

SOUTH CAROLINA

Rental-Purchase Agreements

SC Code § 37-2-701 et seq.

Section 37-2-701. Definitions.

In this Part:

- (1) "Advertisement" means a commercial message in any medium that promotes, directly or indirectly, a consumer rental-purchase agreement.
- (2) "Consummation" means the time a lessee becomes contractually obligated on a consumer rental-purchase agreement.
- (3) "Lessee" means a natural person who rents personal property under a consumer rental-purchase agreement.
- (4) "Lessor" means a person who regularly provides the use of property through consumer rental-purchase agreements and to whom the obligation is initially payable on its face.
- (5) "Personal property" means any property that is not real property under the laws of the state where it is located when it is made available for a consumer rental-purchase agreement.
- (6) "Consumer rental-purchase agreement" means an agreement for the use of personal property by an individual primarily for personal, family, or household purposes, for an initial period of four months or less (whether or not there is any obligation beyond the initial period) that is automatically renewable with each payment and that permits the consumer to become the owner of the property. The term does not include a consumer credit sale as defined in Section 37-2-104, or a consumer loan as defined in Section 37-3-104, or a refinancing or consolidation thereof, or a consumer lease as defined in Section 37-2-106.

Section 37-2-702. Required disclosures; manner of disclosure; when disclosures required.

- (1) In a consumer rental-purchase agreement, the lessor shall disclose the following items, as applicable:
 - (a) the total of scheduled payments;
 - (b) the number, amounts, and timing of all payments including taxes paid to or through the lessor necessary to acquire ownership of the property;
 - (c) a statement that the lessee will not own the property until the lessee has made the number of payments and the total of scheduled payments necessary to acquire ownership of the property;

(d) a statement that the total of payments does not include other charges, such as late payment charges, and that the consumer should see the contract for an explanation of these charges;

(e) if applicable, a statement that the lessee is responsible for the fair market value of the property if and as of the time it is lost, stolen, damaged, or destroyed;

(f) a statement indicating whether the property is new or used, provided, it is not a violation of this section to indicate that the property is used if it is actually new;

(g) a statement that at any time after the first periodic payment is made, the lessee may acquire ownership of the property by tendering fifty-five percent of the difference between the total of scheduled payments and the total amount paid on the account.

(2) The administrator of the Department of Consumer Affairs may promulgate regulations setting requirements for the order and conspicuousness of the disclosures set forth in subitems (a) through (h). These regulations may allow these disclosures to be made in accordance with model forms prepared by the administrator.

(3) In a consumer rental-purchase agreement, the lessor shall make the disclosures required by subsection (1) clearly and conspicuously, and a copy must be given to the lessee for his records.

(4) In a consumer rental-purchase agreement, the lessor shall make the disclosures in the manner required by subsection (2) before consummation of the transaction.

Section 37-2-703. Renegotiation; extension of agreement.

(a) A renegotiation occurs when an existing consumer rental-purchase agreement is satisfied and replaced by a new consumer rental-purchase agreement undertaken by the same lessor and lessee. A renegotiation is a new lease requiring new disclosures. However, the following events are not treated as renegotiations:

(1) the addition or return of property in a multiple-item agreement or the substitution of the leased property, if in either case the average payment allocable to a payment period is not changed by more than twenty-five percent;

(2) a deferral or extension of one or more periodic payments, or portions of a periodic payment;

(3) a reduction in charges in the agreement;

(4) a lease or agreement involved in a court proceeding;

(b) No disclosures are required for any extension of a consumer rental-purchase agreement.

Section 37-2-704. Advertisements; statement of terms.

(1) If an advertisement for a consumer rental-purchase agreement refers to or states the amount of any payment or the right to acquire ownership for a specific item, the advertisement must also clearly and conspicuously state the following terms as applicable:

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

(b) the total of payments necessary to acquire ownership.

(c) that the lessee will not own the property until the total amount necessary to acquire ownership is paid either by payment of the total of payments over the full term of the agreement or by prepayment as provided for by law.

(2) Notwithstanding the requirements of subsection (1), if the advertisement is published by way of radio announcement or on a roadside billboard, the lessor need only make the disclosures required by items (a) and (c) of subsection (1).

Section 37-2-705. Delinquency charges.

(1) With respect to a consumer rental-purchase agreement, the parties may contract for delinquency charges as follows:

(a) For consumer rental-purchase agreements with payment or renewal dates which are monthly or less often than monthly, a delinquency charge not exceeding four dollars may be assessed on any payment not made within five business days after payment is due or return of the property is required.

(b) For consumer rental-purchase agreements with payment or renewal date options to renew more frequently than monthly, a delinquency charge not exceeding two dollars may be assessed on any payment not made within three business days after payment is due or the return of the property is required.

(2) A delinquency charge on a consumer rental-purchase agreement may be collected only once on any scheduled payment no matter how long it remains in default. A delinquency charge may be collected at the time it accrues or at any time thereafter. No delinquency charge may be assessed against a payment that is timely made even though an earlier delinquency charge has not been paid in full.

Section 37-2-706. Deposits; delivery charges; pick up charges.

(1) In a consumer rental-purchase agreement, the lessor may contract for and receive an initial nonrefundable fee not to exceed five dollars. Should any security deposit be required by the lessor, the amount and conditions under which it is returned must be disclosed with the disclosures required by Section 37-2-702.

(2) In a consumer rental-purchase agreement, the lessor may contract for and receive a delivery charge not to exceed fifteen dollars or, in the event of a consumer rental-purchase agreement covering more than five items, a delivery charge not to exceed forty-five dollars, only if the lessor actually delivers the item to the lessee's dwelling and the delivery charge is disclosed with the disclosures required by Section 37-2-702. The delivery charge may be assessed in lieu of and not in addition to the initial charge in subsection (1).

(3) In a consumer rental-purchase agreement, a lessor may contract for and receive a charge for picking up payments from the lessee if the lessor is required or requested to visit the lessee's dwelling to pick up a payment. In a consumer rental purchase agreement with payment or renewal dates which are monthly or less frequent than monthly, this charge may not be assessed more than three times in any six-month period. In consumer rental-purchase agreements with payments or renewal options more frequently than monthly, this charge may not be assessed more than six times in any six-month period. No charge assessed pursuant to this subsection may exceed seven dollars. This charge is in lieu of any delinquency charge assessed for the applicable payment period.

Section 37-2-707. Charge for default of lessee.

Except as specifically provided for in this part, a consumer rental-purchase agreement may not provide for any charges as a result of the default of the lessee. A provision in violation of this section is unenforceable.

Section 37-2-708. Use of note as evidence of consumer's obligation.

With respect to a consumer rental-purchase agreement, the lessor may not take a negotiable instrument other than a check dated not later than ten days after its issuance as evidence of the obligation of the consumer.

Section 37-2-709. Assignment; claims or defenses.

(1) With respect to a consumer rental-purchase agreement, an assignee of the rights of the lessor is subject to all claims and defenses of the consumer against the lessor arising from the lease of property or services, notwithstanding that the assignee is the holder in due course of a negotiable instrument issued in violation of the provisions prohibiting certain negotiable instruments (Section 37-2-708).

(2) A claim or defense of a consumer specified in subsection (1) may be asserted against the assignee under this section only if the consumer has made a good faith attempt to obtain satisfaction from the lessor with respect to the claim or defense and then only to the extent of the amount owing the assignee with respect to the sale or lease of the property or services as to which the claim or defense arose at the time the assignee has written notice of the claim or defense. Written notice of the claim or defense may be given before the attempt specified in this subsection. For the purposes of this section, written notice is any written notification other than

notice on a coupon, billing statement, or other payment medium or materials supplied by the assignee.

(3) An agreement may not limit or waive the claims or defenses of a lessee under this section.

Section 37-2-710. Assignment of earnings.

A lessor may not take an assignment of earnings of the buyer or lessee for payment or as security for payment of a debt arising out of a consumer rental-purchase agreement. An assignment of earnings in violation of this section is unenforceable by the assignee of the earnings and revocable by the buyer or lessee. This section does not prohibit an employee from authorizing deductions from his earnings if the authorization is revocable.

Section 37-2-711. Lessee's rights and obligations upon assignment.

The lessee is authorized to pay the original lessor until the lessee receives written notification of assignment of the rights to payment pursuant to a consumer rental-purchase agreement and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the lessee, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the lessee may pay the lessor.

Section 37-2-712. Confession of judgment.

A lessee may not authorize any person to confess judgment on a claim arising out of a consumer rental-purchase agreement. An authorization in violation of this section is void.

Section 37-2-713. Lessee's right to return property, continue rental, or purchase property before end of rental-purchase agreement.

In a consumer rental-purchase agreement, at any time after the lessee has made the first periodic payment, the lessee may:

- (1) return the rented property to the lessor;
- (2) continue making periodic payments or renewals as provided for in the agreement for the remaining term of the agreement; or
- (3) purchase the property by tendering fifty-five percent of the difference between the total of scheduled payments and the total amount paid on the account.

Section 37-2-714. Lessee's right to reinstatement of rental-purchase agreement.

(1) A lessee who fails to make timely periodic payment or payments has the right to reinstate the original consumer rental-purchase agreement without losing any rights or options previously acquired under the consumer rental-purchase agreement if both of the following apply:

(a) The consumer rental-purchase agreement is not more than sixty days in default.

(b) One periodic payment has been missed and the lessee has surrendered the item to the lessor, if requested by the lessor, during the time in which payments were missed.

(2) As a condition precedent to reinstatement of the consumer rental-purchase agreement, a lessor may charge the outstanding balance of any accrued payments and delinquency charges plus delivery charges allowable by Section 37-2-706(2) if redelivery of the item is necessary.

(3) If reinstatement occurs pursuant to this section, the lessor shall provide the lessee with either the same item leased by the lessee prior to reinstatement or a substitute item of comparable quality and condition. If a substitute item is provided the lessor shall provide the lessee with all the information required by Section 37-2-702.