

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred Senate Bill No. 73 entitled “An act relating to rent-to-own agreements
4 for merchandise” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 * * * Consumer Rent-to-Own Agreements * * *

9 Sec. 1. 9 V.S.A. § 41b is amended to read:

10 § 41b. RENT-TO-OWN AGREEMENTS; DISCLOSURE OF TERMS

11 ~~(a) The attorney general shall adopt by rule standards for the full and~~
12 ~~conspicuous disclosure to consumers of the terms of rent to own agreements.~~
13 ~~For purposes of this section a rent to own agreement means an agreement for~~
14 ~~the use of merchandise by a consumer for personal, family, or household~~
15 ~~purposes, for an initial period of four months or less, that is renewable with~~
16 ~~each payment after the initial period and that permits the lessee to become the~~
17 ~~owner of the property. An agreement that complies with this article is not a~~
18 ~~retail installment sales contract, agreement or obligation as defined in this~~
19 ~~chapter or a security interest as defined in section 1-201(37) of Title 9A.~~

1 ~~(b) The attorney general, or an aggrieved person, may enforce a violation~~
2 ~~of the rules adopted pursuant to this section as an unfair or deceptive act or~~
3 ~~practice in commerce under section 2453 of this title.~~

4 (a) Definitions. In this section:

5 (1) “Advertisement” means a commercial message that solicits a
6 consumer to enter into a rent-to-own agreement for a specific item of
7 merchandise that is conveyed:

8 (A) at a merchant’s place of business;

9 (B) on a merchant’s website;

10 (C) on television or radio.

11 (2) “Cash price” means the price of merchandise available under a
12 rent-to-own agreement that the consumer may pay in cash to the merchant at
13 the inception of the agreement to acquire ownership of the merchandise.

14 (3) “Clear and conspicuous” means that the statement or term being
15 disclosed is of such size, color, contrast, or audibility, as applicable, so that the
16 nature, content, and significance of the statement or term is reasonably
17 apparent to the person to whom it is disclosed.

18 (4) “Consumer” has the same meaning as in subsection 2451a(a) of this
19 title.

20 (5) “Merchandise” means an item of a merchant’s property that is
21 available for use under a rent-to-own agreement. The term does not include:

1 (A) real property;

2 (B) a mobile home, as defined in section 2601 of this title;

3 (C) a motor vehicle, as defined in 23 V.S.A. § 4;

4 (D) an assistive device, as defined in section 41c of this title; or

5 (E) a musical instrument intended to be used primarily in an
6 elementary or secondary school.

7 (6) “Merchant” means a person who offers, or contracts for, the use of
8 merchandise under a rent-to-own agreement.

9 (7) “Merchant’s cost” means the documented actual cost, including
10 actual freight charges, of merchandise to the merchant from a wholesaler,
11 distributor, supplier, or manufacturer and net of any discounts, rebates, and
12 incentives that are vested and calculable as to a specific item of merchandise at
13 the time the merchant accepts delivery of the merchandise.

14 (8)(A) “Rent-to-own agreement” means a contract under which a
15 consumer agrees to pay a merchant for the right to use merchandise until:

16 (i) the consumer returns the merchandise to the merchant;

17 (ii) the merchant retakes possession of the merchandise; or

18 (iii) the consumer pays the total cost and acquires ownership of
19 the merchandise.

20 (B) A “rent-to-own agreement” as defined in subdivision (7)(A) of
21 this subsection is not:

1 (i) a sale subject to 9A V.S.A. Article 2;

2 (ii) a lease subject to 9A V.S.A. Article 2A;

3 (iii) a security interest as defined in section 9A V.S.A.

4 § 1-201(a)(35); or

5 (iv) a retail installment contract or retail charge agreement as
6 defined in chapter 61 of this title.

7 (9) “Rent-to-own charge” means the difference between the total cost
8 and the cash price of an item of merchandise.

9 (10) “Total cost” means the sum of all payments, charges, fees, and
10 taxes that a consumer must pay to acquire ownership of merchandise under a
11 rent-to-own agreement. The term does not include charges for optional
12 services or charges due only upon the occurrence of a contingency specified in
13 the agreement.

14 (b) General requirements.

15 (1) Prior to execution, a merchant shall give a consumer the opportunity
16 to review a written copy of a rent-to-own agreement that includes all of the
17 information required by this section for each item of merchandise covered by
18 the agreement and shall not refuse a consumer’s reasonable request to review
19 the agreement with a third party, either inside the merchant’s place of business
20 or at another location.

21 (2) A disclosure required by this section shall be clear and conspicuous.

1 (3) In an advertisement or rent-to-own agreement, a merchant shall state
2 a numerical amount or percentage as a figure and shall print or legibly
3 handwrite the figure in the equivalent of 12-point type or greater.

4 (4) A merchant may supply information not required by this section with
5 the disclosures required by this section, but shall not state or place additional
6 information in such a way as to cause the required disclosures to be misleading
7 or confusing, or to contradict, obscure, or detract attention from the required
8 disclosures.

9 (5) A merchant shall preserve an advertisement, or a digital copy of the
10 advertisement, for not less than two years after the date the advertisement
11 appeared. In the case of a radio, television, or Internet advertisement, a
12 merchant may preserve a copy of the script or storyboard.

13 (6) A merchant shall make merchandise available to all consumers on
14 the terms and conditions that appear in the advertisement.

15 (7) A rent-to-own agreement that is substantially modified, including a
16 change that increases the consumer's payments or other obligations or
17 diminishes the consumer's rights, shall be considered a new agreement subject
18 to the requirements of this chapter.

19 (8) For each item of merchandise available under a rent-to-own
20 agreement, a merchant shall keep an electronic or hard copy for a period of six
21 years following the date the merchant ceases to own the merchandise:

1 (A) each rent-to-own agreement covering the item; and

2 (B) a record that establishes the merchant's cost for the item.

3 (9) A rent-to-own agreement executed by a merchant doing business in
4 Vermont and a resident of Vermont shall be governed by Vermont law.

5 (10) If a rent-to-own agreement includes a provision requiring mediation
6 or arbitration in the event of a dispute, the mediation or arbitration shall occur
7 within Vermont.

8 (c) Cash price; total cost; maximum limits.

9 (1) The maximum cash price for an item of merchandise shall not
10 exceed:

11 (A) for an appliance, 1.75 times the merchant's cost;

12 (B) for an item of electronics that has a merchant's cost of less than
13 \$150.00, 1.75 times the merchant's cost;

14 (C) for an item of electronics that has a merchant's cost of \$150.00 or
15 more, 2.00 times the merchant's cost;

16 (D) for an item of furniture or jewelry, 2.50 times the merchant's
17 cost; and

18 (E) for any other item, 2.00 times the merchant's cost.

19 (2) The total cost for an item of merchandise shall not exceed two times
20 the maximum cash price for the item.

1 (d) Disclosures in advertising. An advertisement shall state:

2 (1) the cash price of the item;

3 (2) that the merchandise is available under a rent-to-own agreement;

4 (3) the amount, frequency, and total number of payments required for
5 ownership;

6 (4) the total cost for the item;

7 (5) the rent-to-own charge for the item; and

8 (6) that the consumer will not own the merchandise until the consumer
9 pays the total cost for ownership.

10 (e) Disclosures on site. In addition to the information required in
11 subsection (d) of this section, an advertisement at a merchant's place of
12 business shall include:

13 (1) whether the item is new or used;

14 (2) when the merchant acquired the item; and

15 (3) the number of times a consumer has taken possession of the item
16 under a rent-to-own agreement.

17 (f) Disclosures in rent-to-own agreement.

18 (1) The first page of a rent-to-own agreement shall include:

19 (A) a heading in bold-face type that reads: "IMPORTANT
20 INFORMATION ABOUT THIS RENT-TO-OWN AGREEMENT.

1 Do Not Sign this Agreement Before You Read It or If It Contains any Blank
2 Spaces?"; and

3 (B) the following information in the following order:

4 (i) the name, address, and contact information of the merchant;

5 (ii) the name, address, and contact information of the consumer;

6 (iii) the date of the transaction;

7 (iv) a description of the merchandise sufficient to identify the
8 merchandise to the consumer and the merchant, including any applicable
9 model and identification numbers;

10 (v) a statement whether the merchandise is new or used, and in the
11 case of used merchandise, a description of the condition of, and any damage to,
12 the merchandise.

13 (2) A rent-to-own agreement shall include the following cost
14 disclosures, printed and grouped as indicated below, immediately preceding
15 the signature lines:

16 (1) Cash Price: _____ \$

17 (2) Payments required to become owner:

18 \$ /(weekly)(biweekly)(monthly) × (# of payments) = \$

19 (3) Mandatory charges, fees, and taxes required to become owner (itemize):

20 _____ \$

21 _____ \$

1 _____ \$

2 Total required taxes, fees, and charges: _____ \$

3 (4) Total cost: _____ (2) + (3) = \$

4 (5) Rent-to-Own Charge: _____ (4) – (1) = \$

5 (g) Required provisions of rent-to-own agreement. A rent-to-own
6 agreement shall provide:

7 (1) a statement of payment due dates;

8 (2) a line-item list of any other charges or fees the consumer could be
9 charged or have the option of paying in the course of acquiring ownership or
10 during or after the term of the agreement;

11 (3) that the consumer will not own the merchandise until he or she
12 makes all of the required payments for ownership;

13 (4) that the consumer has the right to receive a receipt for a payment
14 and, upon reasonable notice, a written statement of account;

15 (5) who is responsible for service, maintenance, and repair of an item of
16 merchandise;

17 (6) that, except in the case of the consumer’s negligence or abuse, if the
18 merchant must retake possession of the merchandise for maintenance, repair,
19 or service, or the item cannot be repaired, the merchant is responsible for
20 providing the consumer with a replacement item of equal quality and
21 comparable design;

1 (7) the maximum amount of the consumer’s liability for damage or loss
2 to the merchandise in the case of the consumer’s negligence or abuse;

3 (8) a description of a manufacturer’s warranty or other warranty on the
4 merchandise, which may be in a separate document furnished to the consumer;

5 (9) a description of any insurance required of the consumer, or a
6 statement that the consumer is not required to purchase insurance and a
7 description of any insurance purchased by the consumer;

8 (10) an explanation of the consumer’s options to purchase the
9 merchandise;

10 (11) an explanation of the merchant’s right to repossess the
11 merchandise; and

12 (12) an explanation of the parties’ respective rights to terminate the
13 agreement, and to reinstate the agreement.

14 (h) Prohibited provisions of rent-to-own agreement. A rent-to-own
15 agreement shall not contain a provision:

16 (1) requiring a confession of judgment;

17 (2) requiring a garnishment of wages;

18 (3) authorizing a merchant or its agent to enter unlawfully upon the
19 consumer’s premises or to commit any breach of the peace in the repossession
20 of property;

1 (4) requiring the consumer to waive any defense, counterclaim, or right
2 of action against the merchant or its agent in collection of payment under the
3 agreement or in the repossession of property; or

4 (5) requiring the consumer to purchase insurance from the merchant to
5 cover the property.

6 (i) Option to purchase. Notwithstanding any other provision of this
7 section, at any time after the first payment a consumer who is not in violation
8 of a rent-to-own agreement may acquire ownership of the merchandise covered
9 by the agreement by paying an amount equal to the cash price of the
10 merchandise minus 50 percent of the value of the consumer's previous
11 payments.

12 (j) Collections; repossession of merchandise; prohibited acts. When
13 attempting to collect a debt or enforce an obligation under a rent-to-own
14 agreement, a merchant shall not:

15 (1) call or visit a consumer's workplace after a request by the consumer
16 or his or her employer not to do so;

17 (2) use profanity or any language to abuse, ridicule, or degrade a
18 consumer;

19 (3) repeatedly call, leave messages, knock on doors, or ring doorbells;

20 (4) ask someone, other than a spouse, to make a payment on behalf of a
21 consumer;

1 (5) obtain payment through a consumer’s bank, credit card, or other
2 account without authorization;

3 (6) speak with a consumer more than six times per week to discuss an
4 overdue account;

5 (7) engage in violence;

6 (8) trespass;

7 (9) call or visit a consumer at home or work after receiving legal notice
8 that the consumer has filed for bankruptcy;

9 (10) impersonate others;

10 (11) discuss a consumer’s account with anyone other than a spouse of
11 the consumer;

12 (12) threaten unwarranted legal action; or

13 (13) leave a recorded message for a consumer that includes anything
14 other than the caller’s name, contact information, and a courteous request that
15 the consumer return the call.

16 (k) Reinstatement of agreement.

17 (1) A consumer who fails to make a timely payment may reinstate a
18 rent-to-own agreement without losing any rights or options that exist under the
19 agreement by paying all past-due charges, the reasonable costs of pickup,
20 redelivery, and any refurbishing, and any applicable late fee:

1 (A) within five business days of the renewal date of the agreement if
2 the consumer pays monthly; or

3 (B) within three business days of the renewal date of the agreement if
4 the consumer pays more frequently than monthly.

5 (2) If a consumer promptly returns or voluntarily surrenders
6 merchandise upon a merchant's request, the consumer may reinstate a
7 rent-to-own agreement during a period of not less than 180 days after the date
8 the merchant retakes possession of the merchandise.

9 (3) In the case of a rent-to-own agreement that is reinstated pursuant to
10 this subsection, the merchant is not required to provide the consumer with the
11 identical item of merchandise and may provide the consumer with a
12 replacement item of equal quality and comparable design.

13 (l) Reasonable charges and fees. Any charge or fee assessed under a
14 rent-to-own agreement shall be reasonably related to the actual cost to the
15 merchant of the service or hardship for which it is charged.

16 (m) Prohibition on rent-to-own businesses and licensed lenders. A person
17 engaged in the business of selling merchandise under a rent-to-own agreement
18 subject to this section shall not engage in any conduct or business at the same
19 physical location that would require a license under 8 V.S.A. chapter 73
20 (licensed lenders).

1 (1) engage in the business of making loans of money, credit, goods, or
2 things in action and charge, contract for, or receive on any such loan interest, a
3 finance charge, discount, or consideration therefor;

4 (2) act as a mortgage broker;

5 (3) engage in the business of a mortgage loan originator; ~~or~~

6 (4) act as a sales finance company; or

7 (5) act as a consumer litigation funding company, as defined in section
8 2201a of this chapter.

9 Sec. 4. 8 V.S.A. § 2201a is added to read:

10 § 2201a. CONSUMER LITIGATION FUNDING

11 (a) Purpose. In an effort to promote consumer protections related to
12 consumer litigation funding transactions, consumer litigation funding
13 companies are subject to State regulations like other licensed lenders subject to
14 this chapter, except as otherwise provided in this section.

15 (b) Definitions. As used in this section:

16 (1) “Consumer” means a natural person who is seeking or has obtained
17 consumer litigation funding for a pending legal claim, provided:

18 (A) the claim is in Vermont; or

19 (B) the person resides or is domiciled in Vermont.

20 (2) “Consumer litigation funding” or “funding” means a nonrecourse
21 transaction in which a consumer litigation funding company purchases and a

1 consumer assigns to the company a contingent right to receive an amount of
2 the proceeds of a settlement or judgment obtained from the consumer's legal
3 claim. If no proceeds are obtained, the consumer is not required to repay the
4 company the funded amount, any fees or charges, or any other sums.

5 (c) Requirements. Except as otherwise provided in this section, a company
6 is subject to the requirements of this chapter. A company shall pay to the
7 Commissioner the application, investigation, and renewal fees specified in
8 subdivisions 2202(b)(1) and 2209(a)(1) of this chapter. A company is not
9 subject to the provisions of this chapter that apply only to a mortgage broker or
10 mortgage loan originator, or both, but do not apply to other lenders licensed
11 under this chapter.

12 (d) Rate of interest. Notwithstanding any other provision of law to the
13 contrary, consumer litigation funding is not subject to an interest rate cap
14 established by State law or rule.

15 (e) Attorney prohibitions. An attorney or law firm retained by a consumer
16 shall not have a financial interest in the company offering funding to the
17 consumer, nor shall the attorney or law firm receive a referral fee or other
18 consideration from the company in connection with such funding.

19 * * * Internet Dating Services * * *

20 Sec. 5. 9 V.S.A. chapter 63, subchapter 8 is added to read:

21 Subchapter 8. Internet Dating Services

1 § 2482a. DEFINITIONS

2 In this chapter:

3 (1) “Account change” means a change to the password, email address,
4 age, identified gender, gender of members seeking to meet, primary photo
5 unless it has previously been approved by the Internet dating service, or other
6 conspicuous change to a member’s account or profile with or on an Internet
7 dating service.

8 (2) “Banned member” means the member whose account or profile is
9 the subject of a fraud ban.

10 (3) “Fraud ban” means barring a member’s account or profile from an
11 Internet dating service because, in the judgment of the service, the member
12 poses a significant risk of attempting to obtain money from other members
13 through fraudulent means.

14 (4) “Internet dating service” means a person or entity that is in the
15 business of providing dating services principally on or through the Internet.

16 (5) ”Member” means a person who submits to an Internet dating service
17 information required to access the service and who obtains access to the
18 service.

19 (6) “Vermont member” means a member who provides a Vermont
20 residential or billing address or zip code when registering with the Internet
21 dating service.

1 § 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

2 (a) An Internet dating service shall disclose to all of its Vermont members
3 known to have previously received and responded to an onsite message from a
4 banned member:

5 (1) the user name, identification number, or other profile identifier of the
6 banned member;

7 (2) the fact that the banned member was banned because in the
8 judgment of the Internet dating service the banned member may have been
9 using a false identify or may pose a significant risk of attempting to obtain
10 money from other members through fraudulent means;

11 (3) that a member should never send money or personal financial
12 information to another member; and

13 (4) a hyperlink to online information that clearly and conspicuously
14 addresses the subject of how to avoid being defrauded by another member of
15 an Internet dating service.

16 (b) The notification required by subsection (a) of this section shall be

17 (1) clear and conspicuous;

18 (2) by email, text message, or other appropriate means of
19 communication; and

20 (3) sent within 24 hours after the fraud ban, or at a later time if the
21 service has determined based on an analysis of effective messaging that a

1 different time is more effective, but in no event later than three days after the
2 fraud ban.

3 (c) An Internet dating service shall disclose in an email, text message, or
4 other appropriate means of communication, in a clear and conspicuous manner,
5 within 24 hours after discovery of any account change to a Vermont member's
6 account or profile:

7 (1) the fact that information on the member's account or personal profile
8 has been changed;

9 (2) a brief description of the change; and

10 (3) if applicable, how the member may obtain further information on the
11 change.

12 § 2482c. IMMUNITY

13 (a) An Internet dating service shall not be liable to any person for disclosing
14 to any member that it has banned a member, the user name or identifying
15 information of the banned member, or the reasons for the Internet dating
16 service's decision to ban such member.

17 (b) An Internet dating service shall not be liable to any person for the
18 decisions regarding whether to ban a member, or how or when to notify a
19 member pursuant to section 2482b of this title.

1 (c) This subchapter does not diminish or adversely affect the protections for
2 Internet dating services that are afforded in 47 U.S.C. § 230 (Federal
3 Communications Decency Act).

4 § 2482d. VIOLATIONS

5 (a) A person who violates this subchapter commits an unfair and deceptive
6 act in trade and commerce in violation of section 2453 of this title.

7 (b) The Attorney General has the same authority to make rules, conduct
8 civil investigations, and enter into assurances of discontinuance as is provided
9 under subchapter 1 of this chapter.

10 * * * Discount Membership Programs * * *

11 Sec. 6. 9 V.S.A. § 2470hh is amended to read:

12 § 2470hh. VIOLATIONS

13 ~~(a) A violation of this subchapter is deemed to be a violation of section~~
14 ~~2453 of this title~~ A person who violates this subchapter commits an unfair and
15 deceptive act in trade and commerce in violation of section 2453 of this title.

16 (b) The Attorney General has the same authority to make rules, conduct
17 civil investigations, enter into assurances of discontinuance, and bring civil
18 actions as is provided under subchapter 1 of this chapter.

19 (c) It is an unfair and deceptive act and practice in commerce for any person
20 to provide substantial assistance to the seller of a discount membership

1 program which has engaged or is engaging in an unfair or deceptive act or
2 practice in commerce, when the person or the person's authorized agent:

3 (1) receives notice from a regulatory, law enforcement, or similar
4 governmental authority that the seller of the discount membership program is
5 in violation of this subchapter;

6 (2) knows from information received or in its possession that the seller of
7 the discount membership program is in violation of this subchapter; or

8 (3) consciously avoids knowing that the seller of the discount
9 membership program is in violation of this subchapter.

10 (d) Subject to section 2452 of this title, a person who provides only
11 incidental assistance to the seller of a discount membership program, or who
12 does not receive a benefit from providing assistance to the seller of a discount
13 membership, shall not be liable under this section unless the person receives
14 notice, knows, or consciously avoids knowing, pursuant to subdivision (c)(1),
15 (2), or (3) of this section, that a discount membership program is in violation of
16 this chapter.

17 * * * Security Breach Notice Act * * *

18 Sec. 7. 9 V.S.A. § 2435(b)(6) is amended to read:

19 ~~(6) For purposes of this subsection, notice to consumers may be~~
20 ~~provided~~ A data collector may provide notice of a security breach to a
21 consumer by one of the following methods:

1 (A) Direct notice ~~to consumers~~, which may be by one of the
2 following methods:

- 3 (i) ~~Written~~ written notice mailed to the consumer's residence;
4 (ii) ~~Electronic~~ electronic notice, for those consumers for whom the
5 data collector has a valid e-mail address if:

6 (I) ~~the data collector does not have contact information set forth~~
7 ~~in subdivisions (i) and (iii) of this subdivision (6)(A)~~; the data collector's
8 primary method of communication with the consumer is by electronic means,
9 the electronic notice does not request or contain a hypertext link to a request
10 that the consumer provide personal information, and the electronic notice
11 conspicuously warns consumers not to provide personal information in
12 response to electronic communications regarding security breaches; or and

13 (aa) the data collector does not have contact information set
14 forth in subdivisions (i) and (iii) of this subdivision (6)(A); or

15 (bb) the data collector elects to provide electronic notice and
16 includes in the notice a mechanism for the consumer to acknowledge receipt of
17 the notice; or

18 (II) the notice ~~provided~~ is consistent with the provisions
19 regarding electronic records and signatures for notices ~~as set forth~~ in 15 U.S.C.
20 § 7001; or

1 (iii) ~~Telephonic~~ telephonic notice, provided that telephonic contact
2 is made directly with each affected consumer; and ~~the telephonic contact is not~~
3 through a prerecorded message.

4 (B)(i) Substitute notice, if:

5 (I) the data collector demonstrates that the cost of providing
6 written or telephonic notice, ~~pursuant to subdivision (A)(i) or (iii) of this~~
7 ~~subdivision (6)~~, to affected consumers would exceed \$5,000.00; ~~or that~~

8 (II) the ~~affected~~ class of affected consumers to be provided
9 written or telephonic notice, ~~pursuant to subdivision (A)(i) or (iii) of this~~
10 ~~subdivision (6)~~, exceeds 5,000; ~~or~~

11 (III) the data collector does not have sufficient contact
12 information.

13 (ii) ~~Substitute notice shall consist of all of the following~~ A data
14 collector shall provide substitute notice by:

15 (i)(I) ~~conspicuous~~ conspicuously posting of the notice on the
16 data collector's website ~~page~~ if the data collector maintains one; and

17 (ii)(II) ~~notification to~~ notifying major statewide and regional
18 media.

19 * * * Limitation of Liability for Advertisers * * *

20 Sec. 8. 9 V.S.A. § 2452 is amended to read:

21 § 2452. LIMITATION

1

2

Representative _____

3

FOR THE COMMITTEE