

FLORIDA

Rental-Purchase Agreements

FL Stat § 559.9231 et seq.

Section § 559.9231 - Short title.

This act may be cited as the “Rental-Purchase Agreement Act.”

Section § 559.9232 - Definitions; exclusion of rental-purchase agreements from certain regulations.

(1) As used in this act, the term:

(a) “Cash price” means the price at which the lessor, in the ordinary course of business, would offer to sell for cash the property or service that is the subject of the rental-purchase agreement. The term “cash price” may include the price of accessories, services related to the agreement, and taxes.

(b) “Lessee” means a natural person who rents personal property pursuant to a rental-purchase agreement.

(c) “Lessor” means a person or corporation who, in the ordinary course of business, regularly offers to rent personal property, or arranges for personal property to be rented, pursuant to a rental-purchase agreement.

(d) “Personal property” means any property that is not real property under the laws of the state where it is located and which is offered or made available for lease under a rental-purchase agreement.

(e) “Rental-purchase agreement” means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of 4 months or less, that is automatically renewed with each rental payment after the initial period and that permits the lessee to acquire ownership of the property.

(f) “Services” means work, labor, or other personal services furnished pursuant to a rental-purchase agreement, including, but not limited to, the delivery, installation, servicing, repair, or improvement of rental property and excluding the provision of such property and associated services to the lessee.

(2) A rental-purchase agreement that complies with this act shall not be construed to be, nor be governed by, any of the following:

(a) A lease or agreement that constitutes a credit sale as defined in 12 C.F.R. s. 226.2(a)(16)

and s. 1602(g) of the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et seq.;

- (b) A lease that constitutes a “consumer lease” as defined in 12 C.F.R. s. 213.2(a)(6);
- (c) Any lease for agricultural, business, or commercial purposes;
- (d) Any lease made to an organization;
- (e) A lease or agreement that constitutes a “retail installment contract” or “retail installment transaction” as those terms are defined in s. 520.31; or
- (f) A security interest as defined in s. 671.201(39).

Section § 559.9233 - Rental-purchase agreements.

- (1) A rental-purchase agreement must be in writing, must be signed by both the lessor and the lessee, and must be completed as to all essential provisions prior to being signed by the lessee.
- (2) The printed portion of the rental-purchase agreement must be in at least 6-point type and must contain the following notice in substantially this form:

Notice to the Lessee

- (a) Do not sign this rental-purchase agreement before you read it or if it contains any blank spaces.
- (b) You are entitled to an exact copy of the rental-purchase agreement you sign. Keep it to protect your legal rights.
- (3) The lessor must deliver to the lessee, or mail to the lessee at her or his address shown on the rental-purchase agreement, a copy of the rental-purchase agreement signed by the lessor. Before the transaction is completed, a copy of the rental-purchase agreement, or a separate statement on which the disclosures required by this section are made and on which the lessee and lessor are identified, must be delivered to the lessee. Any acknowledgment by the lessee of delivery of a copy of the rental-purchase agreement, if contained in the rental-purchase agreement, must appear directly above or adjacent to the lessee’s signature.
- (4) A rental-purchase agreement must contain the following:
 - (a) The name of the lessor and the name of the lessee;
 - (b) The place of business of the lessor and the residence or place of business of the lessee, as specified by the lessee;
 - (c) A brief description of the rental property, sufficient to identify the property to the lessee and lessor, including a statement indicating whether the property is new or previously rented. If a

rental-purchase agreement is for multiple items, a description of each item may be provided in a separate statement incorporated by reference in the primary disclosure statement;

(d) The total amount of any initial payment, including any advance payment, delivery charge, or any trade-in allowance to be paid by the lessee at or before completion of the rental-purchase agreement;

(e) The amount and timing of rental payments;

(f) The amount of all other charges, individually itemized, payable by the lessee to the lessor which are not included in the rental payments;

(g) A statement of the total cost of the rental-purchase agreement expressed as the total of the initial payment, all rental payments, and all other charges necessary to acquire ownership of the rental property;

(h) A statement of the party liable for loss, damage in excess of normal wear and tear, or destruction to the rental property;

(i) The lessee's right to reinstate the rental-purchase agreement and the amount, or method of determining the amount, of any penalty or other charge for reinstatement;

(j) The party responsible for maintaining or servicing the rental property and a brief description of the responsibility;

(k) A statement of the conditions under which the lessee or lessor may terminate the rental-purchase agreement;

(l) A statement that the lessee has the option to purchase the rental property during the term of the rental-purchase agreement and the price, formula, or method by which the purchase price is to be determined;

(m) A statement that if, at the time the lessee acquires ownership of the property, any part of a manufacturer's warranty covering the rental property exists, such warranty will be transferred to the lessee if allowed by the terms of the warranty; and

(n) The cash price of the rental property that is the subject of the rental-purchase agreement.

(5) With respect to matters specifically governed by the federal Consumer Credit Protection Act, compliance with the provisions of such act satisfies the requirements of this section.

(6) All information required by this section must be stated in a clear and coherent manner, using words and phrases of common meaning. The information must be appropriately divided and captioned by sections. All numerical amounts and percentages must be stated in figures. All of the information required by this section must be provided directly on the rental-purchase agreement or on a separate form.

(7) At the lessor's option, information in addition to that required by this section may be disclosed, if the additional information is not stated, utilized, or placed in a manner which will contradict, obscure, or detract attention from the required information.

Section § 559.9234 - Prohibited rental-purchase agreement provisions.

A rental-purchase agreement may not:

- (1) Require garnishment of the lessee's wages or grant the lessor a power of attorney for the lessee or require the lessee to confess judgment.
- (2) Grant to the lessor, a person acting on the lessor's behalf, or an assignee authority to unlawfully enter upon the lessee's premises or to permit any breach of the peace in the repossession of the rental property.
- (3) Require the lessee to waive any defense, counterclaim, or right of action against the lessor, person acting on the lessor's behalf, or an assignee under the rental-purchase agreement in repossessing the rental property.
- (4) Require the lessee to purchase insurance from the lessor.
- (5) Allow the lessor to impose a penalty for early termination of a rental-purchase agreement or for the return of the rental property at any time, except those charges authorized by s. 559.9235(2) and any damage charges which may be imposed for destruction or damage to rental property.
- (6) Allow the lessor to impose a fee for any in-home collection of a payment unless the lessee has expressly agreed in writing to the fee and the amount of the fee is disclosed in the rental-purchase agreement.

Section § 559.9235 - Reinstatement.

- (1) A lessee who fails to make timely rental payments has the right to reinstate the original rental-purchase agreement without losing any rights or options previously acquired under the rental-purchase agreement, if:
 - (a) The lessee promptly surrenders the rental property to the lessor or its agent upon request; and
 - (b) The lessee tenders the reinstatement fees within 60 days after the expiration of the last rental period for which the lessee made a timely payment.
- (2) Before reinstating the rental-purchase agreement, a lessor may require a lessee to pay unpaid rental payments, including any rental renewal charges incurred, a reinstatement fee of not more than \$5, and a delivery charge if redelivery of the rental property is necessary.

(3) If reinstatement occurs pursuant to this section, the lessor shall provide the lessee with the same personal property rented by the lessee prior to the reinstatement or with substitute personal property of comparable quality and condition. If substitute personal property is provided, the lessor must provide new disclosures to the lessee, including all of the information required by s. 559.9233.

Section § 559.9236 - Receipts.

(1) If a lessee so requests, the lessor must give or forward to the lessee a receipt for any payment made in cash. The lessor must also furnish, upon the lessee's request, an accounting of all charges, payments, and their dates in connection with a rental-purchase agreement. A charge of \$5 may be imposed upon the lessee by the lessor for the second and each subsequent accounting request by the lessee in a 12-month period.

(2) After payment of all sums necessary for the lessee to acquire ownership of the rental property, a lessor must deliver or mail to the lessee, at her or his last known address, one or more good and sufficient instruments acknowledging that the lessee has acquired ownership of the rental property.

Section § 559.9237 - Rental renewal charges; attorney's fees; court costs.

A rental-purchase agreement may provide for payment by the lessee of a charge for failure to make a timely rental renewal payment, which charge may not exceed \$5 on any payment made after either payment is due or after the return of the rental property is required. A charge pursuant to a rental-purchase agreement for a lessee's failure to make a timely rental renewal payment may be collected only once on any accrued payment, no matter how long it remains unpaid. Such a charge may be collected at the time it accrues or any time thereafter. Such a charge may not be assessed against a payment that is timely made, even though an earlier charge has not been paid in full. A rental-purchase agreement may provide for the payment of reasonable attorney's fees incurred by an attorney, not a salaried employee of the lessor, in the course of collection, and for the payment of court costs.

Section § 559.9238 - Willful violations.

Any person who willfully and intentionally violates any provision of this act is guilty of a misdemeanor of the second degree, punishable by fine only as provided in s. 775.083.

Section § 559.9239 - Damages.

In case of a violation of a provision of this act with respect to a rental-purchase agreement, the lessee under the rental-purchase agreement may recover from the lessor or assignee committing the violation, or may setoff or counterclaim in an action brought by that lessor or assignee, an

amount equal to the greater of actual damages or 25 percent of the total cost to acquire ownership under the rental-purchase agreement, plus attorney's fees and court costs. Notwithstanding the provisions of this section, a lessor or assignee is not subject to any penalty for failure to comply with any provision of this act until the lessee has notified such lessor or assignee in writing of such a failure and unless within 30 days after such notice such failure is not corrected by such lessor or assignee.

Section § 559.9240 - Waiver.

Any waiver by the lessee of any provisions of this act or of any remedies granted to the lessee by this act is unenforceable and void.

Section § 559.9241 - Statute of limitations.

An action may not be brought under this act more than 5 years after the occurrence of the alleged violation.

Theft, Robbery, and Related Crimes

FL Stat § 812.155

Section § 812.155 - Hiring, Leasing, or Obtaining Personal Property or Equipment With the Intent to Defraud; Failing to Return Hired or Leased Personal Property or Equipment; Rules of Evidence.

(1) **OBTAINING BY TRICK, FALSE REPRESENTATION, ETC.**—Whoever, with the intent to defraud the owner or any person lawfully possessing any personal property or equipment, obtains the custody of the personal property or equipment by trick, deceit, or fraudulent or willful false representation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless the value of the personal property or equipment is of a value of \$300 or more; in that case the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) **HIRING OR LEASING WITH THE INTENT TO DEFRAUD.**—Whoever, with intent to defraud the owner or any person lawfully possessing personal property or equipment of the rental thereof, hires or leases the personal property or equipment from the owner or the owner's agents or any person in lawful possession thereof commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless the value of the personal property or equipment is of a value of \$300 or more; in that case the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) **FAILURE TO RETURN HIRED OR LEASED PERSONAL PROPERTY.**—Whoever,

after hiring or leasing personal property or equipment under an agreement to return the personal property to the person letting the personal property or equipment or his or her agent at the termination of the period for which it was let, shall, without the consent of the person or persons knowingly abandon or refuse to return the personal property or equipment as agreed, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless the value of the personal property or equipment is of a value of \$300 or more; in that case the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) EVIDENCE.—

(a) In a prosecution under this section, obtaining the property or equipment under false pretenses; absconding without payment; or removing or attempting to remove the property or equipment from the county without the express written consent of the lessor, is evidence of fraudulent intent.

(b) In a prosecution under subsection (3), failure to redeliver the property or equipment within 5 days after receiving the demand for return from a courier service with tracking capability or by certified mail, return receipt requested, or within 5 days after delivery by the courier service or return receipt from the certified mailing of the demand for return, is prima facie evidence of abandonment or refusal to redeliver the property or equipment. Notice mailed by certified mail, return receipt requested, or delivery by courier with tracking capability to the address given by the renter at the time of rental is sufficient and equivalent to notice having been received by the renter, should the notice be returned undelivered.

(c) In a prosecution under subsection (3), failure to pay any amount due which is incurred as the result of the failure to redeliver property or equipment after the rental period expires, and after the demand for return is made, is prima facie evidence of abandonment or refusal to redeliver the property or equipment. Amounts due include unpaid rental for the time period during which the property or equipment was not returned and include the lesser of the cost of repairing or replacing the property or equipment if it has been damaged.

(5) DEMAND FOR RETURN.—Demand for return of overdue property or equipment and for payment of amounts due may be made in person, by hand delivery, by certified mail, return receipt requested, or by courier service with tracking capability, addressed to the lessee's address shown in the rental contract.

(6) NOTICE REQUIRED.—As a prerequisite to prosecution under this section, the following statement must be contained in the agreement under which the owner or person lawfully possessing the property or equipment has relinquished its custody, or in an addendum to that agreement, and the statement must be initialed by the person hiring or leasing the rental property or equipment:

Failure to return rental property or equipment upon expiration of the rental period and failure to pay all amounts due (including costs for damage to the property or equipment) are evidence of abandonment or refusal to redeliver the property, punishable in accordance with section 812.155, Florida Statutes.

(7) **THIRD-PARTY POSSESSION.**—Possession of personal property or equipment by a third party does not alleviate the lessee of his or her obligation to return the personal property or equipment according to the terms stated in the contract by which the property or equipment was leased or rented to the lessee, and is not a defense against failure to return unless the lessee provides the court or property owner with documentation that demonstrates that the personal property or equipment was obtained without the lessee’s consent.

(8) **REPORTING VEHICLE AS STOLEN.**—A lessor of a vehicle that is not returned at the conclusion of the lease who satisfies the requirements of this section regarding the vehicle is entitled to report the vehicle as stolen to a law enforcement agency and have the vehicle listed as stolen on any local or national registry of such vehicles.