

ARKANSAS

Rental Purchases

AR Code Ann. § 4-92-101

Section 4-92-101 – Title

This chapter shall be known and may be cited as the "Rental Purchase Act".

Section 4-92-102 – Definitions

As used in this chapter, unless the context otherwise requires:

- (1) "Advertisement" means a commercial message in any medium that directly or indirectly promotes or assists a rental-purchase agreement, except for in-store merchandising aids;
- (2) "Consumer" means a person who leases personal property under a rental-purchase agreement;
- (3) "Merchandise" means the personal property that is the subject of a rental-purchase agreement;
- (4) "Lessor" means a person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of merchandise under a rental-purchase agreement and includes a person who is assigned an interest in a rental-purchase agreement;
- (5) "Person" means an individual, corporation, partnership, organization, or any other entity;
- (6) "Reinstatement period" means the period of time specified in § 4-92-106 during which a consumer may either pay delinquent rent or return merchandise and thereby retain the right to have the rental-purchase agreement reinstated; and
- (7) "Rental-purchase agreement" means an agreement for the use of merchandise by a consumer for personal, family, household, or business purposes for an initial period of four (4) months or less that is automatically renewable with each payment after the initial period, but does not obligate or require the consumer to continue leasing or using the merchandise after the initial period, and that permits the consumer to become the owner of the merchandise, but does not obligate the consumer to purchase or become the owner of the merchandise.

Section 4-92-103 - Liability of lessor

- (a) A consumer damaged by a violation of this chapter by a lessor is entitled to recover from the lessor:
 - (1) Actual damages;

(2) Twenty-five percent (25%) of an amount equal to the total amount of payments required to obtain ownership of the merchandise involved. However, the amount recovered under this subdivision (a)(2) may not be less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and

(3) Reasonable attorney's fees not to exceed fifteen percent (15%) of the consumer's allowable recovery and court costs.

(b)

(1) Any execution or enforcement of a rental-purchase agreement in violation of this chapter or any other violation of this chapter shall constitute an unfair or deceptive act or practice as defined by the Deceptive Trade Practices Act, § 4-88-101 et seq.

(2) All remedies, penalties, and authority granted to the Attorney General under the Deceptive Trade Practices Act, § 4-88-101 et seq., shall be available to the Attorney General for the enforcement of this chapter.

Section 4-92-104 - Agreement – Nature

An agreement which conforms with the definition as set forth in § 4-92-102(7) shall be a true lease and shall not constitute a credit sale, retail installment contract, agreement, obligation, or any other type of credit sale financing device, nor shall it create a security interest as that term is defined in § 4-1-201(b)(35). Until the lessor transfers title to the merchandise to the consumer, the relationship of the parties to a rental-purchase agreement shall be that of a lessor and lessee and not that of a seller and buyer, and title to the merchandise shall remain vested with the lessor.

Section 4-92-105 - Agreement - Provisions prohibited and required

(a) A rental-purchase agreement shall not contain a provision:

(1) Requiring a confession of judgment;

(2) Authorizing a merchant or agent of the merchant to commit a breach of the peace while repossessing merchandise;

(3) Waiving a defense, counterclaim, or right the consumer may have against the merchant or an agent of the merchant; or

(4) Requiring the purchase of insurance from the merchant to cover the merchandise.

(b) A rental-purchase agreement must disclose:

(1) Whether the merchandise is new or used;

- (2) The amount and timing of regular rental payments;
- (3) The total number of payments necessary and the total amount to be paid to acquire ownership;
- (4) The amounts and purpose of any other payment, charge, or fee in addition to the regular periodic rental payment;
- (5) That the consumer does not acquire any ownership rights until the consumer has complied with the ownership terms of the agreement;
- (6) Whether the consumer is liable for loss or damage to the merchandise, and if so, the maximum amount for which the consumer may be held liable; and
- (7) Notice of the right to reinstate an agreement as provided in § 4-92-106(a).

Section 4-92-106 - Agreement – Reinstatement

- (a) A consumer who fails to make a timely rental payment may reinstate an agreement without losing any rights or options previously acquired by either paying all rental and other charges due or returning the merchandise to the lessor within five (5) business days from the date of the last scheduled rental payment if the consumer pays rent monthly, or within two (2) business days from the date of the last scheduled rental payment if the consumer pays more frequently than monthly.
- (b) Nothing in this section shall prevent the accrual of any late charges or reinstatement fees charged by the lessor.
- (c) Nothing in this section shall prevent the lessor from attempting to repossess the merchandise during the reinstatement period, but the consumer's right to reinstate an agreement shall not expire because of the repossession.
- (d) If the merchandise is returned during the applicable reinstatement period, other than through judicial process, the right to reinstate shall be extended for a period of not less than thirty (30) days after the date of the return of the merchandise.
- (e) No consumer shall have the right to reinstate more than three (3) times during the term of any one (1) rental-purchase agreement.
- (f) On reinstatement, the lessor shall provide the consumer with the same merchandise or shall substitute merchandise of comparable quality and condition. However, the lessor shall not be required to provide new disclosures upon reinstatement.

Section 4-92-107 – Advertisements

Any advertisement for a rental-purchase agreement must clearly and conspicuously state that the advertised transaction is a rental-purchase transaction.

Section 4-92-108 - Personal property - Repossessed rental merchandise

(a) This section applies when merchandise becomes attached to the personal property of the consumer that is subject to a perfected lien of a secured creditor while the merchandise is being leased from a lessor under a rental-purchase agreement.

(b)

(1) If a secured creditor has a security interest in the personal property of a consumer and the merchandise has become attached to that consumer's personal property, and a lessor repossesses the merchandise attached to the consumer's personal property before the consumer becomes the owner of such merchandise, then at the time of repossession the lessor shall install substitute new or used factory quality equipment that is reasonably calculated to keep the personal property of the consumer usable and operable.

(2) A lessor is liable to a secured creditor for the cost and installation of the substitute equipment if a lessor does not comply with subdivision (b)(1) of this section at the time of repossession.

(c) If a secured creditor repossesses the collateral of the secured creditor before the consumer becomes the owner of the merchandise that is attached to the collateral and before the collateral is resold, then the secured creditor shall:

(1) Work with the lessor to comply with subdivision (b)(1) of this section; or

(2) Pay the lessor whichever is the lesser amount:

(A) The original cost of the merchandise; or

(B) The total of remaining rental payments on the consumer's rental purchase agreement with the lessor.