

## UTAH

### Rental-Purchase Agreements

*UT Code § 15-8-1 et seq.*

#### **Section 1 - Short title.**

This chapter is known as the "Utah Rental Purchase Agreement Act."

#### **Section 2 - Purpose -- Rules of construction.**

(1) This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this chapter are to:

(a) define, simplify, and clarify the law governing consumer rental purchase agreements;

(b) provide certain disclosures to consumers who enter into consumer rental purchase agreements, and further consumer understanding of the terms of consumer rental purchase agreements;

(c) protect consumers against unfair practices;

(d) permit and encourage the development of fair and economically sound rental purchase practices; and

(e) make the law on consumer rental purchase agreements, including administrative rules, more uniform among the various consumer credit code jurisdictions.

#### **Section 3 - Definitions.**

As used in this title:

(1) "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.

(2) "Consumer" means a natural person who rents personal property under a rental purchase agreement to be used primarily for personal, family, or household purposes.

(3) "Consummation" means the time at which a consumer becomes contractually obligated on a rental purchase agreement.

(4) "Lessor" means a person who regularly provides the use of property through rental purchase agreements and to whom rental payments are initially payable on the face of a rental purchase agreement.

(5) "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 four months or less that is automatically renewable with each payment after the initial period, but which does not obligate or require the consumer to continue renting or using the property beyond the initial period, and that permits the consumer to become the owner of the property.

#### **Section 4 - Inapplicability of other laws -- Exempted transactions.**

(1) Rental purchase agreements that comply with this chapter are not governed by the laws relating to:

(a) a security interest as defined in Subsection 70A-1a-201(2)(ii); or

(b) Title 70C, Utah Consumer Credit Code, except that Sections 70C-7-102 through 70C-7-104 and 70C-2-205 shall apply to lessors as defined in this chapter to the same extent as they apply to creditors under Title 70C, Utah Consumer Credit Code.

(2) The chapter does not apply to the following:

(a) rental purchase agreements primarily for business, commercial, or agricultural purposes, or those made with governmental agencies or instrumentalities or with organizations;

(b) a lease of a safe deposit box;

(c) a lease or bailment of personal property which is incidental to the lease of real property and which provides that the consumer has no option to purchase the leased property; or

(d) a lease of a motor vehicle, as defined in Section 41-1a-102.

#### **Section 5 - General requirements of disclosure.**

(1) A lessor shall disclose to a consumer the information required by this chapter. In a transaction involving more than one lessor, only one lessor needs to make the disclosures, but all lessors shall be bound by the disclosures.

(2) The disclosures shall be made at or before consummation of the rental purchase agreement.

(3) The disclosures shall be made clearly and conspicuously in writing and a copy of the rental purchase agreement shall be provided to the consumer at consummation or at some specified time after consummation, with consent of the consumer. The disclosures required under Subsection 15-8-6(1) shall be made on the face of the contract, above the line provided for the

consumer's signature.

(4) If a disclosure becomes inaccurate as the result of any act, occurrence, or agreement by the consumer after delivery of the required disclosures, the resulting inaccuracy is not a violation of this chapter.

## **Section 6 - Disclosures.**

(1) For each rental purchase agreement, the lessor shall disclose in the agreement the following items, as applicable:

- (a) the total number, total dollar amount, and timing of all payments necessary to acquire ownership of the property;
- (b) a statement that the consumer will not own the property until the consumer has made the total payments necessary to acquire ownership;
- (c) a statement that the consumer is responsible to the lessor for the fair market value of the property if, and as of the time, it is stolen, damaged, or destroyed;
- (d) a brief description of the rented property, sufficient to identify the property to the consumer and the lessor, including an identification number, if applicable, and a statement indicating whether the property is new or used, but a statement that indicates new property is used, is not a violation of this chapter;
- (e) a statement of the cash price of the property, which, in the case of a single agreement involving a lease of two or more items as a set, is sufficient if it states the aggregate cash price of all items;
- (f) the total amount initially payable or required at or before consummation of the agreement or delivery of the property, whichever is later;
- (g) a statement that the total of payments does not include other charges, such as late payment, default, pickup, and reinstatement fees, which fees shall be separately disclosed in the agreement;
- (h) a statement clearly summarizing the terms of the consumer's option to purchase, including a statement that the consumer has the right to exercise an early purchase option and the price, formula, or method for determining the price at which the property may be so purchased;
- (i) a statement identifying the party responsible for maintaining or servicing the property while it is being rented, together with a description of that responsibility, and a statement that if any part of a manufacturer's express warranty covers the 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;

- (j) the consummation date of the agreement and the identities of the lessor and consumer;
  - (k) a statement that the consumer may terminate the agreement without penalty upon expiration of any rental period by voluntarily surrendering or returning the property in good repair, along with any past due rental payments; and
  - (l) a notice of the right to reinstate an agreement as provided in this chapter.
- (2) With respect to matters specifically governed by the federal Consumer Credit Protection Act, compliance with that act satisfies the requirements of this section.

### **Section 7 - Prohibited practices.**

A rental purchase agreement may not contain:

- (1) a confession of judgment;
- (2) a negotiable instrument;
- (3) a claim of a property interest in any goods except those goods delivered by the lessor pursuant to the rental purchase agreement;
- (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 upon the consumer's premises or to commit any breach of the peace while repossessing rented property; or
- (7) a provision mandating that the consumer purchase from the lessor insurance or a liability damage waiver for the merchandise.

### **Section 8 - Reinstatement.**

- (1)
  - (a) A consumer who fails to make a timely rental payment may reinstate the agreement, without losing any rights or options that exist under the agreement, by paying:
    - (i) all past due rental charges;
    - (ii) reasonable costs of pickup and redelivery if the consumer reinstates after lessor has been required to pick up the property from the consumer; and
    - (iii) any applicable late fee.

(b) Any reinstatement payment shall be made within five days after the renewal date if the consumer pays monthly, or within two days after the renewal date if the consumer pays more frequently than monthly.

(2) A consumer who has paid less than 2/3 of the total of payments necessary to acquire ownership and who has returned or voluntarily surrendered the property, other than through judicial process, during the applicable reinstatement period set forth in Subsection (1), may reinstate the agreement. Reinstatement may occur under the circumstance described in this subsection, during a period, as agreed by the parties, which may not be less than 45 days from the date of the return or surrender of the property.

(3) A consumer who has paid 2/3 or more of the total payments necessary to acquire ownership and who has returned or voluntarily surrendered the property, other than through judicial process, during the applicable period set forth in Subsection (1), may reinstate the agreement. Reinstatement may occur under the circumstances described in this subsection during a period, as agreed by the parties, which may not be less than 90 days from the date of the return or surrender of the property.

(4) This section does not prevent a lessor from attempting to repossess property during the reinstatement period, but such a repossession does not affect the consumer's right to reinstate. Upon reinstatement, the lessor shall provide the consumer with the same property, if available, or substitute property of comparable quality and condition.

## **Section 9 - Receipts and accounts.**

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

## **Section 10 - Renegotiations and extensions.**

(1) A renegotiation shall occur when an existing rental purchase agreement is satisfied and replaced by a new agreement entered into by the same lessor and consumer. A renegotiation shall be considered a new agreement requiring new disclosures. However, events such as the following may not be treated as renegotiations:

(a) the addition or return of property in a multiple item agreement or the substitution of the rental property, if in either case the previous periodic payment allocable to a rental period does not change by more than 25%;

(b) a deferral or extension of one or more periodic payments, or any portion of a periodic payment;

(c) a reduction in charges in the agreement; or

- (d) any court proceedings involving an agreement.
- (2) Disclosures are not required for any extension of a rental purchase agreement.

### **Section 11 - Enforcement -- Penalties.**

- (1)
  - (a) A lessor who fails to comply with the requirements of this chapter is liable to a consumer in an amount equal to the greater of:
    - (i) the actual damages sustained by the consumer as a result of the lessor's failure to comply with this chapter; or
    - (ii) 25% of the total payments necessary to acquire ownership, but not less than \$100 nor more than \$1,000.
  - (b) A lessor may also be liable to the consumer for the costs of the action and reasonable attorneys' fees, as determined by the court.
- (2) A consumer may not take any action to offset the amount for which a lessor is potentially liable under Subsection (1) against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action in which the lessor was a party. This subsection does not bar a consumer then 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.
- (3) No action under this section may be brought in any court of competent jurisdiction more than two years after the date the consumer made his 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.

### **Section 12 - Lessor's defenses.**

- (1) If a lessor established by a preponderance of evidence that a violation of this chapter is unintentional or the result of a bona fide error, no penalty specified in Section 15-8-11 may be imposed and the validity of the transaction is not affected.
- (2) A lessor has no liability under this part for any failure to comply with any requirement imposed under this chapter if, within 60 days after discovering an error, and prior to the institution of an action under this chapter or the receipt of written notice of the error from the consumer, the lessor notifies the affected consumer of the error and makes whatever adjustments in the consumer's account as are necessary to correct the error.
- (3) A penalty does not apply if any action is performed or omitted in good faith and in conformity with any provision of this chapter, notwithstanding that after an action or omission

has occurred, the provision of the chapter is, for any reason, amended, rescinded, or determined by judicial or other competent authority to be invalid.