

ARIZONA

Rental-Purchase Agreements

AZ Rev. Stat. § 44-6801 et seq.

Section § 44-6801 – Definitions

In this chapter, unless the context otherwise requires:

1. "Advertisement" means a commercial message in any medium that solicits a consumer to enter a rental-purchase agreement.
2. "Cash price" means the price at which the lessor would have sold the property to the consumer for cash on the date of the rental-purchase agreement.
3. "Consumer" means an individual who rents personal property under a rental-purchase agreement to be used primarily for personal, family or household purposes.
4. "Consummation" means the date on which a consumer becomes contractually obligated under a rental-purchase agreement or on the date the first payment is made, whichever is earlier.
5. "Cost of rental" means the difference between the total of all periodic payments necessary to acquire ownership under the rental-purchase agreement and the cash price of the rental property that is subject to the rental-purchase agreement.
6. "Fee" means any charge, fee, cost or expense, however denominated, other than a rental payment.
7. "Lessor" means a person who, in the ordinary course of business, regularly leases, offers to lease or arranges for the leasing of property under a rental-purchase agreement.
8. "Rental-purchase agreement" means an agreement that is for the use of personal property by an individual for personal, family or household purposes, that is for an initial period of four months or less, that is automatically renewable with each payment after the initial period and that permits the consumer to become the owner of the property but that does not obligate or require the consumer to continue leasing or using the property beyond the initial period.

Section § 44-6802 – Applicability

A. This chapter does not apply to the following:

1. Rental-purchase agreements primarily for business, commercial or agricultural purposes.
2. Rental-purchase agreements with governmental agencies or instrumentalities or with

organizations.

3. A lease of a safe deposit box.

4. A lease or bailment of personal property that is incidental to the lease of real property and that provides that the consumer has no option to purchase the leased property.

5. A lease of a motor vehicle, manufactured home, mobile home, factory-built building or recreational vehicle.

B. Notwithstanding section 44-6001, paragraphs 9, 10 and 11, chapter 17 of this title does not apply to a rental-purchase agreement.

C. Notwithstanding section 47-1201, subsection B, paragraph 35, that paragraph and title 47, chapter 9 do not apply to a rental-purchase agreement.

D. Chapter 10, article 7 of this title applies to a rental-purchase agreement.

E. Unless a consumer's offer or agreement to enter into a rental-purchase agreement is made in a telephone communication initiated by the consumer, chapter 15 of this title applies to a rental-purchase agreement.

F. This chapter does not apply to:

1. The owner or publisher of any newspaper, magazine or other publication of printed matter in which an advertisement appears or to the owner or operator of a radio or television station or computer information service that disseminates the advertisement if the owner, publisher or operator does not have knowledge of the intent, design or purpose of the advertiser.

2. Any advertisement that is subject to and complies with the rules and regulations of and the statutes administered by the federal trade commission.

Section § 44-6803 - General requirements of disclosure

A. A lessor shall disclose to a consumer the information prescribed in section 44-6804. In a transaction involving more than one lessor, only one lessor is required to make the disclosures prescribed in section 44-6804, but all lessors are bound by the disclosures made.

B. The disclosures shall be made on or before the consummation of the rental-purchase agreement.

C. The disclosure shall be made clearly and conspicuously in writing, and a completed copy of the rental-purchase agreement shall be provided to the consumer upon signature of the consumer and lessor. The disclosures prescribed in section 44-6804 shall be made on the face of the agreement above the line for the consumer's signature.

D. If a disclosure becomes inaccurate as a result of any act, occurrence or agreement by the consumer after delivery of the required disclosures, the resulting inaccuracy does not violate this chapter.

E. If any portion of the transaction is conducted in any language other than English, the disclosures prescribed in section 44-6804 shall be made in the language other than English.

Section § 44-6804 – Disclosures

For each rental-purchase agreement, a lessor shall disclose in the agreement, or as otherwise required in this section, the following items:

1. The frequency with which periodic payments are to be made, the dollar amount of each periodic payment and the total number and total dollar amount of all periodic payments necessary to acquire ownership of the property.
2. A statement that the consumer does not own the rental property until the consumer has paid the total amount necessary to acquire ownership.
3. A statement advising the consumer whether the consumer is liable for loss of or damage to the rental property, and, if so, a statement that this liability does not exceed the fair market value of the rental property as of the time it is lost or damaged.
4. A brief description of the rental property that is sufficient to identify the rental property to the consumer and the lessor, including an identification number, if applicable, and a statement indicating whether the rental property is new or used.
5. The cash price of the rental property.
6. The total of initial payments paid or required on or before consummation of the rental-purchase agreement or delivery of the rental property, whichever is later.
7. A statement that the total amount of payments does not include fees. All fees shall be separately disclosed in the rental-purchase agreement.
8. A statement advising the consumer that the consumer may exercise an early purchase option. The statement shall include a clear summary of the terms of the early purchase option and shall be accompanied by a statement or chart showing the amount required to exercise the consumer's early purchase option after each periodic payment is made pursuant to the rental-purchase agreement. A lessor may disclose the amounts required to exercise an early purchase option either by attaching to the rental-purchase agreement a statement or chart showing all early purchase option amounts if periodic payments are made as scheduled or by providing the consumer with a written statement of each early purchase option amount at the time each periodic payment is made.
9. A statement identifying the party responsible for maintaining or servicing the property while it

is being leased and a description of that responsibility.

10. A statement that if any part of a manufacturer's expressed warranty covers the rental property at the time the consumer acquires ownership of the property, it shall be transferred to the consumer, if allowed by the terms of the warranty.

11. The date of the transaction and the identities of the lessor and consumer.

12. A statement that the consumer may terminate the rental-purchase agreement without penalty by voluntarily surrendering or returning the rental property, but any liability for past due rental payments and any damage to the rental property, reasonable wear and tear excepted, survive termination of the rental-purchase agreement.

13. Notice of the right to reinstate a rental-purchase agreement as provided in this chapter.

14. The amount and purpose of any payment, charge or fee in addition to the periodic payments.

15. The cost of rental.

Section § 44-6805 - Prohibited rental-purchase agreement terms; practices

A. A rental-purchase agreement shall not contain any of the following:

1. A confession of judgment.

2. A negotiable instrument.

3. A security interest or any other claim of a property interest in any property of the consumer.

4. A wage assignment.

5. A waiver by the consumer of claims or defenses.

6. A provision authorizing the lessor or a person acting on the lessor's behalf to enter the consumer's premises without permission or to commit any breach of the peace in the repossession of rental property.

7. A provision requiring the purchase of insurance or a liability damage waiver from the lessor for the rental property that is the subject of the rental-purchase agreement.

8. A provision that states that mere failure to return rental property constitutes probable cause for a criminal action.

9. A provision requiring the consumer to make a payment in addition to regular rental payments to acquire ownership of the rental property, or a provision requiring the consumer to make rental payments totalling more than the dollar amount necessary to acquire ownership as disclosed

pursuant to section 44-6804.

10. A provision requiring a reinstatement fee unless a periodic payment is late more than seven days under a rental-purchase agreement with periodic payments made monthly or more than two days under a rental-purchase agreement with payments made more frequently than monthly.

11. A provision requiring a reinstatement fee of more than five dollars.

12. A provision requiring more than one reinstatement fee on any one periodic payment regardless of the period of time that it remains unpaid.

13. A provision requiring a late charge or any other type of charge or penalty for reinstating a rental-purchase agreement other than a reinstatement fee, except that a lessor may use the term "late charge" or a similar term to refer to a reinstatement fee.

14. A provision requiring that a consumer who rents multiple items in a single rental-purchase agreement pay an amount to acquire ownership of the items that exceeds the combined total amounts required to acquire ownership of the items if rented separately for the same term.

B. A lessor shall not engage in any unfair, unlawful or deceptive act or practice or make any false or misleading statement in connection with a rental-purchase agreement.

Section § 44-6806 - Collection practices

A. A lessor shall not engage in any unlawful or deceptive conduct or make any untrue or misleading statement in connection with the collection of any payment owed by a consumer or the repossession of any rental property.

B. All of the following apply to any communication by a lessor with any person other than the consumer for the purpose of acquiring information about the location of a consumer or of any rental property:

1. The lessor shall identify itself and state that the lessor is confirming or correcting location information concerning the consumer.

2. The lessor shall not communicate with any person more than once unless requested to do so by the person or unless the lessor reasonably believes that the earlier response is erroneous or incomplete and that the person now has correct or complete location information.

3. The lessor shall not communicate by postcard.

4. The lessor shall not use any language or symbol on any envelope or in the contents of any communication that indicates that the communication relates to the collection of any payment or the recovery or repossession of rental property.

5. The lessor shall not communicate with any person other than the consumer's attorney after the

lessor knows the consumer is represented by an attorney and has knowledge of, or can readily ascertain, the attorney's name and address, unless the attorney fails to respond within a reasonable period of time to communication from the lessor or unless the attorney consents to direct communication with the consumer.

C. Without the prior consent of the consumer given directly to the lessor or the express permission of a court of competent jurisdiction, a lessor shall not communicate with a consumer in connection with the collection of any payment or the recovery or repossession of rental property at any of the following:

1. The consumer's place of employment.
2. Any unusual time or place or a time or place known or that should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a lessor shall assume that the convenient time for communication with a consumer is after 8:00 a.m. and before 9:00 p.m., local time, at the consumer's location.

D. A lessor shall not communicate, in connection with the collection of money or repossession of property under a rental-purchase agreement, with any person other than the consumer, the consumer's attorney or the lessor's attorney, except to the extent the communication is any of the following:

1. Reasonably necessary to acquire location information concerning the consumer or the rental property as provided in subsection B.
2. On the prior consent of the consumer given directly to the lessor.
3. On the express permission of a court of competent jurisdiction.
4. Reasonably necessary to effectuate a postjudgment judicial remedy.

E. If a consumer notifies the lessor in writing that the consumer wishes the lessor to cease further communication with the consumer, the lessor shall not communicate further with the consumer with respect to the rental-purchase agreement, except for any of the following:

1. To advise the consumer that the lessor's further efforts are being terminated.
2. To notify the consumer that the lessor may invoke specified remedies allowable by law that are ordinarily invoked by the lessor.
3. If necessary to effectuate any postjudgment judicial remedy.

F. A lessor shall not harass, oppress or abuse any person in connection with a rental-purchase agreement, including engaging in any of the following conduct:

1. Using or threatening the use of violence or any criminal means to harm the physical person, reputation or property of any person.

2. Using obscene, profane or abusive language.
 3. Causing a telephone to ring, or engaging any person in a telephone conversation, repeatedly or continuously with intent to annoy, abuse or harass any person.
 4. Placing telephone calls without disclosure of the caller's identity.
- G. A lessor shall not report any late payment, default or repossession to a consumer reporting agency, if the lessor either:
1. Advertises "no credit check" or otherwise states or implies that no inquiry will be made of a consumer credit history or creditworthiness.
 2. Does not obtain a consumer credit report or investigative consumer report on a person before entering into a rental-purchase agreement with that person.

Section § 44-6807 - Reinstatement

A. A consumer who fails to make a timely rental payment may reinstate the rental-purchase agreement, without losing any rights or options that exist under the rental-purchase agreement, by paying the following charges within seven days after the renewal date of the rental-purchase agreement:

1. All past due rental payments.
2. If the rental property has been picked up, the reasonable cost of pickup and any redelivery.
3. Any applicable reinstatement fee.

B. A consumer who has paid less than sixty per cent of the total amount necessary to acquire ownership of rental property is entitled to an extended reinstatement period of at least sixty days if the consumer voluntarily surrenders the rental property, other than through judicial process, within seven days after the consumer's receipt of a written demand for the return of the rental property providing notice of the consumer's opportunity to obtain the extended reinstatement period.

C. A consumer who has paid sixty per cent or more of the total amount necessary to acquire ownership of rental property is entitled to an extended reinstatement period of at least one hundred eighty days if the consumer voluntarily surrenders the rental property, other than through judicial process, within fourteen days after the consumer's receipt of a written demand for the return of the rental property providing notice of the consumer's opportunity to obtain the extended reinstatement period.

D. Nothing in this section prevents a lessor from attempting to repossess rental property during the applicable reinstatement period, but the repossession does not affect the consumer's right to

reinstate. If the consumer reinstates after the lessor has repossessed the rental property, the lessor shall provide the consumer with the same property, if available, or with substitute property of comparable quality and condition.

Section § 44-6808 – Receipts

On request by the consumer, a lessor shall provide the consumer with a written receipt for each payment made by cash or money order.

Section § 44-6809 – Renegotiations

A. A renegotiation occurs if any term of a rental-purchase agreement that is required to be disclosed by section 44-6804 is changed by agreement by the lessor and consumer. A renegotiation is considered to be a new rental-purchase agreement requiring the lessor to give all of the disclosures required by section 44-6804.

B. A renegotiation shall not include any of the following:

1. Reinstatement of a rental-purchase agreement in accordance with section 44-6807, subsection A.
2. A lessor's waiver or failure to assert any claim against the consumer.
3. A deferral, extension or waiver of a portion of a periodic payment or of one or more periodic payments.
4. A change, made at the consumer's request, of the day of the week or month on which periodic payments are to be made.

Section § 44-6810 – Advertising

A. If an advertisement for a rental-purchase agreement refers to or states the dollar amount of any periodic payment and the right to acquire ownership of a specific item, the advertisement shall also clearly and conspicuously state the following, as applicable:

1. That the transaction advertised is a rental-purchase agreement.
2. The total number and total amount of periodic payments necessary to acquire ownership of the item.
3. That the consumer acquires no ownership rights unless the total amount necessary to acquire ownership is paid.

B. Each item displayed or offered under a rental-purchase agreement shall bear a tag or card that

clearly and conspicuously indicates in Arabic numerals, which are readable and understandable by visual inspection, each of the following:

1. The cash price of the item.
2. The amount of the periodic payment.
3. The total number and total amount of periodic payments necessary to acquire ownership.
4. The cost of rental.

Section § 44-6811 - Enforcement; penalties

A. A lessor who fails to comply with the requirements of this chapter is liable to the consumer damaged by the lessor's failure to comply:

1. In an amount equal to the greater of either:

(a) The actual damages sustained by the consumer as a result of the lessor's failure to comply with this chapter.

(b) Twenty-five per cent of the total of payments necessary to acquire ownership, but at least one hundred dollars and not more than one thousand dollars.

2. For court costs and expenses and reasonable attorney fees as determined by the court.

B. A consumer shall not take any action to offset the amount for which a lessor is potentially liable under subsection A against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment in an action in which the lessor was a party. This subsection does not bar a consumer in default on an obligation from asserting a violation of this chapter as an original action or as a defense or counterclaim to an action brought by a lessor against the consumer.

C. The rights and remedies prescribed under this section are cumulative with any other rights or remedies available in this state.

D. A consumer or lessor shall not bring an action under this chapter more than two years after the date the consumer made the consumer's last rental payment or more than two years after the date of the occurrence of the violation that is the subject of the suit, whichever is later.

E. A violation of this chapter constitutes an unlawful practice under section 44-1522. The attorney general may investigate and take appropriate action as prescribed by chapter 10, article 7 of this title.

Section § 44-6812 - Lessor's defenses; definition

A. If a lessor establishes by a preponderance of the evidence that a violation of this chapter was unintentional or the result of a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid these errors, a court shall not impose a penalty prescribed in section 44-6811 and validity of the transaction is not affected.

B. A lessor is not liable under this chapter for any failure to comply with any requirement imposed under this chapter if within sixty days after discovering an error, and before the institution of an action under this chapter or the receipt of written notice of the error from the consumer, the lessor notifies the consumer of the error and makes whatever adjustments in the appropriate account that are necessary to correct the error.

C. For the purposes of this section, "bona fide errors" includes clerical errors, calculation errors, errors due to unintentional, improper computer programming or data entry and printing errors but does not include an error of legal judgment with respect to a lessor's obligations under this chapter.

Section § 44-6813 - Assignment of a rental-purchase agreement

If a lessor assigns or transfers a rental-purchase agreement to a third party, all of the consumer's rights created by the rental-purchase agreement and this chapter are preserved.

Section § 44-6814 – Notices

A written notice required or permitted by this chapter is:

1. Deemed to have been received on personal delivery to the consumer or lessor.
2. Presumed to have been received on the third day after mailing to the consumer's or lessor's last known address.

Section § 44-6851 – Definitions

In this chapter, unless the context otherwise requires:

1. "Check" means a draft that is payable on demand and drawn on a financial institution, a cashier's check or a teller's check.
2. "Draft" means an item, other than an instrument, that is an order.
3. "Drawer" means a person who signs or is identified in a draft as a person ordering payment.
4. "Financial institution" means a bank, savings and loan association or credit union that is chartered and supervised under state or federal law.

5. " Holder" means a person, including this state, who is entitled to enforce an instrument.
6. " Maker" means a person who signs or is identified in a note as a person undertaking to pay.
7. " Order" means a written instruction to pay money that is signed by the person giving the instruction. The instruction may be addressed to any person, including this state or the person giving the instruction, or to one or more persons, including this state, jointly or in the alternative but not in succession.
8. " Payee" means a person, including this state, in whose favor an instrument is drawn or made payable.

Section § 44-6852 - Dishonored checks; service fee

Notwithstanding any other law and except as provided in sections 32-328 and 32-507, the holder, payee or assignee of the holder or payee of a dishonored check, draft, order or note may charge and collect from the maker or drawer a service fee of not more than \$25 plus any actual charges assessed by the financial institution of the holder, payee or assignee of the holder or payee as a result of the dishonored instrument.