



2001 ASSEMBLY BILL 393

May 14, 2001 - Introduced by Representatives URBAN, HUEBSCH, OLSEN, VRAKAS, STARZYK, KREIBICH, MONTGOMERY, PLOUFF, PLALE, J. FITZGERALD, MILLER, HAHN, MUSSER, WADE, M. LEHMAN, GUNDERSON, TURNER, PETROWSKI, LASSA, OTT and STONE, cosponsored by Senators M. MEYER, S. FITZGERALD and ROSENZWEIG. Referred to Committee on Financial Institutions.

1 **AN ACT** *to amend* chapter 218 (title), 220.02 (2) (b) and 220.02 (3); and *to create*
2 subchapter XI of chapter 218 [precedes 218.61], 409.104 (12m) and 421.202
3 (7m) of the statutes; **relating to:** regulating rental-purchase companies,
4 providing an exemption from emergency rule procedures, granting
5 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a consumer credit transaction that is entered into for personal, family, or household purposes is generally subject to the Wisconsin Consumer Act (consumer act). The consumer act grants consumers certain rights and remedies and contains notice and disclosure requirements and prohibitions relating to consumer credit transactions. Currently, a consumer lease that has a term of more than four months is among the consumer credit transactions that are subject to the consumer act. In addition, the consumer act applies to any other consumer lease, if the lessee pays or agrees to pay at least an amount that is substantially equal to the value of the leased property and if the lessee will become, or for not more than a nominal additional payment has the option to become, the owner of the leased property.

This bill exempts certain consumer leases from the consumer act and creates a new subchapter of the statutes for the purpose of regulating these leases and the businesses that rent property to individuals under these leases. The primary aspects of the bill are as follows:

ASSEMBLY BILL 393***Scope***

The bill regulates the activities of a rental-purchase company, which is defined in the bill as any person engaged in the business of entering into rent-to-own agreements or acquiring or servicing rent-to-own agreements. With certain exceptions, an agreement qualifies as a rent-to-own agreement under the bill if, among other things, the rental property is to be used primarily for personal, family, or household purposes; the agreement has an initial term of four months or less and is automatically renewable with each payment after the initial term; the agreement does not require the lessee to renew the agreement beyond the initial term; and the agreement permits, but does not require, the lessee to acquire ownership of the personal property. Under the bill, a rent-to-own agreement is not subject to any laws relating to a security interest or lease under the Uniform Commercial Code.

Certain transactions are specifically excluded, however, from the new subchapter. These exclusions include a lease or bailment of personal property that is incidental to the lease of real property; a credit sale, as defined in the federal consumer credit protection laws; and a motor vehicle lease.

Administration

The bill requires every rental-purchase company doing business in this state to obtain a license from the division of banking in the department of financial institutions (division), pay an annual license fee, and make annual reports to the division. The bill permits the division to examine the books and records of a rental-purchase company to determine compliance with the new subchapter. The division may suspend or revoke a rental-purchase company's registration if, among other things, the rental-purchase company violates the new subchapter, the rental-purchase company fails to pay the license fee, or the division becomes aware of a fact that would be grounds for refusing to grant the rental-purchase company a license. If certain conditions are satisfied, a rental-purchase company may appeal an order of the division that suspends or revokes the rental-purchase company's license.

Provisions of rent-to-own agreements

The bill requires every rent-to-own agreement to contain all of the following provisions, to the extent applicable:

- (1) A description of the rental property.
- (2) The cost of purchasing the rental property on the date on which the rent-to-own agreement is executed.
- (3) A statement indicating that it may cost less to purchase the rental property from a retailer other than the rental-purchase company.
- (4) The amount of the periodic rental payment.
- (5) The amount of any payment due when the rent-to-own agreement is executed or the rental property is delivered.
- (6) The total dollar amount, total number, and timing of all rental payments necessary to acquire ownership of the rental property.
- (7) The total dollar amount and an itemization of all taxes, liability damage waiver fees, fees for optional services, processing and application fees, and delivery

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charges that the lessee would incur if the lessee were to rent the property until the lessee acquires ownership.

(8) An itemization and description of any other charges or fees the rental-purchase company may charge the lessee.

(9) A summary of the lessee's early-purchase option.

(10) A description of the lessee's responsibility in the event of theft of or damage to the rental property.

(11) A statement indicating that, with certain exceptions, the rental-purchase company is required to service the rental property to maintain it in good working condition.

(12) A statement that the lessee may terminate the rental-purchase agreement at any time, without penalty, by surrendering the rental property in good repair.

(13) A description of the lessee's right to reinstate the rental-purchase agreement.

(14) A statement indicating that the lessee does not own the rental property and will not own the property until exercising an early-purchase option or making all rental payments necessary to acquire ownership.

The bill also prohibits certain provisions from being placed in a rent-to-own agreement. For example, under the bill, a rent-to-own agreement may not include a confession of judgment, a provision granting the rental-purchase company a security interest in property other than the rental property, a provision granting the rental-purchase company permission to enter the lessee's premises or commit a breach of the peace in repossessing the rental property, a waiver of any defense or counterclaim or any provision of the new subchapter, a provision requiring rental payments totaling more than the total dollar amount of all rental payments necessary to acquire ownership, a provision requiring the lessee to purchase insurance from the rental-purchase company to insure the rental property, or a provision requiring the lessee to pay attorney fees. Several of these prohibitions are similar to prohibitions contained in the consumer act.

Disclosure

All required provisions of a rent-to-own agreement must be clearly and conspicuously disclosed to the lessee in at least eight-point standard type on the face of the rent-to-own agreement. The lessee's payment obligations must be evidenced by a single, dated instrument that includes the signatures of the rental-purchase company and lessee. As under the consumer act, the bill requires the rental-purchase company to provide the lessee, or one lessee if there are multiple lessees under the same agreement, with a copy of the executed rent-to-own agreement. In addition, a rental-purchase company must provide the lessee with a receipt for any payment made by the lessee in cash, or upon request, for any other type of payment. With certain exceptions, upon the request of a lessee, a rental-purchase company must also provide the lessee or a person designated by the lessee with a copy of the lessee's payment history. The rental-purchase company may charge a fee if a lessee or designated person requests more than one copy in any 12-month period.

ASSEMBLY BILL 393***Related transactions***

Under the bill, a rental-purchase company must offer an early-purchase option to a lessee and may offer a liability waiver to a lessee. The terms of a liability waiver and the fact that the lessee is not required to purchase the waiver must be disclosed to the lessee in writing. The fee for the liability waiver may not equal more than 10% of the rental payment due under the rent-to-own agreement. The bill permits a lessee to cancel a liability waiver at the end of any rental term.

Marketing activities

With certain exceptions, the bill requires a rental-purchase company to display a card or tag on or next to any property offered for rent, indicating whether the property is new or used and indicating the cash price of the property, the amount of the rental payment and the term over which the rental payment must be made, and the total number and total dollar amount of all rental payments necessary to acquire ownership of the property. In addition, a rental-purchase company must ensure that an advertisement for a rent-to-own agreement that refers to the amount of a payment for a specific item of property also states that the advertisement is for a rent-to-own agreement and that the lessee does not acquire ownership of the property if the lessee fails to make all rental payments necessary to acquire ownership. The advertisement must also include the total number and total dollar amount of all rental payments necessary to acquire ownership of the property. The provisions relating to advertising, however, do not apply to an in-store display or an advertisement published in the yellow pages or similar business directory. The consumer act does not contain a similar provision regulating the manner in which consumer credit is marketed, although the consumer act does prohibit false, misleading, and deceptive advertising of certain products.

Similar to the consumer act, the bill prohibits a rental-purchase company from inducing an individual to enter into a rent-to-own agreement by giving or offering to give the individual a rebate or discount in consideration of the individual's giving the rental-purchase company the names of prospective lessees, if the earning of the rebate or discount is contingent upon the occurrence of any event that takes place after the time that the individual enters into the rent-to-own agreement. The bill, however, specifically allows a rental-purchase company to give or offer to give a rebate or discount to a current lessee, in consideration of the lessee's giving the rental-purchase company the names of prospective lessees.

Right to reduced amount of rental payments and right to reinstatement

Under the bill, if a lessee who has paid more than 50% of the total dollar amount of rental payments necessary to acquire ownership provides the rental-purchase company with reasonable evidence that the lessee's monthly income is reduced by at least 25% due to certain specified events, the rental-purchase company must reduce the amount of each rental payment by the same percentage that the lessee's monthly income is reduced or by 50%, whichever is less. The events that may trigger a reduced rental payment are pregnancy, disability, an involuntary job loss, or an involuntary reduction in the amount of hours worked or wages earned by the lessee. The reduced rental payment must remain in effect until the lessee's monthly income is no longer reduced, except that the amount of each rental payment may be adjusted

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accordingly as the lessee's monthly income increases. A rental-purchase company may reasonably require continuing evidence of reduced monthly income. To compensate for the reduced amount of the rental payments, a rental-purchase company may increase the total number of rental payments necessary to acquire ownership of the rental property. A rental-purchase company may not, however, increase the total dollar amount of rental payments necessary to acquire ownership, or the amount of any single rental payment, to greater than the amount initially disclosed in the rent-to-own agreement. The consumer act does not contain any similar provisions.

The bill also grants a lessee the right to reinstate a terminated rent-to-own agreement, as long as the lessee returned the rental property within five days after termination and not more than 21 days have passed since the return date or, if the lessee paid at least two-thirds of the total number of rental payments necessary to acquire ownership, not more than 45 days have passed since the return date. A rental-purchase company may require the payment of a \$5 reinstatement fee, all past-due rental charges, and any applicable late fees as a condition of reinstatement. Upon reinstatement, a rental-purchase company must provide a lessee with the same rental property, if available and in the same condition as when it was returned, or with comparable quality rental property.

Default and right to cure

The bill establishes a notice procedure similar to that contained in the consumer act that a rental-purchase company may follow if a lessee defaults under a rent-to-own agreement. The bill defines "default" as a material breach of the rent-to-own agreement or a failure to return rental property within seven days after the expiration of the term for which the last payment was made. Before giving a lessee a notice of default, a rental-purchase company may first request the lessee to voluntarily surrender the applicable rental property. Under the bill, as under the consumer act, with certain exceptions, to file an action against a lessee arising out of the lessee's default, a rental-purchase company must give to the lessee a written notice of the default and of the lessee's right, within 15 days after receiving the notice, to cure the default. Under the bill, the notice must specify, among other things, the actions required to cure the default, although, unlike the consumer act, the bill does not indicate what actions are required or permitted. As in the consumer act, if the lessee received a similar notice and cured the applicable default at least twice during the year preceding the current default, the bill permits a rental-purchase company to file an action without providing the written notice of default and right to cure as a condition of filing an action.

Collections practices

Under the bill, a rental-purchase company may not do any of the following in attempting to recover rental property or collect amounts owed under a rent-to-own agreement:

- (1) Use or threaten to use force or violence.
- (2) Disclose or threaten to disclose false information relating to the creditworthiness of the lessee.

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(3) Disclose or threaten to disclose a debt that is disputed by the lessee without disclosing the fact that the debt is disputed.

(4) Harass or threaten the lessee or a relative of the lessee.

(5) Use obscene language in communicating with the lessee or a relative of the lessee.

(6) Threaten to enforce a right with knowledge that the right does not exist.

(7) Use a communication that falsely simulates legal, judicial, or governmental process.

(8) Threaten to file an action against the lessee, unless the action is of a type that the rental-purchase company files in the regular course of business or unless the rental-purchase company intends to file the action.

(9) With certain exceptions, disclose or threaten to disclose to a person other than the lessee or the lessee's spouse information affecting the lessee's reputation, with knowledge or reason to know that the person to whom the disclosure is made does not have a legitimate business need for the information.

In addition, a rental-purchase company may not threaten criminal prosecution except that the rental-purchase company may inform the lessee of the criminal prohibition against theft and the penalties for violating that prohibition. A rental-purchase company also may not communicate with a lessee's employer, except to verify employment status or earnings, to determine whether the employer has established a debt counseling procedure or to give effect to an assignment of earnings. Similar provisions regarding debt collection are also contained in the consumer act.

Obligation of good faith

Every agreement and duty regulated or established under the bill must be executed or performed in good faith, consistent with reasonable standards of fair dealing.

Penalties, remedies, defenses, and statute of limitations

Depending upon the violation, a rental-purchase company that violates the new subchapter may be required to forfeit up to \$100 per violation or may be subjected to a \$1,000 fine and imprisonment for up to six months. In addition, with certain exceptions, a rental-purchase company that violates the new subchapter is liable to a lessee damaged as a result of the violation for the greater of \$100; the amount of actual damages sustained as a result of the violation, including incidental and consequential damages; or an amount equal to 25% of the total amount of payments due in one month under the lessee's rent-to-own agreement, up to \$1,000. A rental-purchase company is also liable for the costs of the action and reasonable attorney fees. If, however, a rental-purchase company includes a prohibited provision in a rent-to-own agreement, these remedies do not apply. In this case, the rental-purchase company must surrender to the lessee the rental property and any amounts paid under the rent-to-own agreement. With certain limited exceptions, multiple violations in connection with the same rent-to-own agreement only entitle the lessee to a single recovery. The bill also caps the total liability of a rental-purchase company under a class action at \$100,000 plus costs and reasonable attorney fees.

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SUBCHAPTER XI

RENTAL-PURCHASE COMPANIES AND

RENT-TO-OWN AGREEMENTS

218.61 Definitions. In this subchapter:

(1) "Division" means the division of banking in the department of financial institutions.

(2) "Lessee" means an individual who rents personal property under a rent-to-own agreement.

(3) "Licensee" means a rental-purchase company holding a license issued by the division under this subchapter.

(4) "Rental property" means personal property rented under a rent-to-own agreement.

(5) "Rental-purchase company" means a person engaged in the business of entering into rent-to-own agreements in this state or acquiring or servicing rent-to-own agreements that are entered into in this state.

(6) "Rent-to-own agreement" means an agreement between a rental-purchase company and a lessee for the use of personal property if all of the following conditions are met:

(a) The personal property that is rented under the agreement is to be used primarily for personal, family, or household purposes.

(b) The agreement has an initial term of 4 months or less and is automatically renewable with each payment after the initial term.

(c) The agreement does not obligate or require the lessee to renew the agreement beyond the initial term.

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1 (d) The agreement permits, but does not obligate, the lessee to acquire
2 ownership of the personal property.

3 **218.612 Scope. (1) INAPPLICABILITY OF OTHER LAWS.** A rent-to-own agreement
4 under this subchapter is not governed by the laws relating to a security interest, as
5 defined in s. 401.201 (37), or a lease, as defined in s. 411.103 (1) (j), and is not
6 governed by chs. 421 to 427 and 429.

7 **(2) EXCLUSIONS.** This subchapter does not apply to any of the following:

8 (a) A lease or bailment of personal property that is incidental to the lease of real
9 property.

10 (b) A lease of a motor vehicle, as defined in s. 218.0101 (22).

11 (c) A credit sale, as defined in 15 USC 1602 (g) and in the regulations
12 promulgated under that section.

13 **218.614 Territorial application.** For the purposes of this subchapter, a
14 rent-to-own agreement is entered into in this state if any of the following applies:

15 **(1)** A writing signed by a lessee and evidencing the obligation under the
16 rent-to-own agreement or an offer of a lessee is received by a rental-purchase
17 company in this state.

18 **(2)** The rental-purchase company induces a lessee who is a resident of this
19 state to enter into the rent-to-own agreement by face-to-face solicitation or by mail
20 or telephone solicitation directed to the particular lessee in this state.

21 **218.616 Obligation of good faith.** Every agreement or duty under this
22 subchapter imposes an obligation of good faith in its performance or enforcement.
23 In this section, "good faith" means honesty in fact in the conduct or transaction
24 concerned and the observance of reasonable commercial standards of fair dealing.

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1 **218.617 License required.** No person may operate as a rental-purchase
2 company without a valid license issued by the division under this subchapter.

3 **218.618 Application for license; fees; bond. (1) APPLICATION.** (a) An
4 application for a license under this subchapter shall be made to the division, in
5 writing, in the form prescribed by the division. An application for a license under this
6 subchapter shall include all of the following:

7 1. If the applicant is an individual, the applicant's social security number.

8 2. If the applicant is not an individual, the applicant's federal employer
9 identification number.

10 (b) The division may not disclose any information received under par. (a) 1. or
11 2. to any person except as follows:

12 1. The division may disclose information received under par. (a) 1. or 2. to the
13 department of revenue for the sole purpose of requesting certifications under s.
14 73.0301.

15 2. The division may disclose information received under par. (a) 1. to the
16 department of workforce development in accordance with a memorandum of
17 understanding entered into under s. 49.857.

18 **(2) APPLICATION FEES.** At the time of applying to the division for a license under
19 this subchapter, the applicant shall pay any applicable fee specified in the rules
20 promulgated under s. 218.63 (3).

21 **(3) BOND.** The division may require any applicant or licensee to file with the
22 division and maintain in force a bond, in a form prescribed by and acceptable to the
23 division, and in an amount determined by the division.

24 **218.62 Issuance or denial of license. (1) INVESTIGATION.** Upon the filing
25 of an application under s. 218.618 (1) and the payment of any applicable fee, the

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1 division shall perform an investigation. Except as provided in sub. (3), if the division
2 finds that the character, general fitness, and financial responsibility of the applicant;
3 the members of the applicant, if the applicant is a partnership, limited liability
4 company, or association; and the officers and directors of the applicant, if the
5 applicant is a corporation warrant the belief that the business will be operated in
6 compliance with this subchapter, the division shall issue a license to the applicant.

7 **(2) DENIAL; NOTICE; HEARING.** Except as provided in sub. (3), the division may
8 deny an application made under s. 218.618 (1) by providing written notice to the
9 applicant stating the grounds for the denial. Except as provided in sub. (3), a person
10 whose application is denied may request a hearing under s. 227.44 within 30 days
11 after the date of denial. The division may appoint a hearing examiner under s. 227.46
12 to conduct the hearing.

13 **(3) DENIAL; CHILD OR FAMILY SUPPORT OR TAX DELINQUENCY.** The division may not
14 issue a license under this subchapter if any of the following applies:

15 (a) The applicant fails to provide the information required under s. 218.618 (1)
16 (a).

17 (b) The department of revenue certifies under s. 73.0301 that the applicant is
18 liable for delinquent taxes. An applicant for whom a license is not issued under this
19 paragraph for delinquent taxes is entitled to a notice under s. 73.0301 (2) (b) 1. b. and
20 a hearing under s. 73.0301 (5) (a) but is not entitled to any other notice or hearing
21 under this section.

22 (c) The applicant fails to comply, after appropriate notice, with a subpoena or
23 warrant issued by the department of workforce development or a county child
24 support agency under s. 59.53 (5) and related to paternity or child support
25 proceedings or is delinquent in making court-ordered payments of child or family

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1 support, maintenance, birth expenses, medical expenses, or other expenses related
2 to the support of a child or former spouse, as provided in a memorandum of
3 understanding entered into under s. 49.857. An applicant whose application is
4 denied under this paragraph for delinquent payments is entitled to a notice and
5 hearing under s. 49.857 but is not entitled to any other notice or hearing under this
6 section.

7 **218.622 License; other business. (1) LICENSED LOCATIONS.** A license issued
8 under this subchapter shall specify the location at which the licensee is permitted
9 to conduct business. A separate license shall be required for each place of business
10 maintained by the licensee.

11 (2) ASSIGNMENT. A license issued under this subchapter is not assignable.

12 (3) POSTING. A licensee shall post its license in a conspicuous place at the
13 location specified in the license.

14 (4) TERM OF LICENSE; FEE. Every license shall remain in force until suspended
15 or revoked in accordance with this subchapter or surrendered by the licensee. Every
16 licensee shall, on or before June 1 of each year, pay to the division the annual license
17 fee specified in rules promulgated under s. 218.63 (3) and, if required by the division,
18 provide a rider or endorsement to increase the amount of any bond required under
19 s. 218.618 (3).

20 (5) OTHER BUSINESS PROHIBITED. No licensee may conduct business as a
21 rental-purchase company within any office, room, or place of business in which any
22 other business is solicited or engaged in, unless the licensee is authorized to do so,
23 in writing, by the division.

24 **218.624 Revocation, suspension, and restriction of license. (1)**
25 DISCRETIONARY SUSPENSION OR REVOCATION. The division may issue an order

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1 suspending or revoking any license issued under this subchapter if the division finds
2 that any of the following applies:

3 (a) The licensee has violated any of the provisions of this subchapter, any rules
4 promulgated under s. 218.63 (3), or any lawful order of the division under s. 218.63
5 (1).

6 (b) A fact or condition exists that, if it had existed at the time of the original
7 application for the license, would have warranted the division in refusing to issue the
8 license.

9 (c) The licensee has made a material misstatement in an application for a
10 license or in information furnished to the division.

11 (d) The licensee has failed to pay the annual license fee required under s.
12 218.622 (4) or has failed to maintain in effect any bond required under s. 218.618 (3).

13 (e) The licensee has failed to provide any additional information, data, and
14 records required by the division, within the time period prescribed under s. 218.626
15 (2).

16 (f) The licensee has failed to pay any penalties due under s. 218.682 (1) or (2)
17 within 30 days after receiving notice, by certified mail, that the penalties are due.

18 **(2) MANDATORY RESTRICTION OR SUSPENSION; CHILD OR FAMILY SUPPORT.** The
19 division shall restrict or suspend a license issued under this subchapter if the
20 division finds that the licensee is an individual who fails to comply, after appropriate
21 notice, with a subpoena or warrant issued by the department of workforce
22 development or a county child support agency under s. 59.53 (5) and related to
23 paternity or child support proceedings or who is delinquent in making court-ordered
24 payments of child or family support, maintenance, birth expenses, medical expenses,
25 or other expenses related to the support of a child or former spouse, as provided in

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1 a memorandum of understanding entered into under s. 49.857. A licensee whose
2 license is restricted or suspended under this subsection is entitled to a notice and
3 hearing only as provided in a memorandum of understanding entered into under s.
4 49.857 and is not entitled to any other notice or hearing under this section.

5 (3) MANDATORY REVOCATION; DELINQUENT TAXES. The division shall revoke a
6 license issued under this subchapter if the department of revenue certifies under s.
7 73.0301 that the licensee is liable for delinquent taxes. A licensee whose license is
8 revoked under this subsection for delinquent taxes is entitled to a notice under s.
9 73.0301 (2) (b) 1. b. and a hearing under s. 73.0301 (5) (a) but is not entitled to any
10 other notice or hearing under this section.

11 (4) REVOCATION AND SUSPENSION PROCEDURE. Except as provided in subs. (2) and
12 (3), the following procedure applies to every order of the division that suspends or
13 revokes a license issued under this subchapter:

14 (a) The division shall provide a written notice to the licensee of the division's
15 intent to issue an order suspending or revoking the licensee's license. The notice
16 shall specify the grounds for and the effective date of the proposed order.

17 (b) The licensee may file with the division a written response to the allegations
18 contained in the notice within 20 days after receiving the notice. The licensee's
19 written response may contain a request for a contested case hearing under s. 227.42.
20 If the written response does not contain a request for a contested case hearing under
21 s. 227.42, the right to a contested case hearing is waived.

22 (c) If a written response containing a request for a contested case hearing under
23 s. 227.42 is received by the division within the time provided under par. (b) and if,
24 in the opinion of the division, the matter satisfies all of the conditions specified in s.
25 227.42 (1) (a) to (d), the matter shall be scheduled for a contested case hearing to

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1 commence within 60 days after the date on which the division receives the written
2 response.

3 (d) If the licensee fails to file a written response within the time provided under
4 par. (b), files a timely written response but fails to request a contested case hearing
5 under s. 227.42 or files a timely written response requesting a contested case hearing
6 but, in the opinion of the division, the matter fails to satisfy all of the conditions
7 specified in s. 227.42 (1) (a) to (d), the division may issue an order suspending or
8 revoking the license. If the licensee files a timely written response containing a
9 proper request for a contested case hearing under s. 227.42, any order of the division
10 suspending or revoking the licensee's license shall be stayed pending completion of
11 proceedings under ch. 227.

12 **218.626 Modification of license. (1) CHANGE IN PLACE OF BUSINESS.** No
13 licensee may change its place of business to another location without the prior
14 approval of the division. A licensee shall provide the division with at least 15 days'
15 prior written notice of a proposed change under this subsection and shall pay any
16 applicable fees specified in the rules promulgated under s. 218.63 (3). Upon approval
17 by the division of the new location, the division shall issue an amended license,
18 specifying the date on which the amended license is issued and the new location.

19 **(2) OTHER CHANGES.** Except as provided in sub. (1), a licensee shall notify the
20 division of any material change to the information provided in the licensee's original
21 application for a license under this subchapter or provided in a previous notice of
22 change filed by the licensee with the division under this subsection. A licensee shall
23 provide the notice required under this subsection within 10 days after the change.
24 The licensee shall provide any additional information, data, and records about the
25 change to the division within 20 days after the division requests the information,

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1 data, or records. The division shall determine the cost of investigating and
2 processing the change. The licensee shall pay the division's cost within 30 days after
3 the division demands payment.

4 **(3) DIVISION APPROVAL OF OTHER CHANGES.** Any change that is subject to the
5 notice requirement under sub. (2) is subject to the approval of the division. In
6 reviewing the change, the division shall apply the same criteria as the criteria for
7 approval of an original license application.

8 **218.628 Annual report; records. (1) ANNUAL REPORT.** On or before March
9 31 of each year, a licensee shall file a report with the division giving such reasonable
10 and relevant information as the division may require concerning the business and
11 operations conducted by the licensee. The licensee shall make the report in the form
12 prescribed by the division.

13 **(2) BOOKS AND RECORDS.** A licensee shall keep such books and records in the
14 licensed location as, in the opinion of the division, will enable the division to
15 determine whether the provisions of this subchapter are being observed. Every
16 licensee shall preserve its records of a rent-to-own agreement for at least 3 years
17 after making the final entry with respect to the rent-to-own agreement.

18 **218.63 Powers and duties of division; administration. (1) ORDERS.** The
19 division may issue any general order, as defined in s. 217.02 (3), or special order, as
20 defined in s. 217.02 (10), in execution of or supplementary to this subchapter, except
21 that the division may not issue a general order or special order that conflicts with this
22 subchapter.

23 **(2) INVESTIGATIONS AND EXAMINATIONS.** For the purpose of discovering violations
24 of this subchapter, the division may cause an investigation or examination to be
25 made of the business of a licensee transacted under this subchapter. The place of

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1 business, books of accounts, papers, records, safes, and vaults of the licensee shall
2 be open to the division for the purpose of an investigation or examination, and the
3 division has authority to examine under oath all persons whose testimony is required
4 for an investigation or examination. The division shall determine the cost of an
5 investigation or examination. The licensee shall pay the cost of an investigation or
6 examination. The licensee shall pay the cost of any hearing held for the purpose of
7 this subsection, including witness fees, unless the division or a court finds that the
8 licensee has not violated any provision of this subchapter. The licensee shall pay all
9 costs owing under this subsection within 30 days after the division demands
10 payment. The state may maintain an action for the recovery of any costs owing under
11 this subsection.

12 (3) RULES. The division may promulgate rules for the administration of this
13 subchapter.

14 (4) TESTIMONIAL POWERS AND POWERS TO SECURE EVIDENCE. The division has the
15 same power to conduct hearings, take testimony, and secure evidence as is provided
16 in ss. 217.17 and 217.18.

17 (5) ENFORCEMENT. The division has the duty, power, jurisdiction, and authority
18 to investigate, ascertain, and determine whether this subchapter or any lawful
19 orders issued under sub. (1) are being violated. The division may report violations
20 of this subchapter to the attorney general or the district attorney of the proper county
21 for prosecution.

22 **218.632 General requirements of disclosure. (1) FORM, LOCATION, SIZE, AND**
23 **TIME OF DISCLOSURE.** The information required under s. 218.634 to be included in a
24 rent-to-own agreement shall satisfy all of the following requirements:

25 (a) The information shall be clearly and conspicuously disclosed.

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1 (b) The information shall be disclosed in writing.

2 (c) The information shall be disclosed on the face of the rent-to-own agreement
3 above the line for the lessee's signature.

4 (d) The information shall be disclosed in not less than 8-point standard type.

5 (e) The information shall be disclosed before the time that the lessee becomes
6 legally obligated under the rent-to-own agreement.

7 **(2) ACCURACY OF DISCLOSURE.** The information required under s. 218.634 must
8 be accurate as of the time that it is disclosed to the lessee. If any information
9 subsequently becomes inaccurate as a result of any act, occurrence, or agreement by
10 the lessee, the resulting inaccuracy is not a violation of this subchapter.

11 **(3) COPY OF RENT-TO-OWN AGREEMENT.** The rental-purchase company shall
12 provide the lessee with a copy of the completed rent-to-own agreement signed by the
13 lessee. If more than one lessee is legally obligated under the same rent-to-own
14 agreement, delivery of a copy of the completed rent-to-own agreement to one of the
15 lessees shall satisfy this subsection.

16 **(4) SINGLE INSTRUMENT.** In a rent-to-own agreement, the lessee's payment
17 obligations shall be evidenced by a single instrument, which shall include the
18 signature of the rental-purchase company, the signature of the lessee, and the date
19 on which the instrument is signed.

20 **218.634 Required provisions of rent-to-own agreement.** A
21 rental-purchase company shall include all of the following information, to the extent
22 applicable, in every rent-to-own agreement:

23 **(1) DESCRIPTION.** A brief description of the rental property, sufficient to identify
24 the rental property to the lessee and the rental-purchase company, including any
25 identification number, and a statement indicating whether the rental property is

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1 new or used. A statement that incorrectly indicates that new rental property is used
2 is not a violation of this subchapter.

3 (2) CASH PRICE. The price at which the rental-purchase company would sell the
4 rental property to the lessee if the lessee were to pay for the rental property in full
5 on the date on which the rent-to-own agreement is executed, along with a statement
6 that, if the lessee intends to acquire ownership of the rental property and is able to
7 pay for the property in full or is able to obtain credit to finance the purchase, the
8 lessee may be able to purchase similar property from a retailer at a lower cost.

9 (3) RENTAL PAYMENT. The periodic rental payment for the rental property.

10 (4) UP-FRONT PAYMENT. Any payment required of the lessee at the time that the
11 agreement is executed or at the time that the rental property is delivered, including
12 the initial rental payment, any application or processing charge, any delivery fee, the
13 applicable tax, and any charge for a liability damage waiver or for other optional
14 services agreed to by the lessee.

15 (5) PERIODIC RENTAL PAYMENTS TO ACQUIRE OWNERSHIP. The total number, total
16 dollar amount, and timing of all periodic rental payments necessary to acquire
17 ownership of the rental property.

18 (6) OTHER CHARGES AND FEES TO ACQUIRE OWNERSHIP. The dollar amount, both
19 itemized and in total, of all taxes, liability damage waiver fees, fees for optional
20 services, processing fees, application fees, and delivery charges that the lessee would
21 incur if the lessee were to rent the rental property until the lessee acquires
22 ownership, assuming that the lessee does not add or decline the liability damage
23 waiver or optional services after signing the rent-to-own agreement.

24 (7) TOTAL PAYMENTS TO ACQUIRE OWNERSHIP. The total of all charges to be paid
25 by the lessee to acquire ownership of the rental property, which shall consist of the

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1 sum of the total dollar amount of all periodic rental payments disclosed under sub.
2 (5) and the total dollar amount of all other charges and fees disclosed under sub. (6),
3 along with a statement that this is the amount a lessee will pay to acquire ownership
4 of the rental property if the tax rates do not change and if the lessee does not add or
5 decline the liability damage waiver or optional services after signing the
6 rent-to-own agreement.

7 (8) OTHER CHARGES. An itemized description of any other charges or fees that
8 the rental-purchase company may charge the lessee.

9 (9) SUMMARY OF EARLY-PURCHASE OPTION. A statement summarizing the terms
10 of the lessee's option to acquire ownership of the rental property, including a
11 statement indicating that the lessee has the right to acquire ownership of the rental
12 property at any time after the first payment by paying all past-due payments and
13 fees and an amount not to exceed an amount equal to the cash price of the rental
14 property multiplied by a fraction that has as its numerator the number of periodic
15 rental payments remaining under the rent-to-own agreement and that has as its
16 denominator the total number of periodic rental payments.

17 (10) RESPONSIBILITY FOR THEFT OR DAMAGE. A statement that, unless otherwise
18 agreed, the lessee is responsible for the fair market value of the rental property,
19 determined according to the early-purchase option formula under sub. (9), if the
20 rental property is stolen, damaged, or destroyed while in the possession of or subject
21 to the control of the lessee. The statement shall indicate that the fair market value
22 will be determined as of the date on which the rental property is stolen, damaged,
23 or destroyed.

24 (11) SERVICE AND WARRANTY. A statement that during the term of the
25 rent-to-own agreement, the rental-purchase company is required to service the

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1 rental property to maintain it in good working condition, as long as no other person
2 has serviced the rental property. In lieu of servicing the rental property, the
3 rental-purchase company may, at its option, replace the rental property. The
4 rental-purchase company's obligation to provide service is limited to defects in the
5 property not caused by improper use or neglect by the lessee or harmful conditions
6 outside the control of the rental-purchase company or manufacturer.

7 **(12) TERMINATION AT OPTION OF LESSEE.** A statement that the lessee may
8 terminate the agreement at any time without penalty by voluntarily surrendering
9 or returning the rental property in good repair.

10 **(13) RIGHT TO REINSTATE.** A brief explanation of the lessee's right to reinstate
11 a rent-to-own agreement under s. 218.654.

12 **(14) RENTAL, NOT PURCHASE.** A statement that the lessee will not own the rental
13 property until the lessee has made all payments necessary to acquire ownership or
14 has exercised the lessee's early-purchase option. The rental-purchase company
15 shall also include a notice reading substantially as follows: "You are renting this
16 property. You will not own the property until you make all payments necessary to
17 acquire ownership or until you exercise your early-purchase option. If you do not
18 make your payments as scheduled or exercise your early-purchase option, the lessor
19 may repossess the property."

20 **(15) INFORMATION ABOUT RENTAL-PURCHASE COMPANY AND LESSEE.** The names of
21 the rental-purchase company and the lessee, the rental-purchase company's
22 business address and telephone number, the lessee's address, and the date on which
23 the rent-to-own agreement is executed.

ASSEMBLY BILL 393**SECTION 2**

1 **218.636 Prohibited provisions of rent-to-own agreement.** A
2 rental-purchase company may not include any of the following provisions in a
3 rent-to-own agreement:

4 **(1) CONFESSION.** A confession of judgment.

5 **(2) SECURITY.** A provision granting the rental-purchase company a security
6 interest in any property except the rental property delivered by the rental-purchase
7 company under the rent-to-own agreement.

8 **(3) REPOSSESSION.** A provision authorizing the rental-purchase company or an
9 agent of the rental-purchase company to enter the lessee's premises or to commit a
10 breach of the peace in the repossession of rental property provided by the
11 rental-purchase company under the rent-to-own agreement.

12 **(4) WAIVER.** A waiver of a defense or counterclaim, a waiver of any right to
13 assert any claim that the lessee may have against the rental-purchase company or
14 against an agent of the rental-purchase company, or a waiver of any provision of this
15 subchapter.

16 **(5) OVERPAYMENT.** A provision requiring periodic rental payments totaling more
17 than the total dollar amount of all periodic rental payments necessary to acquire
18 ownership, as disclosed in the rental-purchase agreement.

19 **(6) INSURANCE.** A provision requiring the lessee to purchase insurance from the
20 rental-purchase company to insure the rental property.

21 **(7) ATTORNEY FEES.** A provision requiring the lessee to pay attorney fees.

22 **218.638 Liability waiver.** A rental-purchase company may offer a liability
23 waiver to the lessee. The terms of the waiver shall be provided to the lessee in
24 writing, and the face of the writing shall clearly disclose that the lessee is not
25 required to purchase the waiver. The fee for the waiver may not exceed 10% of the

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1 periodic rental payment due under the rent-to-own agreement. The lessee shall be
2 entitled to cancel the waiver at the end of any rental term.

3 **218.64 Early-purchase option.** An early-purchase option under a
4 rent-to-own agreement shall permit the lessee to purchase the rental property at
5 any time after the initial periodic rental payment for an amount determined
6 according to the early-purchase option formula under s. 218.634 (9). As a condition
7 of exercising the early-purchase option, the rental-purchase company may require
8 the lessee to be current on the payments under the lessee's rent-to-own agreement
9 or to pay any past-due rental charges and other outstanding fees that are owed.

10 **218.642 Receipts and statements. (1) RECEIPTS.** A rental-purchase
11 company shall provide a written receipt to a lessee for any payment made by the
12 lessee in cash, or upon the request of the lessee, for any other type of payment.

13 **(2) STATEMENT DUE TO LESSEE.** Subject to sub. (4), upon the request of a lessee,
14 a rental-purchase company shall provide a written statement to the lessee showing
15 the lessee's payment history under each rent-to-own agreement between the lessee
16 and the rental-purchase company. A rental-purchase company is not required to
17 provide a statement covering any rent-to-own agreement that terminated more
18 than one year prior to the date of the lessee's request. A rental-purchase company
19 may provide a single statement covering all rent-to-own agreements or separate
20 statements for each rent-to-own agreement, at the rental-purchase company's
21 option.

22 **(3) STATEMENT DUE TO 3RD PARTY.** Subject to sub. (4), upon the written request
23 of a lessee, made during the term of or no later than one year after the termination
24 of a rent-to-own agreement, a rental-purchase company shall provide a written

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1 statement to any person designated by the lessee, showing the lessee's payment
2 history under the rent-to-own agreement.

3 (4) FEE FOR STATEMENT. A lessee or, if appropriate, a lessee's designee is entitled
4 to receive one statement under subs. (2) and (3) without charge once every 12
5 months. A rental-purchase company shall provide an additional statement if the
6 lessee pays the rental-purchase company's reasonable costs of preparing and
7 furnishing the statement.

8 **218.644 Price cards displayed. (1) PRICE CARDS; GENERALLY.** Except as
9 provided under sub. (2), a rental-purchase company shall display a card or tag that
10 clearly and conspicuously states all of the following information on or next to any
11 property displayed or offered by the rental-purchase company for rent under a
12 rent-to-own agreement:

13 (a) The cash price that an individual would pay to purchase the property.

14 (b) The amount of the periodic rental payment and the term over which the
15 payment must be made.

16 (c) The total number and total dollar amount of all periodic rental payments
17 necessary to acquire ownership of the property under a rent-to-own agreement.

18 (d) Whether the property is new or used.

19 (2) EXCEPTIONS. If property is offered for rent under a rent-to-own agreement
20 through a catalog, or if the size of the property is such that displaying a card or tag
21 on or next to the property is impractical, a rental-purchase company may make the
22 disclosures required under sub. (1) in a catalog or list that is readily available to
23 prospective lessees.

24 **218.646 Advertising. (1) DISCLOSURE REQUIRED.** Except as provided under
25 sub. (2), if an advertisement for a rent-to-own agreement refers to or states the

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1 amount of a payment for a specific item of property, the rental-purchase company
2 shall ensure that the advertisement clearly and conspicuously states all of the
3 following:

4 (a) That the transaction advertised is a rent-to-own agreement.

5 (b) The total number and total dollar amount of all periodic rental payments
6 necessary to acquire ownership of the property.

7 (c) That the lessee does not acquire ownership of the property if the lessee fails
8 to make all periodic rental payments or other payments necessary to acquire
9 ownership of the property.

10 (2) EXCEPTION. Subsection (1) does not apply to an in-store display or to an
11 advertisement that is published in the yellow pages of a telephone directory or in a
12 similar directory of businesses.

13 **218.648 Referral transactions. (1) PROHIBITED REFERRAL TRANSACTIONS.** No
14 rental-purchase company may induce any individual to enter into a rent-to-own
15 agreement by giving or offering to give a rebate or discount to the individual in
16 consideration of the individual giving to the rental-purchase company the names of
17 prospective lessees if the earning of the rebate or discount is contingent on the
18 occurrence of any event that takes place after the time that the individual enters into
19 the rent-to-own agreement.

20 (2) AUTHORIZED REFERRAL TRANSACTIONS. After entering into a rent-to-own
21 agreement, a rental-purchase company may give or offer to give a rebate or discount
22 to the lessee under the rent-to-own agreement in consideration of the lessee giving
23 to the rental-purchase company the names of prospective lessees. A rebate or
24 discount under this subsection may be contingent on the occurrence of any event that
25 takes place after the time that the names are given to the rental-purchase company.

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1 **218.65 Termination of rent-to-own agreement.** The termination date of
2 a rent-to-own agreement is the earlier of the following:

3 (1) The day specified in the rent-to-own agreement as the day on which the
4 rental term ends, unless a different day has been established pursuant to the terms
5 of the rent-to-own agreement.

6 (2) The date on which the lessee voluntarily surrenders the rental property.

7 **218.652 Late payment, grace period, and late fees.** (1) LATE FEE;
8 GENERALLY. If a lessee fails to make a periodic rental payment when due under a
9 rent-to-own agreement or if, at the end of any rental term, the lessee fails to return
10 the rental property or to renew the rent-to-own agreement for an additional term,
11 the rental-purchase company may require the lessee to pay a late fee. Except as
12 provided under sub. (4), this subsection does not apply if the lessee's failure to return
13 the rental property or failure to renew the rent-to-own agreement at the end of the
14 rental term is due to the lessee's exercise of an early-purchase option under the
15 rent-to-own agreement or is due to the lessee making all periodic rental payments
16 necessary to acquire ownership of the rental property.

17 (2) GRACE PERIODS. The following grace periods shall apply to periodic rental
18 payments made with respect to a rental-purchase agreement:

19 (a) For an agreement that is renewed on a weekly basis, no late fee may be
20 assessed for a periodic rental payment that is made within 2 days after the date on
21 which the payment is due.

22 (b) For an agreement that is renewed for a term that is longer than one week,
23 no late fee may be assessed for a periodic rental payment that is made within 5 days
24 after the date on which the payment is due.

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1 **(3) COLLECTION, RECORDING, AND LIMITATION OF LATE FEES.** Late fees are subject
2 to all of the following limitations:

3 (a) A late fee may not exceed \$5 for each past-due periodic rental payment.

4 (b) A late fee may be collected only once on each periodic rental payment due,
5 regardless of how long the payment remains past due.

6 (c) Payments received shall be applied first to the payment of any rent that is
7 due and then to late fees and any other charges.

8 (d) A late fee may be collected at the time that the late fee accrues or at any time
9 afterward.

10 **(4) EFFECT OF OUTSTANDING LATE FEE ON TRANSFER OF OWNERSHIP.** A
11 rental-purchase company may require payment of any outstanding late fees before
12 transferring ownership of rental property to a lessee.

13 **218.654 Reinstatement of terminated rent-to-own agreement. (1)**
14 **REINSTATEMENT, GENERALLY.** A lessee may reinstate a terminated rent-to-own
15 agreement without losing any rights or options previously acquired if all of the
16 following conditions apply:

17 (a) The lessee returned or surrendered the rental property within 5 days after
18 the termination of the rent-to-own agreement.

19 (b) Not more than 21 days have passed after the date on which the rental
20 property was returned to the rental-purchase company or, if the lessee has paid
21 two-thirds or more of the total number of periodic rental payments necessary to
22 acquire ownership of the rental property, not more than 45 days have passed since
23 the date on which the rental property was returned to the rental-purchase company.

24 **(2) AUTHORIZED CONDITIONS ON REINSTATEMENT.** As a condition of reinstatement
25 under this section, the rental-purchase company may require the payment of all

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1 past-due rental charges, any applicable late fees, a reinstatement fee not to exceed
2 \$5, and the periodic rental payment for the next term.

3 (3) EFFECT OF REPOSSESSION ON REINSTATEMENT. Nothing in this section prohibits
4 a rental-purchase company from attempting to repossess rental property upon
5 termination of a rent-to-own agreement, but repossession efforts do not affect the
6 lessee's right to reinstate the rent-to-own agreement as long as the rental property
7 is voluntarily returned or surrendered within 5 days after the termination of the
8 rent-to-own agreement.

9 (4) PROPERTY AVAILABLE UPON REINSTATEMENT. Upon reinstatement, the
10 rental-purchase company shall provide the lessee with the same rental property, if
11 the property is available and is in the same condition as when it was returned to the
12 rental-purchase company, or with substitute rental property of comparable quality
13 and condition.

14 **218.656 Reduced periodic rental payment due to reduced income. (1)**
15 REDUCTION IN AMOUNT OF PERIODIC RENTAL PAYMENTS; REQUIRED EVIDENCE. (a)
16 *Reduction in amount of periodic rental payments.* If a lessee's monthly income is
17 reduced by 25% or more due to pregnancy, disability, involuntary job loss, or
18 involuntary reduction in the amount of hours worked or wages earned, the
19 rental-purchase company shall reduce the amount of each periodic rental payment
20 due under the rent-to-own agreement by the same percentage that the lessee's
21 monthly income is reduced or by 50%, whichever is less, for the period of time during
22 which the lessee's income is reduced. This paragraph applies only if all of the
23 following conditions are satisfied:

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1 1. The total dollar amount of periodic rental payments made by the lessee
2 under the rent-to-own agreement equals more than 50% of the total dollar amount
3 of periodic rental payments necessary to acquire ownership of the rental property.

4 2. The lessee has provided the rental-purchase company with reasonable
5 evidence of the amount and cause of the reduction in the lessee's monthly income.

6 (b) *Evidence of continued reduction in income.* At reasonable intervals after
7 reducing the amount of a periodic rental payment under par. (a), a rental-purchase
8 company may require the lessee to provide evidence of the lessee's monthly income
9 and evidence that the cause of the reduction in the lessee's monthly income has not
10 abated.

11 **(2) INCREASE IN NUMBER OF PERIODIC RENTAL PAYMENTS.** Except as provided in
12 sub. (4), if a rental-purchase company reduces the amount of a periodic rental
13 payment under sub. (1) (a), the rental-purchase company may increase the total
14 number of periodic rental payments necessary to acquire ownership of the rental
15 property.

16 **(3) INCREASE IN AMOUNT OF PERIODIC RENTAL PAYMENTS.** Except as provided in
17 sub. (4), if a rental-purchase company reduces the amount of a periodic rental
18 payment under sub. (1) (a) and if, subsequently, the lessee's monthly income is
19 increased, the rental-purchase company may increase, by the same percentage that
20 the lessee's monthly income is increased, the amount of each periodic rental payment
21 due after the date on which the lessee's monthly income is increased.

22 **(4) LIMITATION ON INCREASES.** If a rental-purchase company, under sub. (2) or
23 (3), increases the amount or number of periodic rental payments due under a
24 rent-to-own agreement, the increase affects only the rights or duties of the lessee
25 to the extent authorized in sub. (2) or (3). No rental-purchase company, acting under

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1 sub. (2) or (3), may increase the total dollar amount of periodic rental payments
2 necessary to acquire ownership of the rental property, or the amount of a periodic
3 rental payment, to greater than the amount disclosed in the rent-to-own agreement.

4 **218.658 Default and right to cure. (1) DEFAULT; GENERALLY.** A lessee is in
5 default under a rent-to-own agreement if any of the following occurs:

6 (a) The lessee fails to return the rental property within 7 days after the date
7 on which the last term for which a periodic rental payment was made expires, unless
8 the lessee has exercised an early-purchase option or has made all periodic rental
9 payments necessary to acquire ownership of the rental property.

10 (b) The lessee materially breaches any other provision of the rent-to-own
11 agreement.

12 **(2) DEFAULT; NECESSARY FOR LESSEE LIABILITY.** No cause of action shall accrue
13 against a lessee with respect to the lessee's obligations under a rent-to-own
14 agreement except upon default and the expiration of any applicable period of time
15 allowed for cure of the default.

16 **(3) NOTICE OF DEFAULT; GENERAL REQUIREMENT.** Except as provided in sub. (4),
17 as a condition precedent to bringing an action against a lessee arising out of the
18 lessee's default, a rental-purchase company shall provide a written notice of the
19 default and of the right to cure the default to the lessee. The notice shall specify the
20 default and the action required to cure the default and shall inform the lessee that,
21 if the default is not cured within 15 days after the notice is given, the rental-purchase
22 company will have the right to bring an action against the lessee.

23 **(4) NOTICE OF DEFAULT; EXCEPTION.** A rental-purchase company is not required
24 to provide a notice of default and right to cure as a condition precedent to bringing
25 an action against a lessee if each of the following occurred twice during the 12 months

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1 before the date of the current default with respect to the same rent-to-own
2 agreement:

3 (a) The lessee was in default.

4 (b) The rental-purchase company gave the lessee written notice of the default
5 and of the lessee's right to cure under sub. (3).

6 (c) The lessee cured the default.

7 **(5) REQUEST FOR VOLUNTARY SURRENDER OF PROPERTY.** A rental-purchase
8 company may request the voluntary return or surrender of rental property prior to
9 the declaration of a default and the sending of written notice of default and right to
10 cure. A request under this subsection is subject to the requirements of s. 218.66.

11 **218.66 Rental-purchase company collection practices.** In attempting to
12 recover possession of rental property or to collect past-due periodic rental payments
13 or other charges owed under a rent-to-own agreement, a rental-purchase company
14 may not do any of the following:

15 **(1) USE OF FORCE.** Use or threaten to use force or violence to cause physical harm
16 to the lessee or the lessee's property or to a person related to the lessee.

17 **(2) CRIMINAL PROSECUTION.** Threaten criminal prosecution. It is not a violation
18 of this subsection for a rental-purchase company to inform a lessee of the existence
19 of s. 943.20 (1) (e) and the consequences of violating that section.

20 **(3) DISCLOSURE OF FALSE INFORMATION.** Disclose or threaten to disclose
21 information adversely affecting the lessee's reputation for creditworthiness with
22 knowledge or reason to know that the information is false.

23 **(4) COMMUNICATION WITH LESSEE'S EMPLOYER.** Initiate or threaten to initiate
24 communication with the lessee's employer prior to obtaining final judgment against
25 the lessee, except for the purpose of enforcing an assignment of earnings authorized

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1 under s. 218.68. This subsection does not prohibit a rental-purchase company from
2 communicating with a lessee's employer solely to verify employment status or
3 earnings or to determine if the employer has an established debt counseling service
4 or procedure.

5 **(5) DISCLOSURE OF INFORMATION RELATING TO LESSEE'S REPUTATION.** Disclose or
6 threaten to disclose to a person other than the lessee or the lessee's spouse
7 information affecting the lessee's reputation, whether or not for creditworthiness,
8 with knowledge or reason to know that the other person does not have a legitimate
9 business need for the information, except that this subsection does not prohibit any
10 of the following:

11 (a) The disclosure to another person of information permitted to be disclosed
12 to that person by statute.

13 (b) An inquiry solely for the purpose of determining the location of the lessee
14 or the rental property.

15 **(6) DISCLOSURE OF INFORMATION REGARDING A DISPUTED DEBT.** Disclose or threaten
16 to disclose information concerning the existence of a debt known to be reasonably
17 disputed by the lessee without disclosing the fact that the lessee disputes the debt.

18 **(7) HARASSMENT.** Communicate with the lessee or a person related to the lessee
19 with such frequency, at such unusual hours, or in such a manner as can reasonably
20 be expected to threaten or harass the lessee or a person related to the lessee, or
21 engage in any other conduct that can reasonably be expected to threaten or harass
22 the lessee or a person related to the lessee.

23 **(8) USE OF OBSCENE OR THREATENING LANGUAGE.** Use obscene or threatening
24 language in communicating with the lessee or a person related to the lessee.

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1 **(9) USE OF THREAT TO ENFORCE FALSE RIGHT.** Threaten to enforce a right with
2 knowledge that the right does not exist.

3 **(10) USE OF FALSE PROCESS.** Use a communication that simulates legal or
4 judicial process or that gives the appearance of being authorized, issued, or approved
5 by a government, government agency, or attorney-at-law when it is not.

6 **(11) USE OF THREAT TO SUE.** Threaten to file a civil action against the lessee
7 unless the civil action is of a type that the rental-purchase company files in the
8 regular course of business or unless the rental-purchase company intends to file the
9 civil action against the lessee.

10 **218.68 Assignment of earnings.** No rental-purchase company may take or
11 arrange for an assignment of earnings of an individual for payment or as security for
12 payment of an obligation arising out of a rent-to-own agreement unless the
13 assignment is revocable at will by the individual.

14 **218.682 Penalties. (1) FAILURE TO PAY FEES AND PROVIDE REPORTS, INFORMATION,**
15 **AND NOTICES; GENERALLY.** A licensee that fails to file its annual report by the date
16 specified in s. 218.628 (1), fails to pay the annual license fee by the date specified in
17 s. 218.622 (4), fails to provide any required rider or endorsement to increase the
18 amount of its bond by the date specified in s. 218.622 (4), fails to provide examination
19 records by the date required by the division, fails to notify the division in writing of
20 a relocation of the licensee's place of business by the date specified in s. 218.626 (1),
21 or fails to provide notice to the division of other changes as required under s. 218.626
22 (2) by the date specified in s. 218.626 (2) may be required to forfeit not more than \$50.
23 Each day that a failure described in this subsection continues constitutes a separate
24 offense.

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1 **(2) FAILURE TO PROVIDE CERTAIN INFORMATION.** A licensee that fails to provide any
2 additional information, data, or records requested by the division under s. 218.626
3 (2) by the date specified in s. 218.626 (2) may be required to forfeit not more than
4 \$100. Each day that a failure described in this subsection continues constitutes a
5 separate offense.

6 **(3) MISDEMEANORS.** Any person who violates s. 218.63 (2) or any provision of
7 ss. 218.617 to 218.628 other than those provisions described in subs. (1) and (2) may
8 be fined not more than \$1,000, imprisoned for not more than 6 months, or both.

9 **218.684 Civil actions and defenses. (1) LIABILITY; GENERALLY.** Except as
10 provided under subs. (2) to (6), a rental-purchase company that violates any
11 provision of this subchapter is liable to a lessee damaged as a result of that violation
12 for the costs of the action and, notwithstanding s. 814.04 (1), for reasonable attorney
13 fees as determined by the court, plus an amount equal to the greater of the following:

14 (a) The actual damages, including any incidental and consequential damages,
15 sustained by the lessee as a result of the violation.

16 (b) An amount equal to 25% of the total amount of payments due in one month
17 under the lessee's rent-to-own agreement, except that liability under this
18 paragraph may not be less than \$100 nor more than \$1,000.

19 **(2) LIABILITY; CERTAIN VIOLATIONS.** Except as provided in subs. (4) and (5), if a
20 rental-purchase company violates s. 218.636, the lessee may retain the rental
21 property under the rent-to-own agreement without obligation to pay any amount
22 and may recover any amounts paid to the rental-purchase company under the
23 rent-to-own agreement.

24 **(3) CLASS ACTION.** In the case of a class action, a rental-purchase company that
25 violates this subchapter is liable to the members of the class in an amount

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1 determined by the court, except that the total recovery for all lessees whose recovery
2 is computed under sub. (1) (b) may not exceed \$100,000 plus the costs of the action
3 and, notwithstanding s. 814.04 (1), reasonable attorney fees as determined by the
4 court. In determining the amount to award under this subsection, the court shall
5 consider, among other relevant factors, the amount of actual damages sustained by
6 the members of the class, the frequency and persistence of the violations by the
7 rental-purchase company, the resources of the rental-purchase company, the
8 number of persons damaged by the violation, the presence or absence of good faith
9 on the part of the rental-purchase company, and the extent to which the violation
10 was intentional.

11 **(4) DEFENSE; ERROR NOTIFICATION AND CORRECTION.** A rental-purchase company
12 is not liable for a violation of this subchapter resulting from an error by the
13 rental-purchase company if, within 60 days after discovering the error, the
14 rental-purchase company notifies the lessee of the error and makes any adjustments
15 necessary to correct the error.

16 **(5) DEFENSE; UNINTENTIONAL ERROR.** A rental-purchase company is not liable
17 for a violation of this subchapter if the rental-purchase company shows by a
18 preponderance of the evidence that the violation was not intentional, that the
19 violation resulted from a bona fide error notwithstanding the maintenance of
20 procedures reasonably adopted to avoid the error, and that the rental-purchase
21 company has acted to correct the error. A bona fide error under this subsection
22 includes a clerical error, an error in making calculations, an error due to computer
23 malfunction or to computer programming, or a printing error.

24 **(6) LIABILITY FOR MULTIPLE VIOLATIONS.** Multiple violations of this subchapter
25 in connection with the same rent-to-own agreement shall entitle the lessee to only

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1 a single recovery under sub. (1), except that a violation of s. 218.66 that occurs after
2 recovery has been granted with respect to that rent-to-own agreement may entitle
3 the lessee to an additional recovery under sub. (1).

4 (7) NECESSARY PARTIES. If more than one lessee is a party to the same
5 rent-to-own agreement, all of the lessees that are parties to the rent-to-own
6 agreement shall be joined as plaintiffs in any action under sub. (1), and the lessees
7 are entitled to only a single recovery under sub. (1).

8 **218.686 Limitation on actions.** An action brought by a lessee under this
9 subchapter shall be commenced within one year after the date on which the alleged
10 violation occurred, 2 years after the date on which the rent-to-own agreement was
11 entered into, or one year after the date on which the last payment was made under
12 the rent-to-own agreement, whichever is later.

13 **218.688 Venue. (1) GENERALLY.** The venue for a claim arising out of a
14 rent-to-own agreement is any of the following counties:

15 (a) Where the lessee resides or is personally served.

16 (b) Where the rental property is located.

17 (c) Where the lessee sought or acquired the rental property or signed the
18 document evidencing his or her obligation under the terms of the rent-to-own
19 agreement.

20 (2) CHANGE IN VENUE. When it appears from the return of service of a summons
21 or otherwise that the county in which an action is pending under sub. (1) is not a
22 proper place of trial for the action, unless the defendant appears and waives the
23 improper venue, the court shall transfer the action to any county that is a proper
24 place of trial.

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1 **(3) MULTIPLE DEFENDANTS.** If there are several defendants in an action arising
2 out of a rent-to-own agreement, and if venue is based on residence, venue may be
3 in the county of residence of any of the defendants.

4 **SECTION 3.** 220.02 (2) (b) of the statutes is amended to read:

5 220.02 **(2)** (b) The lending of money under s. 138.09 or those relating to finance
6 companies, motor vehicle dealers, adjustment service companies, community
7 currency exchanges, rental-purchase companies, and collection agencies under ch.
8 218.

9 **SECTION 4.** 220.02 (3) of the statutes is amended to read:

10 220.02 **(3)** It is the intent of sub. (2) to give the division jurisdiction to enforce
11 and carry out all laws relating to banks or banking in this state, including those
12 relating to state banks, trust company banks, and also all laws relating to small loan
13 companies or other loan companies or agencies, finance companies, motor vehicle
14 dealers, adjustment service companies, community currency exchanges,
15 rental-purchase companies, and collection agencies, and those relating to sellers of
16 checks under ch. 217, whether doing business as corporations, individuals, or
17 otherwise, but to exclude laws relating to credit unions.

18 **SECTION 5.** 409.104 (12m) of the statutes is created to read:

19 409.104 **(12m)** To a transfer of an interest under a rent-to-own agreement
20 under subch. XI of ch. 218; or

21 **SECTION 6.** 421.202 (7m) of the statutes is created to read:

22 421.202 **(7m)** A rent-to-own agreement under subch. XI of ch. 218;

23 **SECTION 7. Nonstatutory provisions.**

24 (1) **EMERGENCY RULES GOVERNING LICENSING FEES FOR RENTAL-PURCHASE**
25 **COMPANIES.** Using the procedure under section 227.24 of the statutes, the division of

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1 banking may promulgate rules authorized under section 218.63 (3) of the statutes,
2 as created by this act, prescribing the fees under sections 218.618 (2), 218.622 (4),
3 and 218.626 (1) of the statutes, as created by this act, for the period before the date
4 on which permanent rules take effect, but not to exceed the period authorized under
5 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
6 (2) (b), and (3) of the statutes, the division of banking is not required to provide
7 evidence that promulgating a rule under this subsection as an emergency rule is
8 necessary for the preservation of the public peace, health, safety, or welfare and is
9 not required to provide a finding of emergency for a rule promulgated under this
10 subsection.

SECTION 8. Initial applicability.

11
12 (1) RENT-TO-OWN AGREEMENTS. The treatment of sections 218.632 to 218.636,
13 218.64, 218.65 to 218.658, 218.682 (3), 218.688, 409.104 (12m), and 421.202 (7m) of
14 the statutes first applies to rent-to-own agreements entered into on the effective
15 date of this subsection.

16 (2) LIABILITY WAIVERS. The treatment of section 218.638 of the statutes first
17 applies to liability waivers entered into on the effective date of this subsection.

18 (3) REGULATION OF RENTAL-PURCHASE COMPANIES. The treatment of sections
19 218.617 to 218.628, 218.682 (1) and (2), and 220.02 (2) (b) and (3) and chapter 218
20 (title) of the statutes first applies to any person engaging in business as a
21 rental-purchase company on the effective date of this subsection.

22 (4) PRICE CARDS. The treatment of section 218.644 of the statutes first applies
23 to a rental-purchase company that displays property on the effective date of this
24 subsection.

