

TEXAS

Rental-Purchase Agreements

TX Bus & Com Code § 92.001 et seq.

Subchapter A. General Provisions

Section 92.001. Definitions

In this chapter:

- (1) "Advertisement" means a commercial message in any medium that directly or indirectly promotes or assists a rental-purchase agreement.
- (2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 516, Sec. 2, eff. September 1, 2013.
- (3) "Consumer" means an individual who leases personal property under a rental-purchase agreement.
- (4) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 516, Sec. 2, eff. September 1, 2013.
- (5) "Loss damage waiver" means a merchant's agreement to not hold a consumer liable for loss from all or part of any damage to merchandise.
- (6) "Merchandise" means the personal property that is the subject of a rental-purchase agreement.
- (7) "Merchant" 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. The term includes a person who is assigned an interest in a rental-purchase agreement.
- (8) "Rental-purchase agreement" means an agreement under which a consumer may use merchandise for personal, family, or household purposes for an initial period of four months or less, and that:
 - (A) is automatically renewable with each payment after the initial period; and
 - (B) permits the consumer to become the owner of the merchandise.

Section 92.002. Advertisement Requirements

Sec. 92.002. ADVERTISEMENT REQUIREMENTS. An advertisement for a rental-purchase agreement that refers to or states the amount of a payment or the right to acquire ownership of any one particular item under the agreement must clearly and conspicuously state:

- (1) that the transaction advertised is a rental-purchase agreement;
- (2) the total amount and number of payments necessary to acquire ownership; and
- (3) that the consumer does not acquire ownership rights unless the merchandise is rented for a specified number of payment periods.

Subchapter B. Form and Content of Agreements

Section 92.051. Form of Agreement

- (a) A rental-purchase agreement must be written in:
 - (1) plain English; and
 - (2) any other language used by the merchant in an advertisement related to the agreement.
- (b) A numerical amount included in a rental-purchase agreement must be stated in figures.
- (c) A disclosure required by this chapter must be printed or typed in each rental-purchase agreement in a size equal to at least 10-point boldfaced type.
- (d) The attorney general shall provide a form agreement that may be used to satisfy the requirements of a rental-purchase agreement under this chapter.

Section 92.052. Required Disclosures

- (a) A rental-purchase agreement must disclose:
 - (1) whether the merchandise is new or used;
 - (2) the price for which the merchant would have sold the merchandise to the consumer for cash on the date of the agreement;
 - (3) the amount and timing of payments;
 - (4) the total number of payments necessary and the total amount to be paid to acquire ownership of the merchandise;
 - (5) that the consumer does not acquire ownership rights unless the consumer complies with the ownership terms of the agreement;
 - (6) the amount and purpose of any payment, charge, or fee in addition to the regular periodic payments; and

(7) whether the consumer is liable for loss or damage to the merchandise and, if so, the maximum amount for which the consumer may be liable.

(b) Notice of the right to reinstate the agreement must be disclosed in the agreement.

Section 92.053. Other Required Provisions

A rental-purchase agreement must provide that:

(1) any charge in addition to periodic payments must be reasonably related to the service performed; and

(2) a consumer who fails to make a timely payment may reinstate an agreement, without losing any right or option previously acquired, by taking the required action before the later of:

(A) one week after the due date of the payment; or

(B) the number of days after the due date of the payment that is equal to half the number of days in a regular payment period.

Section 92.054. Prohibited Provisions

(a) A rental-purchase agreement may not:

(1) require a consumer to:

(A) pay a late charge or reinstatement fee except as provided by Section 92.055(b);

(B) make a payment at the end of the scheduled rental-purchase term in excess of or in addition to a regular periodic payment to acquire ownership of the merchandise; or

(C) purchase insurance or a loss damage waiver from the merchant to cover the merchandise;

(2) require a confession of judgment;

(3) authorize a merchant or an agent of the merchant to commit a breach of the peace in repossessing merchandise; or

(4) waive a defense, counterclaim, or right the consumer may have against the merchant or an agent of the merchant.

(b) A consumer may not in any event be required to pay a sum greater than the total amount to be paid to acquire ownership of the merchandise as disclosed under Section 92.052(a)(4).

Section 92.055. Restrictions on Late Charges and Reinstatement Fees

- (a) Only one late charge or reinstatement fee may be collected on a payment regardless of the period during which the payment remains in default.
- (b) A rental-purchase agreement may require the consumer to pay a late charge or reinstatement fee only if:
 - (1) a periodic payment is delinquent for more than:
 - (A) seven days, if the payment is due monthly; or
 - (B) three days, if the payment is due more frequently than monthly; and
 - (2) the charge or fee is in an amount not less than \$5 and not more than the lesser of:
 - (A) \$10; or
 - (B) 10 percent of the delinquent payment.

Subchapter C. Repossession and Reinstatement

Section 92.101. Merchant's Repossession Right

This chapter does not prevent a merchant from attempting repossession of merchandise during the reinstatement period.

Section 92.102. Effect of Repossession During Reinstatement Period

A consumer's right to reinstate a rental-purchase agreement is not affected by the merchant's repossession of the merchandise during the reinstatement period.

Section 92.103. Effect on Reinstatement Period of Merchandise Return

If merchandise is returned during the applicable reinstatement period, other than through judicial process, the right to reinstate the rental-purchase agreement is extended for a period of not less than 30 days after the date of return.

Section 92.104. Merchant's Duties on Reinstatement

- (a) On reinstatement, the merchant shall provide the consumer with:

(1) the same merchandise; or

(2) substitute merchandise of comparable quality and condition.

(b) A merchant who provides the consumer with substitute merchandise shall also provide the consumer with the disclosures required by Section 92.052(a).

Subchapter D. Loss Damage Waivers

Section 92.151. Contract for Waiver

In addition to other charges permitted by this chapter, a consumer may contract for a loss damage waiver.

Section 92.152. Charge for Waiver

A merchant may charge a periodic fee for a loss damage waiver in an amount not to exceed 10 percent of the periodic rental payment.

Section 92.153. Restrictions on Merchant Concerning Waiver

A merchant may not:

(1) sell a loss damage waiver unless:

(A) the contract containing the waiver complies with this chapter; and

(B) the consumer agrees to the waiver in writing; or

(2) impose or require the purchase of a loss damage waiver as a mandatory charge.

Section 92.154. Required Notice in Waiver

A contract that offers a loss damage waiver must include the following notice:

"This contract offers an optional loss damage waiver for an additional charge to cover your responsibility for loss of or damage to the merchandise. You do not have to purchase this coverage. Before deciding whether or not to purchase this loss damage waiver, you may consider whether your homeowners' or casualty insurance policy affords you coverage for loss of or damage to rental merchandise and the amount of the deductible you would pay under your policy."

Section 92.155. Statement of Total Charge

A loss damage waiver agreement must include a statement of the total charge for the loss damage waiver.

Section 92.156. Authorized Exclusions

A loss damage waiver may exclude:

- (1) loss or damage to the merchandise that is caused by an unexplained disappearance or abandonment of the merchandise;
- (2) damage that is intentionally caused by the consumer; or
- (3) damage that results from the consumer's wilful or wanton misconduct.

Section 92.157. Relationship to Insurance

A loss damage waiver is not insurance.

Subchapter E. Civil Enforcement

Section 92.201. Action for Violation of Chapter

(a) A consumer damaged by a merchant's violation of this chapter is entitled to recover from the merchant:

- (1) actual damages;
- (2) an amount equal to 25 percent of the total amount of payments required to obtain ownership of the merchandise, except that the amount recovered under this subdivision may not be less than \$250 or more than \$1,000; and
- (3) reasonable attorney's fees and court costs.

(b) A merchant is not liable under this section for a violation of this chapter caused by the merchant's error if, subject to Subsection (c), the merchant:

- (1) provides the consumer written notice of the error; and
- (2) makes adjustments in the consumer's account as necessary to ensure:

(A) the consumer will not be required to pay an amount in excess of the amount

disclosed; and

(B) the agreement otherwise complies with this chapter.

(c) A merchant must take action under Subsection (b) before:

(1) the 31st day after the date the merchant discovers the error; and

(2) the merchant receives written notice of the error from the consumer or an action under this section is filed.

Section 92.202. Deceptive Trade Practice

A violation of this chapter is a deceptive trade practice under Subchapter E, Chapter 17.