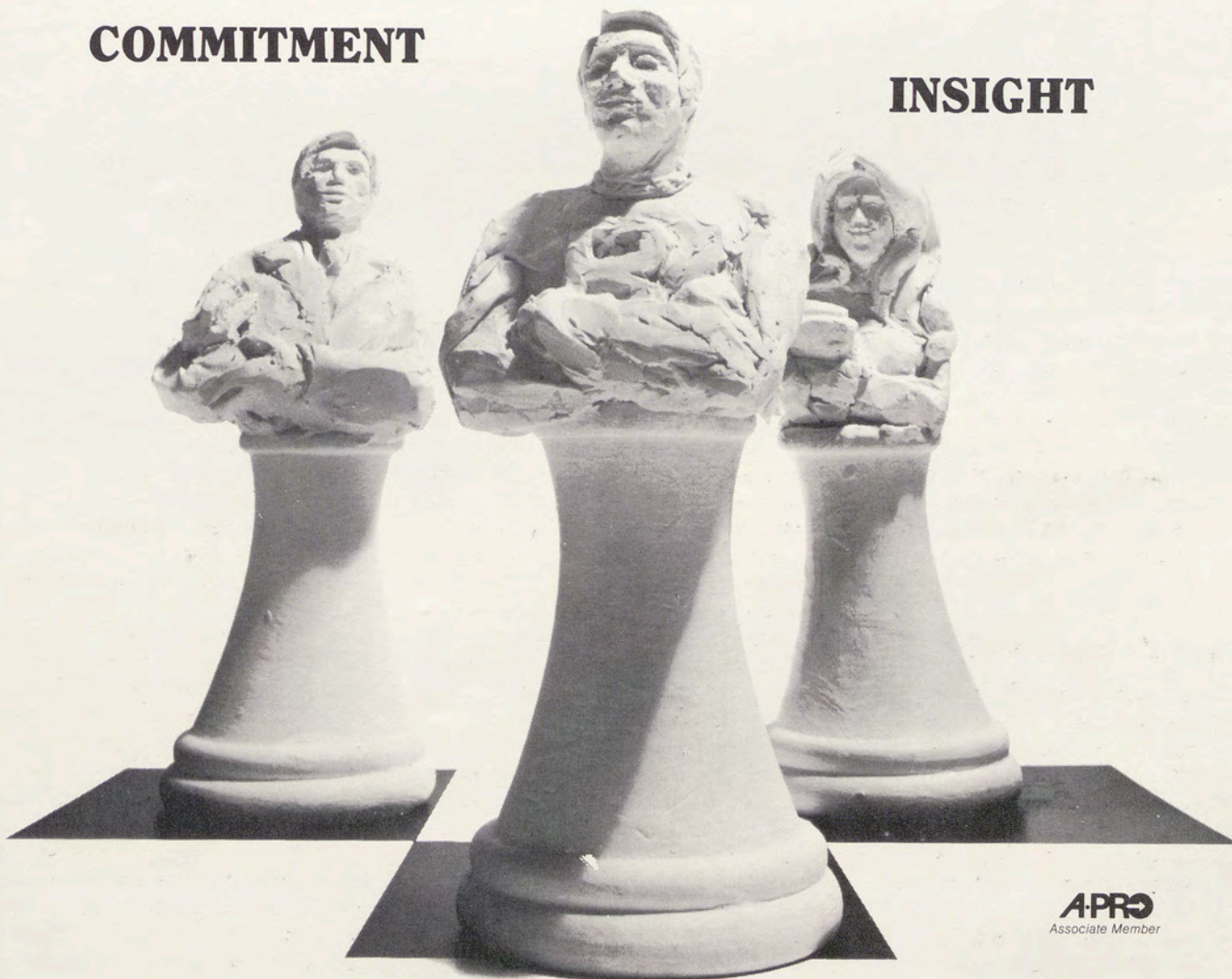
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Part Two

# Selling a Business: Setting the Terms

*Here's how to do it and make everyone happy*

By Daniel B. Lewis

Did you read last month's column? Are you waiting breathlessly for the hot new idea to make a dollar stretch into 10 due to some magical rule or trick? Pull up a chair. You'll like this.

When we left you last you were going to sell your rent-to-own business. The one that has gross revenue of \$1,000,000, economic benefit to you of \$200,000 per year, and has an agreed-upon value of \$700,000. You are incorporated and never ever want to see the inside of your business again. Now you want to structure the sale. You want \$300,000 down, with the balance to be paid over five years.

### What Is Being Sold?

What are you going to sell? If you sell only the assets that are owned by your corporation, you have a simple, easily understood transaction that the buyer will *love*. He will love it because he gets none of your payables and liabilities, no potential lawsuits from people who sue the corporation for something that happened before he bought it, and best of all, he gets to depreciate every dime of his purchase. This is because he estab-

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**If you sell only the assets  
. . . you have a simple,  
easily understood  
transaction that the buyer  
will love.**

---

lishes a basis, or cost, in the equipment of \$700,000—the price he paid for the assets. Regardless of the terms of the sale, he gets to write off the whole \$700,000.

Now it's your turn. If you do this, you get to deal with the ugliest word in the English language: *recapture*. Recapture means you get to reorganize every dime of depreciation taken on equipment, *in the year of sale*.

You bought \$1,000,000 of equipment, let's assume. You depreciated it down to \$150,000 of book value, so you took \$850,000 of depreciation. You must reorganize all of the depreciation, up to the amount of the gain in the year of sale, even though you're only getting \$300,000 down. After you've paid your

attorney and accountant, and most important, your broker, you won't have enough left to even pay the taxes. How do you like it so far?

Not so good huh? So let's try another approach.

You sell the shares in your corporation. Presto! No recapture tax. You have a capital gain (which is now taxed just like ordinary income), you pay a percentage of tax based on your profit on the sale every time you collect money from the buyer. You sell *all* the assets, *all* the liabilities, and have no further ties to the business.

Good for you. Not so good for the buyer.

Why? Because the buyer now inherits your basis in the equipment—\$150,000, remember. He only gets to depreciate \$150,000, not \$700,000. Is he happy? Maybe, depending on what the rest of the transaction looks like.

If you sell corporate stock, you are then faced with a question of allocation. How do you assign value between the stock you are selling and the covenant not to compete? There is a guideline that no more than 30 percent of the selling price can be attributed to the covenant

or the IRS can call the excess disguised goodwill. Does that matter? Yes.

## Tax Considerations

Under the Tax Code of 1986, all payments to the seller above basis are taxed the same way regardless of how they are labeled. Goodwill or covenant income are taxed the same way to the seller. They are not taxed the same way to the buyer.

Payments on the covenant are deductible to the buyer. Payments on goodwill are *non-deductible* to the buyer. The buyer will therefore take great care to avoid having any of the payments characterized as goodwill.

The above described sale has tax consequences to buyer and seller that can make a big difference in what the parties get to go home with. The \$300,000 down may all be allocated to the corporate stock and will be treated under the installment sale rule. A percentage of the gain will be taxed according to how much basis the seller has in the stock and how much the down payment is as a percentage of the total price for the shares.

Let's say the parties agree that the corporate stock has a value of \$525,000 and the covenant not to compete has a value of \$175,000. The covenant is to be paid over five years, starting in January of year two, at a rate of \$35,000 per year. Interest is rarely paid on the covenant. It is viewed similarly to a long-term contract ballplayers get: They don't get paid interest for the future years they are contracted for, they get the funds they negotiated if they keep up their end of the bargain.

Can we sweeten this up for the seller? He is going to get \$300,000 up front, pay some tax, and keep the rest. Then he's going to get \$35,000 per year on the covenant and \$55,000 per year on the balance owed on the stock.

The seller's total income will therefore be \$90,000 per year or \$450,000 for the five years. He has a total of \$750,000 (the extra \$50,000 is interest on the note), but all payments stop after five years. What

happens then? Most sellers don't want to start over, don't plan to work again, and don't like paying unnecessary taxes. So how can we make this more attractive to the seller?

## A Better Deal

For those patient souls still reading, we are about to discuss a new wrinkle that can double the amount of money received by the seller without costing the buyer a dime. This approach is truly a win-win situation that is wonderfully effective if it is done properly.

If the seller receives \$300,000, he is going to pay a substantial amount of income taxes, depending on his basis in his stock. In fact, the IRS may wind up getting as much as \$80,000 in taxes, leaving only \$220,000 to spend. If there are state income taxes, the bite is increased and the net spendable is further reduced.

Does the seller really need \$300,000? Usually not. In fact, he usually plans to invest the balance in a safe, stable, income-producing asset that can grow and provide an income after the covenant and installment payments stop.

Here is the key question: What if we let the buyer do the investing for the seller? What if the seller gets only \$200,000 down and defers receipt of the \$100,000 of additional cash. The money can, if properly handled, be safe, secure, and profoundly affect the future economic well-being of the seller.

Obviously, if the seller gets \$200,000 instead of \$300,000 he saves on taxes (about \$28,000). He also has the full \$100,000 invested for him. The proceeds can be drawn upon beginning in the seventh year when the other payments have stopped.

Let's take it one step further. Let's assume that the seller doesn't need \$90,000 of income over the next five years. The \$90,000 will only be about \$65,000 after taxes anyway, so the seller may be better off deferring receipt of part of the payments as well. Let's say the seller defers \$25,000 per year of the current payment and allows the buyer

to invest it for him and begin payments in year seven on all funds built up.

Without boring you with the details, what we have done is to create a sale and a deferred compensation agreement, which has some tricky legal requirements, is not risk-free, and must be carefully constructed. But it will provide the seller with an income of \$40,000 for the rest of his life.

## A Secure Retirement

I arbitrarily assumed that we have a 55-year-old man who lives to age 80. If this is true his total receipts will be \$1,385,000, not \$750,000. His tax bite will be spread over a number of years and he will have accomplished one magical thing. He will have stretched six years of payments into 25 and turned the business that he has built into a secure retirement.

What does it cost the buyer? Nothing. Not one dime. The \$100,000 that he doesn't pay out to the seller gets invested for the seller. The payments that begin in year seven are deductible to the buyer when paid out. The seller gets \$1,385,000. The buyer pays a present value of \$750,000, as he would have had this novel approach not been used.

This new method of structuring transactions has made it more attractive than ever for long-term owners of a rent-to-own business to consider a sale of the business because they can now convert the full value of the equity they've built into cash and a secure retirement.

This approach can even work if you have already consummated the sale but are still getting installment payments. Proper documentation and structuring are essential, but you can achieve some truly amazing results from structuring the transaction in this fashion.

**PR**

*Daniel B. Lewis is a chartered financial consultant based in California and a recognized authority on small business valuation, retirement plans, and executive compensation. He was a seminar presenter at the APRO Convention in August.*

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# Combining Retail And Rent-To-Own

## *Pitfalls for the unwary*

By Edward L. Winn III

Much has been made recently of the advent of retailers into the world of rent-to-own. Rental dealers feel threatened, but such a threat is hardly new. It was, after all, from TV retail that the rent-to-own business evolved originally in the 1960s.

Since then retailers have always eyed and will continue to eye the performance of the rent-to-own industry. When that performance exceeds retail, it will inevitably attract some interest. Rent-to-own, of course, is only a fraction of retail in overall size and there are probably inherent limits on the size of the rent-to-own trade regardless of the number of entrants. RTO has historically yielded greater earnings relative to its size and will likely continue to do so.

The conflict between retailers and rental dealers is evident and well founded. "Pure" rent-to-own dealers feel they have developed a specialty and are loath to share the secrets of the trade. Some retailers look at rent-to-own customers as lost business and feel they need to expand their business practices to include them.

### **Rewards Come With Risks**

If the rewards of the rent-to-own industry can be greater, as measured by companies' profits, so also are the risks both in terms of legal exposure and public criticism. Retailers with an eye on rent-to-own need to be aware of these risks and take them, if they will, with their eyes wide open.

Despite the industry's best effort, there remains attached to rent-to-own in many markets the tinge of being "low rent." It is undeniable that among the many kinds of customers who want to rent consumer goods, many low income consumers are attracted to the program. Although largely a thing of the past, overreaching collection practices have gotten a lot of attention and contributed to the industry's reputation.

One retailer has gone so far as to advertise his rent-to-own franchise program by claiming, "We cleaned up a dirty business." There is, of course, no requirement that rent-to-own be run less responsibly than any other consumer business.

Hundreds of companies have been

running their businesses professionally for years. The stigma, however, remains, and is not likely to go away quickly. Retailers need to evaluate first whether the stigma exists in their markets and if so, to what degree, and second, what impact the rent-to-own reputation may have on their retail customers if they bring it into their stores.

If anything, the legal risks are greater for retailers doing rent-to-own business out of a retail location than for pure rent-to-own operations. This is because of the way rent-to-own opponents view the industry.

The generalized opposition to anyone in the business has been chronicled previously and frequently. One need only stay abreast of the political turmoil in Pennsylvania to learn what hard-core consumer advocates think of the industry and to conclude that many of them do not want rent-to-own transactions to be legal. Their feeling is that the very nature of the transaction operates as a "cruel hoax" on consumers by luring them into the store with the hope of ownership and then fiendishly dashing those hopes. The argument has risen to a moral level and, like the perception of other "sin," cannot be argued away with

logic. Such an attitude belittles the intelligence of rental customers but persists often at hysterical levels in Pennsylvania and a few other hot spots around the country.

## **Retail and Rental Combination— A Really Risky Duo**

When retailers open their doors to both retail and rental customers, however, they run the risk of giving additional arguments to those opponents. Against a combination operation, they can argue that the merchant, by his business practices—here, mixing retail and rental—has caused confusion in the mind of the consumer to such an extent that the consumer signs a document detailing one kind of transaction while having been led to believe the transaction is of an entirely different nature.

This is not an idle academic argument. It was pursued vigorously against the Hawkes in the Maine courts over a three-year period in the early eighties and again in the *Puckett* case in Tennessee more recently (see *Hawkes Television Inc. v. Maine Bureau of Consumer Credit Protection*, 462 A.2d 1167 [1983]; *In re: Puckett*, 60 B.R.223 [Bkrtcy. M.D.Tenn. 1986], *aff'd* 838 F.2d 471 [6th Cir. 1988]). A review of some of the findings in those cases will be instructive to retailers already doing rent-to-own or contemplating it.

## **The Hawkes of Maine**

In *Hawkes*, the Superintendent of the Maine Bureau of Consumer Protection filed a complaint alleging that the Hawkes's rent-to-own transaction was a disguised credit sale under state law. After a public hearing at which several of the Hawkes's customers testified, the Superintendent concluded that the rent-to-own transactions in question were indeed credit sales and in violation of assorted disclosure and usury statutes.

Of particular importance were several fact findings of the Superintendent. In the first instance, TVs were offered both for sale and for rent on the showroom floor. The TVs for sale had cash prices while the rental units did not.

Hawkes argued that the TVs were different, both aesthetically and mechanically. The Superintendent disagreed ruling, "I find the differences between the cash sale models and

rental models to be insubstantial for the purpose of comparing price."

The Superintendent found that the Hawkes's advertising program told customers that the rental program was a method of owning a TV without undergoing a credit check, and further that it minimized the differences to the consumer between renting and selling. The Superintendent found that most customers attracted to the store by the advertising intended to rent-to-own and there was even testimony from one of the Hawkes's employees that two-thirds of their customers did indeed rent-to-own.

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**If retailers are to engage in rent-to-own, they need a full comprehension of the business they are getting into and they need to understand that the rental business is different in myriad ways from the business they are in.**

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Such testimony led the Superintendent to conclude that "the legal attributes of ownership, if different, do not affect the customer's reasonable expectations or understanding of the purpose of the transaction."

Hawkes argued that he had more control over the rental transaction than he did his credit sales. Again, the Superintendent found that: "This degree of control did not affect the motivation or intent of most customers when they entered into the bargain."

The Superintendent went on to make numerous other convenient comparisons between a sales transaction and rental transaction in the Hawkes's store. For example, the Hawkes's \$25 processing fee on the rental agreement was equated with the \$25 minimum finance charge in the credit code. "Both fees serve the same purpose of assuring the creditor lessor of some minimum income to compensate for administrative costs if, in the case of a credit sale, there is early prepayment or, in the case of a lease, the consumer cancels at any early date."

Also, Hawkes gave his rental customers a 30-day reinstatement period. Unfortunately, the Superintendent

found that period to be similar to the Credit Code's grace period for defaults in a credit sale.

All of the similarities led the Superintendent to conclude that the Hawkes rental agreements were disguised credit sales and that Hawkes was charging interest in excess of 70 percent.

To be sure, Hawkes appealed the Superintendent's decision and after three years of litigation was ultimately successful when the Maine Supreme Court reversed the Superintendent and lower court and held that as a matter of law, the Hawkes's rent-to-own transactions were not credit sales under state law. The Hawkes were vindicated, but not before they were bled dry by the judicial process.

One of the messages in this case is that the Superintendent and all those opposing the rental transactions were able to make much of the Hawkes's "retailer ways."

The fact is that Hawkes was a retailer first. He acquired his habits of dealing with customers by selling. It was only natural that his retail frame of reference carry over into the rental side of the business. Those retailing instincts were not helpful when Hawkes was trying to persuade the Superintendent that he was really in the rental business.

## **Puckett of Tennessee**

Even more telling is the *Puckett* case from Tennessee. In that case, the defendant, Consumer Lease Network (CLN), set up an arrangement with retailers in the southeast in which CLN provided lease agreements for customers and financing for retailers. Retailers who signed up for the program provided rental customers with products which CLN purported to purchase from the retailer and lease to the customer.

Consumer Lease Network had no storefront and operated out of the retail stores using store employees as its agents. The relationship between the retailer and CLN was a complicated one and less important than how the customers were treated in the stores, and how the courts, including the United States Sixth Circuit Court of Appeals, viewed the CLN transactions.

The several suits that were consolidated into the *Puckett* case because of their similarities arose when several of CLN's rental customers filed bankruptcy and CLN attempted to recover the merchandise. The issue, as is often the case in bankruptcy, was whether the transaction was a true lease, in

which case CLN could have recovered its rental property, or whether the transaction created a security interest, in which case the property became part of the bankrupt estate, and the lessor became an unsecured creditor.

The bankruptcy judge listened to at least five customers who explained how they ended up in the rental program. Typical of the testimony was that of Mr. Harlan. According to the court's summary of the testimony:

*Milton R. Harlan contracted with CLN on June 13, 1985. The transaction was arranged by Catalina Waterbed ("Catalina"). Harlan was attracted to Catalina by*

**Rent-to-own is not, in the minds of rental dealers, a mechanism for selling merchandise and doing in-house financing for customers who do not otherwise qualify for credit.**

*a radio advertisement offering "free" satin sheets, two king-size pillow cases, a mattress pad and a comforter with the purchase of a*

*waterbed. Harlan selected a waterbed and told the Catalina salesperson that he would buy the bed if he could obtain credit. He filled out a credit application. The next day Harlan called the store and was told that his credit application had been rejected but that he should "just come on in anyway and there was a way he could fix it where I could purchase this bed." Testimony of Milton R. Harlan Sept. 27, 1985, Transcript at 8.*

*Harlan returned to the store, signed a CLN agreement and gave Catalina the down payment. Harlan testified that he did not read the contract before he signed it, he had never dealt with a lease company before, and he was led to believe that he was buying the bed by the amount of the down payment and the monthly payments and the fact that he subsequently received a payment book. Id. at 9, 17.*

The record indicates that all of the customers "testified credibly and without established contradiction. . . ." After listening to the customers, the judge concluded:

*A pattern thus emerges of the typical rent-to-own transaction. A retail customer chooses an item to purchase and attempts to arrange credit through the retailers. The credit application is rejected, but the retailer suggests an alternative method of obtaining the goods. The retailer computes and completes a (rent-to-own) contract and the customer signs it.*

Using this general set of facts, the court looked to legal scholars for a statement of the law distinguishing credit sales from the leases. Citing the White & Summers treatise on the Uniform Commercial Code, the court identified eleven factors relevant to the sale/lease distinction:

1. The lessor's status as a financier;
2. Whether the lessee is required to insure the transaction in favor of the lessor for a value equal to the total rental payments;
3. Whether the contract shifts the risk of loss to the lessee;
4. Whether the lessee is required to pay for taxes, repairs, and maintenance on the property during the lease term;
5. The existence of default provisions governing acceleration and resale;
6. Whether the contract requires a substantial, nonrefundable deposit.
7. Whether the called-for rental payments are equivalent to the cost of goods plus interest;
9. Whether the lessor lacks facilities to store or retake the goods;
10. Whether the lease is to be discounted with a bank;
11. Whether warranties normally found in a lease are excluded.

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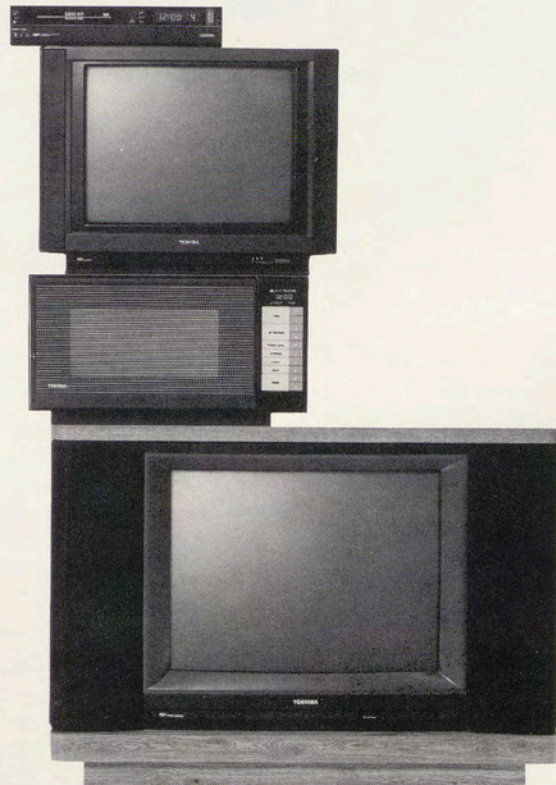
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The authors then state that "this list is not exhaustive. Nor is any one factor conclusive standing alone. Each transaction must be viewed on its facts bearing in mind the Code's abhorrence of secret liens." (J. White and R. Summers, *Handbook of the Law Under the Uniform Commercial Code*, section 22-3 at 882-83 [2d ed. 1980].) The court then examined the CLN rental transactions in light of each of these factors. To be sure, the CLN transactions differed in many respects from traditional rent-to-own.

To begin with, there was inserted into the equation the appearance, at least, of a third-party financing arm. CLN required a nonrefundable selling deposit equal roughly to two monthly payments; CLN required customers to insure the property; CLN gave maintenance responsibilities to the customers; CLN gave customers a coupon payment book—none of which requirements appear in traditional rent-to-own transactions.

Yet all of those requirements are typical of many retail transactions. Retailers will collect substantial down payments when they can get them. Retailers are used to coupon books. Retailers are used to selling or at least requiring insurance on the property until it has been paid for in full.

There is no one factor in the *Puckett* decision that can be viewed as determinative. One of the problems noted by the court was that store employees could not explain the rental program to customers. The result: "CLN must accept the consequence that its documents and its agents have consistently (mis)led the public to believe that the CLN contract is just another form of financing."

There is no doubt that the CLN owners understood the rental program. They crafted it and argued persuasively that the no-obligation feature of the contract—the legal foundation of rent-to-own transactions—should control.

CLN's problem and ultimately the company's demise resulted from the fact that retail employees were charged with explaining a program that they did not understand. They were trying to make sales and customers were led to believe that they were buying the merchandise. This was so to such an extent that the court stated, "It is beyond peradventure that these debtors intended to buy consumer goods and believed that their contracts with CLN were sales with financing" (*Puckett* at 235).

## Rental and Retail Combination Requires Quick-Change Skills

The risk to retailers is that they cannot successfully change hats from retail to rental in the store.

Retail salespeople are trained, after all, to sell. Rent-to-own transactions are and must be, first and foremost, rental transactions with all that such a notion implies. No one, after all, thinks that he is buying a car at an airport rental counter. It is certain that any misunderstanding concerning the true nature of the transactions will be construed against the retailer, and those misunderstandings can have disastrous consequences for the company.

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### The risk to retailers is that they cannot successfully change hats from retail to rental in the store.

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Retailers also need to be aware, lest they conclude from *Puckett* that the absence of a third-party financing mechanism, such as existed in that case, will insulate them from exposure. In *Puckett* the judge also considered several contracts between the retailers involved and the rent-to-own customers. At least one of the retailer defendants had used CLN contracts and scratched out CLN's name, either with or without CLN's permission.

On those facts, the court ruled the same way: "Though it is a closer question, I find these separated agreements were also intended for security" (*Puckett* at 241). Again, looking at all the factors, the judge noted, "I believe (the retailer) intended to sell the goods to (the customers) and saw the rent-to-own contract as a painless and immensely profitable way to arrange its own financing."

And therein lies the danger.

Pure rental dealers know the business they are in. They know they are going to rent TVs, appliances, and furniture by the week or by the month. They know that on average they will pick up four out of every five pieces of merchandise they rent. They are going to have to clean them up and rent them out again. They are going to have to remind a certain percentage of their customers that they need to make a payment or return the merchandise. They are going

to have to remind some customers more than once. They are going to lose a certain percentage of TVs due to theft and accept that proposition, however reluctantly, as a part of the cost of doing business. They are going to be willing to deliver a brand new \$400 TV set, fresh out of the box, to a customer's house in exchange for one weekly rental payment of \$20, because that is how the business works.

None of these things is within the purview of a retail mind-set. They are contrary to certain retail notions about getting the money up front. They are, however, how the rental business works.

Rent-to-own is not, in the minds of rental dealers, a mechanism for selling merchandise and doing in-house financing for customers who do not otherwise qualify for credit. Rather, it is the rental business, and some customers will rent long enough to obtain ownership.

The *Puckett* case stands for the proposition that a retailer who uses rent-to-own transactions as a sales tool is a credit seller and is bound by the rules concerning credit sales. Penalties for violating those rules are stiff. CLN is out of business.

If retailers are to engage in rent-to-own, they need a full comprehension of the business they are getting into and they need to understand that the rental business is different in myriad ways from the business they are in. The industry as a whole suffers when judges get cases like *Puckett*. It allows them to attempt to implement their view of social justice by muddying the legal waters of rent-to-own.

There are certainly retailers in the marketplace with successful rent-to-own programs in their stores. They have taken the time to study the business and understand how it works. They appreciate the risks involved and have taken steps to minimize them. They know that also in the marketplace are consumer advocates lying in wait for cases like *Puckett*. They have studied these cases and, to the extent possible, have made sure that those kinds of facts do not arise in their stores. The continuing danger to the industry is that new entrants into the business will not be as careful. Retailers beware!

**PR**

---

Edward L. Winn III is APRO general counsel and a regular contributor to PROGRESSIVE RENTALS.

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## AUDIO

continued from page 14

"An incentive could be almost any item in stock. If a CD player is what that particular customer would most like to have, you could use a CD player. You know up front what your cost on that unit is, and you also know how your rental formulas work, so you can offer a retail value that is an added value," says Stephen.

"If you offered a \$150 retail item it wouldn't cost you \$150, but the consumer sees the added value at \$150, not what your cost is, so you actually give away less when you take that approach than you do when you just drop the price that you would normally offer him.

"An answer phone is high on the list of what everybody would like to have right now, but it's not at the top of everybody's list in terms of 'will I buy that next?' That's a perfect item to use in this case, because the customer thinks, 'I get this great value on a stereo at a good reasonable rate, and an answer phone too?'

"It's another form of merchandising that's been around in the normal retail channels for a number of years and I see

that it's coming into the rental business too. I think that's healthy and good," says Stephen.

### Get the Cannons

Taylor echoes Stephen's comments, saying that it is time for rental dealers to adopt a number of strategies from retail giants. "You'll find that for the dealers who are going to survive, which we fully intend to be one of them, all the guns have to come out," says Taylor.

RTO dealers should expect to engage in "complete guerilla warfare as to how you're going to merchandise and market the business, just like Sears or anybody. The same kind of scientific approaches."

During the next year, Taylor expects to open four to six new stores, expanding into Ohio and Indiana. Part of this growth will involve a marketing coordinator working in the corporate office.

Taylor says he and other dealers will need to do "a lot more work to publicize what we have to offer to the public, more than just putting television and print spots out there. There's just not that much of a share to get anymore; it's no different than Sears and K-Mart and Target and Ward's."

### Looking Ahead

Sid Pickup envisions a rosy future for audio rent-to-own. "I think there will be a shift away from rack systems as a whole, and perhaps utilizing more single components and all-in-one components—an all-in-one component which may house a CD player, radio, and an amplifier in one piece. There are a few of those available now, but I think they will become more commonplace in the future.

"Consumers are becoming more sophisticated themselves, and they will be looking for more features and value in audio and video components in the next few years. Also, I think it's going to become the marriage that everyone has been forecasting of audio and video. They're going to become closer than ever with people actually making room for audio/video entertainment centers within their home.

"As far as that would pertain to rent-to-own, more and more rent-to-own dealers will find themselves renting entertainment packages, maybe even up to big screen television, if the pricing can come down.

"The things that they forecasted, like the giant wall flat screen televisions, are several years away, but when they're finally developed and perfected, we may find that type of thing is very practical, and a rent-to-own dealer could actually rent a complete entertainment package.

"These are things that we've heard about, and in some cases, manufacturers are demonstrating them now, or prototypes of them, and maybe in the next five to 10 years they'll be more commonplace," says Pickup.

Rocky Caldwell predicts that CD changers that hold up to six discs in a cartridge will be a big item for rental dealers beginning next year. Sid Pickup believes that more and more digital features will be introduced, recordable compact discs will be available within five years, and that there will be a shift away from rack systems to more single components and all-in-one components.

"I think we've only just begun," says Pickup. "By the year 2000 you're just going to be amazed at the things that are going to be available."

**PR**

Susan K. Elliott is a Texas-based writer and a regular contributor to PROGRESSIVE RENTALS.



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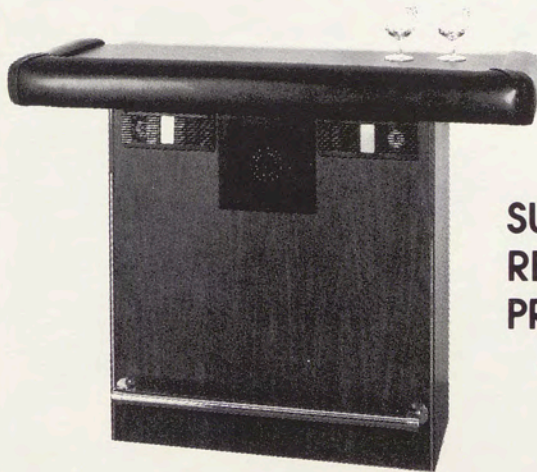
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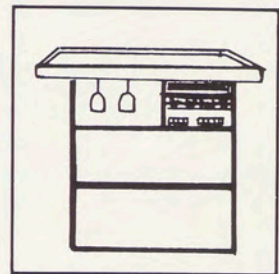
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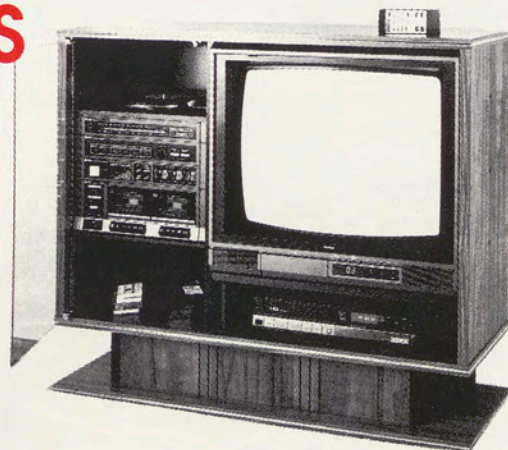
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# Board Happenings:

## *New Member Services Planned, Events Opened to Non-Members*

By Edward L. Winn III

Since they were elected at the annual convention in August, members of the new APRO board and executive committee, under the leadership of Chairman Dick Grauel, have already met a total of five times.

The first meetings were held in Las Vegas before the group left town. Of primary concern was the implementation and funding of the new APRO Legislative Network. In addition to discussing the details of that major new program, there were, of course, the routine matters of running the association.

The board also voted to take a close look at all the APRO programs with an eye toward increasing member services generally and being more responsive to the needs of rental dealers. Grauel explained that his plan for the group is going to require a lot of work on the part of board members and a lot of time away from the office in meetings to consider how to improve the association. All of the board members, both new and old, readily agreed to undertake such a task.

Accordingly, the executive committee and board reassembled at the end of August for a three-day meeting in Atlanta. That site was selected by Grauel since he wanted the board to see and hear a presentation by the Furniture Mart in Atlanta. In fact, the mart sponsored meeting rooms and a breakfast for the board as part of the meetings there.

During those three days of meetings, the APRO leadership developed a new mission statement for the associa-

tion. That mission statement reads as follows:

### MISSION STATEMENT

*APRO is committed to being a national rent-to-own trade association by being responsive to its members by providing responsible and effective leadership, and by promoting professionalism in the industry in a financially sound manner.*

Once the board had adopted the new mission statement the group immediately set about listing specific objectives under different aspects of the mission

statement and purposes to launch the association in the direction of being a more effective and responsive trade association for its members.

The board generally set forth the following categories for developing action plans and goals for the association: nominations; finance; membership; publications; government relations; government relations finance; seminars; member services; insurance; board participation, organization and by-laws; conventions; internal organization and staff training; new member services; public relations; and strategic

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#### *President*

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#### *Secretary*

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#### *Past President*

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#### *Second Vice President*

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Houston, TX 77099  
713-568-3355

#### *Treasurer*

**Ted Wilson**  
Alreco Inc.  
P.O. Box 85  
New Albany, IN 47150  
812-949-3370

planning. Board members were assigned each of these topics and asked to develop an action plan for the next 12 months.

Of particular importance to the board was its concern over enhancing the industry's public image. The group discussed the good things the association had done over the years, as well as its shortcomings. One member noted that the Furniture Rental Association of America had for years hired a public relations firm to assist with the public image generally of renting furniture. The APRO board considered the possibility of hiring public relations expertise to enhance the image of the rent-to-own industry. Everyone agreed that outside of different companies' own promotional materials, anything written about the industry by outsiders was likely to be negative. Such negative press could only inhibit the growth of the industry.

The board heard a presentation from Sam Choate, Laura Nehf, Ed Winn, and Dave Egan concerning implementation of the APRO Legislative Network. Wayne Chambers acknowledged his formidable task as chairman of the government relations finance committee to raise the needed \$500,000 to fund the program fully. Board members agreed to assist with that effort at their own expense by attending different state meetings, even when it meant traveling where they had no stores, to show rental leaders that they are behind the effort and how important state organizations are to the defense of the industry.

## Functions Opened To Non-Members

Among other resolutions, the board unanimously voted to open APRO functions for which a fee is charged to all rent-to-own dealers, as those dealers are defined in the by-laws, at an additional cost to non-members.

Two years ago, the board had voted to close APRO functions to non-members, but the current Board feels

that it is time for the national trade association to make its services more available to people in the business without encouraging new entrants. The feeling is that if APRO is effective at providing those services, membership will increase as well as professionalism in the industry. APRO functions remain closed to people who have not been in the business for 90 days and who do not have either a stand-alone rent-to-own location or at least 150 BOR.

It has been eight years since the APRO Board has met continuously for three days. The new blood and enthusiasm on the board demonstrated itself at the meeting, and every board member made substantial commit-

ments of time and effort to see that APRO's new direction becomes a reality rather than lofty thoughts merely to be trotted out at board meetings. Already since the three-day meeting in Atlanta, the executive committee has met again in Austin to review specific action plans submitted by board members and to work with the APRO staff.

There are important budgetary items to be considered, but the many aspects of APRO's new direction are well underway. The State Legislative Network is being created, and new state groups are being formed every week. New communication tools are being developed for the members as well as research into new programs—rent-to-

## The President's View

By R.L. Gravel

The 1988-89 convention to convention year will see many more changes in APRO's service to its current members, and future members. The board of directors met in Atlanta in late August for a three-day strategic planning session. We developed a mission statement and discussed programs for the coming year. All but one board member was there, and the executive committee was there for all three days.

We started out with Chuck Sims helping us get off on the right foot. From then on it was an aggressive forward looking planning session.

An old saying "You will get the least you will accept," comes to mind. In the opinion of the board, maybe we just accepted too little in the past.

The main theme now is "Don't give them any reason to go anyplace else." We are THE national rental association and we are going to prove it.

Our least acceptable goal is 100 new members above drop-outs and loss through mergers. And 2,000 people attending our Washington convention. Aggressive yes, but almost the goal of underachievers given the field to work from and the caliber of the workers.

The first of October we had a meeting with the Vendor Relations Committee and presented our ideas to them. They took our ideas and polished them up even more, gave us more, and want us to continue making changes.

Wait until you see what we have coming for you at the January Furniture Market in Atlanta. Cheaper rooms, flights, and seminars, plus all the excellent things the Merchandise Mart already offers, plus a Lee Greenwood Concert, free.

This is just one example of a low risk to the association, high benefit to its members type thing that the manufacturing world wants to do for us. We just have to find how to coordinate more things like this to you, our members. As rent-to-own continues its growth in the various markets and becomes more recognized, APRO will continue to ask for more help from the manufacturing, financing, and advertising world to help our members.

The board is enthusiastic about what we are doing to change. Just call one of them.

own schools and the like.

Members across the country should quickly be seeing the results of the new board's dedication if they have not already experienced it. For example, one change is this article, since the board felt that the membership often did not know what the board is doing. Members with comments, questions, suggestions should contact a board member near them to express their views.

The board members with their mailing addresses and telephone numbers (see separate box for executive committee members information):

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**Bill White**  
Action TV & Appliance  
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214-288-9327

## PENNSYLVANIA

*continued from page 21*

order from a court in Pennsylvania, limiting the scope of the inquiry.

While it is within the province of the attorney general to determine compliance with the laws, it is questionable whether the attorney general has or should have the authority to require a company doing business in the state to disgorge into government records that company's costs of doing business, including cost of inventory, salaries, and other items that most companies deem private.

**The bill that declared rent-to-own transactions illegal started out as a bill concerning estimated tax payments for farmers.**

To be sure, under certain circumstances, this kind of information is discoverable in a court of law when parties can prove a compelling interest in such information. For example, a company accused of underpaying taxes might well be put to the proof of justifying its

*continued on page 52*

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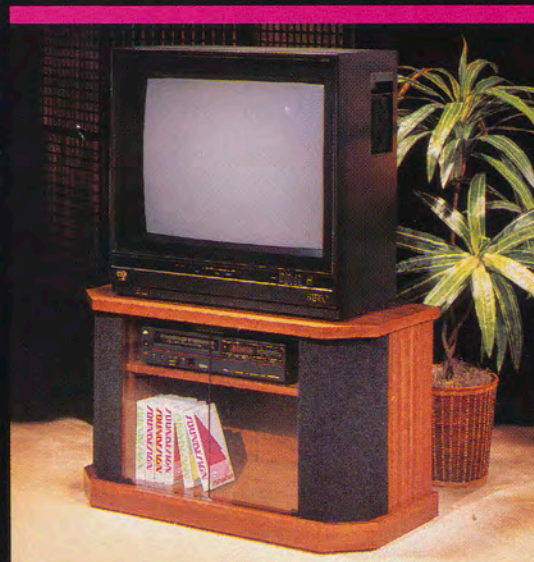
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continued from page 50

claimed expenses. Or a partnership or other legal entity being dissolved might well have to disclose its costs of doing business in the public record.

In the case of the Pennsylvania attorney general, however, no evidence has yet been brought forth that any of the named rental companies or any other rental companies are buying product or otherwise booking expenses in a manner that violates any aspect of Pennsylvania law.

The attorney general's position concerning the rent-to-own industry is well known. Bureau of Consumer Protection Chief Douglas Yauger says, "Many rent-to-own customers have been the victim of 'economic rape,' paying as much as four times the fair market value for an item." Yauger continues, "The industry is trying to paint this 'legislation' as being unfair to customers because they cannot rent-to-own. What is true is they can't rent-to-own at 300 percent now."

The attorney general's judgment about the industry is crystallized in Yauger's statement, "If the rent-to-own industry dries up, so be it. While it may sound hard, most customers would be better off to save money and make a

purchase outright. It's for their own good that we don't want to see them being charged these ridiculous interest rates."

These statements to the press from the attorney general's office are among the clearest examples of the paternalistic attitude that government officials have in the state. The problem now is that the attorney general's office is using that attitude and its subpoena power in an attempt to bludgeon dealers into submission.

### Dealers Fight Back

Having suffered venomous attacks from two branches of state government, Pennsylvania rental dealers have sought refuge in the third. In July, the Pennsylvania Association of Rental Dealers (PARD) filed suit against the Commonwealth of Pennsylvania and Gov. Robert Casey to enjoin enforcement of the anti-rent-to-own statute enacted last February. The dealers' petition alleges that the legislature's enactment of the statute was unconstitutional.

Indeed, the Pennsylvania Constitution, Article 3, Section 1, has the following provision: "No law shall be passed, except by bill, and no bill shall be so

altered or amended, on its passage through either house, as to change its original purpose."

The bill that declared rent-to-own transactions illegal started out in the legislature as a bill concerning estimated tax payments for farmers. The House voted to remove all of the language from the original bill, leaving only the bill number. It then substituted new language amending the Pennsylvania Goods and Services Installment Sales Act, which amendments effectively banned rent-to-own transactions. The House went on to pass the amended bill as did the Senate.

Both sides have recently submitted written briefs concerning this lawsuit with the attorney general's office representing the State of Pennsylvania. As of this writing, it is too early to predict the outcome of this case, but, should the dealers prove successful, the statute enacted last March will be unenforceable.

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**Dealers, by and large,  
remain determined not to  
let the government run  
them out of business.**

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That does not mean that the legislature cannot come back and do it again, but such a holding by the Pennsylvania courts would give dealers breathing room and give them time to explain their business to the legislature. Both sides agree that if the dealers prevail in court with their suit, it will be difficult for consumer advocates to repeat with the devastating legislation they were unable to enact earlier this year.

In the meantime, dealers continue to struggle with the interpretation of the law, the attorney general's continuing attacks, and a decidedly hostile press. Fortunately, dealers remain well organized in the state and committed to offering the citizens of Pennsylvania the goods and services that exist in the rest of the country. Dealers, by and large, remain determined not to let the government run them out of business and are ever hopeful that the demand for rent-to-own, which so clearly exists in the state, will ultimately be acknowledged by the forces that seek to ruin the industry. **PR**

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*Edward L. Winn III is the general counsel of APRO and a regular contributor to PROGRESSIVE RENTALS.*

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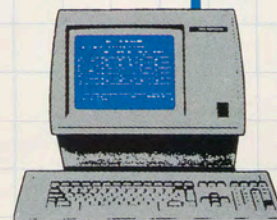
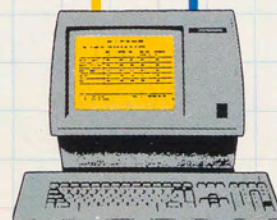
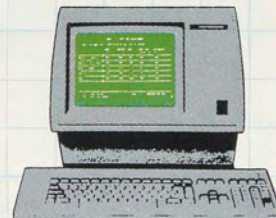
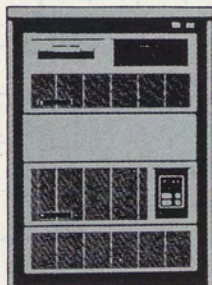
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NOT JUST SURVIVE

# WE SELL SOLUTIONS!

DON'T JUST BUY A COMPUTER, FIND A COMPLETE BUSINESS SYSTEM THAT INCLUDES POINT-OF-SALE, RENT-TO-OWN AND VIDEO RENTAL FOR SINGLE OR MULTIPLE STORES 1 MILE OR 1000 MILES APART

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Complete Rent-To-Own Program

Complete Sales Program

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Complete Collection Control - Complete Floor Plan Control

True Multi-User, Multi-Tasking, Multi-Terminal System

Designed To Run Our Own Multi-Store Rent-To-Own, Sales & Tape Rental Business

Provides Up To The Second Information At All Terminals

Tracks By Serial Number - Bar Code Capability

### DON'T CALL US

Call Our Clients Before You Call Us

Here Is A Short List From The More Than 200 Stores That Run Profitably And Efficiently Using Our System

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MICHIGAN RENT-TO-OWN	MARK or AL TAYLOR	313-354-7440	6 STORES
WEISS BROTHERS	REGGIE WEISS	412-981-0600	10 STORES
ALTEC TV	JEFF ALLENDORF	301-228-3130	4 STORES

After You Have Talked To Them, Call Us For Another List Of Our Many Satisfied Customers And Ask For Our Complete System Overview Including Sample Reports

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For more information contact:

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**Harley-Davidson Division**

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