2013 DRAFTING REQUEST

Bill

Received:	**1/25/2013**	Received By:	**agary**
Wanted:	**As time permits**	Same as LRB:	
For:	**Administration-Budget**	By/Representing:	**Quinn**
May Contact:		Drafter:	**agary**
Subject:	**Fin. Inst. - int. rates/loans** **Fin. Inst. - miscellaneous** **Fin. Inst. - WCA**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email:
Carbon copy (CC) to:

Pre Topic:

DOA:.....Quinn, BB0421 -

Topic:

Rental purchase agreements

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	agary 1/26/2013	jdyer 1/28/2013	jmurphy 1/28/2013	_____ _____			
/1				_____ _____	mbarman 1/28/2013		State

FE Sent For:

<END>

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	agary	1/28 jld	1/28/13	1/28/13			

FE Sent For:

<END>

Gary, Aaron

From: Hanaman, Cathlene
Sent: Thursday, January 24, 2013 3:30 PM
To: Gary, Aaron
Subject: FW: Statutory Language Drafting Request - BB0421

From: brian.quinn@wisconsin.gov [mailto:brian.quinn@wisconsin.gov]
Sent: Thursday, January 24, 2013 3:05 PM
To: Hanaman, Cathlene
Cc: Frederick, Caitlin - DOA; Quinn, Brian D - DOA; Thornton, Scott - DOA
Subject: Statutory Language Drafting Request - BB0421

Biennial Budget: 2013-15

DOA Tracking Code: BB0421

Topic: Rental Purchase Agreements

SBO Team: TLGED

SBO Analyst: Quinn, Brian D - DOA
Phone: (608) 266-1923
E-mail: brian.quinn@wisconsin.gov

Agency Acronym: DFI

Agency Number: 144

Priority: High

Intent:

Use the language of ASA1 to 2011 AB 582 and include it as a draft for the 2013-15 biennial budget bill.

Attachments: False

Please send completed drafts to statlanguage@wisapps.wi.gov

State of Wisconsin
2011 - 2012 LEGISLATURE

LRBs0413/3
ARG:jld:rs

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 582

March 13, 2012 – Offered by Representative PETRYK.

AN ACT *to create* 409.109 (4) (n), chapter 420 and 421.202 (11) of the statutes; **relating to:** regulation of rental-purchase agreements and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 409.109 (4) (n) of the statutes is created to read:

409.109 **(4)** (n) Any rental-purchase company that has filed notice as provided under s. 420.02 (1) and any rental-purchase agreement entered into by such a rental-purchase company.

SECTION 2. Chapter 420 of the statutes is created to read:

CHAPTER 420

RENTAL-PURCHASE COMPANIES

420.01 Definitions. In this chapter:

1 **(1)** "Cash price" means the price at which a rental-purchase company would
2 sell rental property to the lessee of the rental property if the lessee were to pay for
3 the rental property in full on the date on which the rental-purchase agreement is
4 executed.

5 **(2)** "Department" means the department of financial institutions.

6 **(3)** "Rental property" means property rented under a rental-purchase
7 agreement but does not include any motor vehicle, as defined in s. 340.01 (35), or any
8 musical instrument that is intended to be used in whole or in part in an elementary
9 school or high school.

10 **(4)** "Rental-purchase agreement" means an agreement between a
11 rental-purchase company and a lessee for the use of rental property if all of the
12 following apply:

13 (a) The rental property is to be used primarily for personal, family, or household
14 purposes.

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

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

19 (d) The agreement permits, but does not obligate, the lessee to acquire
20 ownership of the rental property.

21 **(5)** "Rental-purchase company" means a person engaged in the business of
22 entering into rental-purchase agreements in this state or acquiring rental-purchase
23 agreements that are entered into in this state.

24 **420.02 Notice to the department. (1)** NOTICE. (a) Except as provided in
25 par. (b), a rental-purchase company shall file notice with the department, in the form

and manner prescribed by the department, within 30 days after commencing business in this state. A separate notice is required for each place of business maintained by the rental-purchase company.

(b) A rental-purchase company that generates less than 75 percent of its total revenues in this state from transactions involving rental-purchase agreements may elect not to file notice with the department under par. (a) and, upon informing the department of this election in a manner prescribed by the department, shall not be governed by the provisions of this chapter.

(2) FEE. For each location for which a notice is filed under sub. (1), the rental-purchase company shall pay to the department an annual fee of $1,000. If a rental-purchase company fails to timely pay the annual fee, the department shall order the rental-purchase company to cease operating until the annual fee is paid.

420.03 General requirements of disclosure. (1) FORM, LOCATION, SIZE, AND TIME OF DISCLOSURE. The information that is required to be disclosed under s. 420.04 shall satisfy all of the following:

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

(b) The information shall be disclosed in writing.

(c) Except as provided in par. (f), The information shall be disclosed in the rental-purchase agreement above the line for the lessee's signature. Multiple pages or backs of pages may be used as long as the face of the rental-purchase agreement is signed by the lessee and other pages are signed or initialed by the lessee.

(d) Except as provided in par. (f), the information shall be disclosed in not less than 8-point standard type.

(e) The information shall be disclosed before the time that the lessee becomes legally obligated under the rental-purchase agreement.

(f) The disclosures required by s. 420.04 (2), (3), (4), and (7) shall be printed in at least 10-point boldface type on the face of the rental-purchase agreement, and shall be grouped together in a box, in the form and order prescribed by the ~~administrator~~. department

(2) ACCURACY OF DISCLOSURE. The information required under s. 420.04 must be accurate as of the time that it is disclosed to the lessee. If any information subsequently becomes inaccurate as a result of any act, occurrence, or agreement by the lessee, the resulting inaccuracy is not a violation of any provision of this chapter relating to rental-purchase agreements.

(3) COPY OF RENTAL-PURCHASE AGREEMENT. The rental-purchase company shall provide the lessee with a copy of the completed rental-purchase agreement signed by the lessee. If more than one lessee is legally obligated under the same rental-purchase agreement, delivery of a copy of the completed rental-purchase agreement to one of the lessees shall satisfy this subsection.

420.04 Required provisions of rental-purchase agreement. A rental-purchase company shall include all of the following information, to the extent applicable, in every rental-purchase agreement:

(1) DESCRIPTION. A brief description of the rental property, sufficient to identify the rental property to the lessee and the rental-purchase company, including any identification number, and a statement indicating whether the rental property is new or used. A statement that new rental property is used shall not be a violation of this subchapter.

(2) CASH PRICE. The cash price of the rental property.

(3) RENTAL PAYMENTS TO ACQUIRE OWNERSHIP. The total number, total dollar amount, and timing of all rental payments necessary to acquire ownership of the

rental property, excluding any applicable taxes, application or processing charge, delivery fee, liability damage waiver fee, and fees for optional services.

(4) COST OF RENTAL SERVICES. The difference between the total dollar amount of payments necessary to acquire ownership of the rental property disclosed under sub. (3) and the cash price of the property disclosed under sub. (2). The rental-purchase company shall also include a statement substantially similar to the following: "The cost of rental services is the amount you will pay in addition to the cash price if you acquire ownership of the rented goods by making all payments necessary to acquire ownership."

(5) PERIODIC PAYMENT. The rental payment and any applicable taxes and fees for optional services to which the lessee agrees.

(6) UP-FRONT PAYMENT. The total amount of the initial payment to be made by the lessee at the time that the rental-purchase agreement is executed or the rental property is delivered, including the initial rental payment, any application or processing charge, any delivery fee, and fees for other optional services to which the lessee agrees.

(7) TOTAL PAYMENTS TO ACQUIRE OWNERSHIP. The total of all charges to be paid by the lessee to acquire ownership of the rental property, which shall consist of the total dollar amount of all rental payments disclosed under sub. (3), and the total dollar amount of all required fees and taxes.

(8) OTHER CHARGES. An itemized description of any other charges or fees that the rental-purchase company may charge upon the occurrence of a contingency specified in the rental-purchase agreement, such as late fees.

(9) SUMMARY OF EARLY-PURCHASE OPTION. A statement summarizing the terms of the lessee's options to acquire ownership of the rental property as provided in s. 420.06 (3).

1 **(10)** RESPONSIBILITY FOR THEFT OR DAMAGE. A statement that, unless otherwise
2 agreed, the lessee is responsible for the fair market value of the rental property,
3 determined according to the early-purchase option formula under sub. (9), if the
4 rental property is stolen, damaged, or destroyed while in the possession of or subject
5 to the control of the lessee. The statement shall indicate that the fair market value
6 will be determined as of the date on which the rental property is stolen, damaged,
7 or destroyed.

8 **(11)** SERVICE AND WARRANTY. A statement that during the term of the rental-
9 purchase agreement, the rental-purchase company is required to service the rental
10 property and maintain it in good working condition, as long as no other person has
11 serviced the rental property. In lieu of servicing the rental property, the
12 rental-purchase company may, at its option, replace the rental property with
13 substitute property of comparable quality and condition. The rental-purchase
14 company's obligation to provide service is limited to defects in the property not
15 caused by improper use or neglect by the lessee or harmful conditions outside the
16 control of the rental-purchase company or manufacturer.

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

20 **(13)** RIGHT TO REINSTATE. A brief explanation of the lessee's right to reinstate
21 a rental-purchase agreement under s. 420.07.

22 **(14)** RENTAL, NOT PURCHASE. A statement reading substantially as follows: "You
23 are renting this property. You will not own the property until you make all payments
24 necessary to acquire ownership or until you exercise your early-purchase option. If

you do not make your payments as scheduled or exercise your early-purchase option, the rental-purchase company may repossess the property."

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

(16) OPTIONAL SERVICES. Space for a specific, separately signed or initialed, affirmative, written indication of the lessee's desire for any optional service for which a charge is assessed. The lessee's request must be obtained after a written disclosure of the cost of the optional service is made, and the disclosure of the cost and purpose of such service must be listed at or near the affirmation space. This requirement is satisfied by a separate written agreement for an optional service that meets the requirements of this subsection.

420.05 Prohibited provisions of rental-purchase agreements. A rental-purchase agreement may not contain any of the following:

(1) CONFESSION. A confession of judgment.

(2) REPOSSESSION. A provision authorizing a rental-purchase company, or an agent of the rental-purchase company, to enter the lessee's residence without the lessee's permission, or to commit a breach of the peace in the repossession of rental property provided by the rental-purchase company under the rental-purchase agreement.

(3) WAIVER. A waiver of a defense or counterclaim, a waiver of any right to assert any claim that the lessee may have against the rental-purchase company or an agent of the rental-purchase company, or a waiver of any provision of this chapter relating to rental-purchase agreements.

1 **(4)** OVERPAYMENT. A provision requiring rental payments totaling more than
2 the total dollar amount of all rental payments necessary to acquire ownership, as
3 disclosed in the rental-purchase agreement.

4 **(5)** INSURANCE. A provision requiring the lessee to purchase insurance from the
5 rental-purchase company to insure the rental property.

6 **(6)** ATTORNEY FEES. A provision requiring the lessee to pay any attorney fees.

7 **420.06 Price and cost limitations. (1)** LIMITS ON CASH PRICES. The cash price
8 for rental property offered by a rental-purchase company may not exceed the greater
9 of the following:

10 (a) An amount equal to twice the actual purchase price of the rental property,
11 including any applicable freight charges, paid by the rental-purchase company.

12 (b) The price at which property of like type and quality is offered, in the
13 ordinary course of business, for sale for cash in the market area of the
14 rental-purchase store where the property is offered for rental purchase.

15 **(2)** LIMITS ON COST OF RENTAL SERVICES AND OTHER CHARGES. The total amount
16 charged by the rental-purchase company for all required charges or fees, excluding
17 applicable taxes and any late fees or reinstatement fees, in a rental-purchase
18 transaction shall not exceed twice the maximum cash price of the property as
19 determined under sub. (1).

20 **(3)** ACQUISITION OF OWNERSHIP. At any time after the initial rental period under
21 a rental-purchase agreement, if a lessee affirmatively elects an early-purchase
22 option, the lessee may acquire ownership of the rental property by tendering an
23 amount not to exceed 55 percent of the difference between the total of rental
24 payments necessary to acquire ownership of the rental property and the total
25 amount of rental payments paid for use of the rental property at that time, plus

applicable taxes, except that the lessee's early-purchase option amount may not be less than the amount of one rental payment. Before a lessee acquires ownership of the rental property as provided under this subsection, a rental-purchase company may first require the lessee to pay any accrued unpaid rental payments and fees.

(4) ANNUAL PERCENTAGE RATE DISCLOSURE NOT REQUIRED. A rental-purchase company shall not be required to disclose, in a rental-purchase agreement or otherwise, any percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate.

420.07 Reinstatement of a rental-purchase agreement. (1) REINSTATEMENT GENERALLY. Subject to sub. (2), a lessee may reinstate a rental-purchase agreement that has ended without losing any rights or options previously acquired if all of the following apply:

(a) The lessee voluntarily returned or surrendered the rental property within 7 days after the expiration of the rental-purchase agreement.

(b) Not more than 120 days have passed after the date on which the rental-purchase agreement ended.

(2) AUTHORIZED CONDITIONS ON REINSTATEMENT. As a condition of reinstatement under sub. (1), the rental-purchase company may require the payment of all past-due rental charges, any applicable late fees, a reinstatement fee not to exceed $5, and the rental payment for the next term.

(3) EFFECT OF REPOSSESSION ON REINSTATEMENT. Subject to s. 420.05 (2), nothing in this section prohibits a rental-purchase company from repossessing or attempting to repossess rental property when a rental-purchase agreement ends, but such efforts do not affect the lessee's right to reinstate as long as the rental property is

voluntarily returned or surrendered within 7 days after the rental-purchase agreement ends.

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

(5) NOTICE OF REINSTATEMENT RIGHTS. If the lessee is entitled to reinstatement under subs. (1) and (2), within 15 days of repossession or voluntary return or surrender of the rental property, the rental-purchase company shall provide written notice to the lessee of the lessee's rights and obligations under this section.

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

(2) STATEMENT DUE TO LESSEE. Subject to sub. (4), upon the request of a lessee, a rental-purchase company shall provide a written statement to the lessee showing the lessee's payment history on each rental-purchase agreement between the lessee and the rental-purchase company. A rental-purchase company is not required to provide a statement covering any rental-purchase agreement that ended more than one year prior to the date of the lessee's request. A rental-purchase company may provide a single statement covering all rental-purchase agreements or separate statements for each rental-purchase agreement, at the rental-purchase company's option.

(3) STATEMENT DUE TO OTHER PARTIES. Subject to sub. (4), upon the written request of a lessee, made during the term of or no later than one year after the

rental-purchase agreement ended, a rental-purchase company shall provide a written statement to any person the lessee designates, showing the lessee's payment history under the rental-purchase agreement.

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

420.09 Advertising disclosure required. If an advertisement for a rental-purchase agreement states the amount of a payment for a specific item of property, the advertisement shall also clearly and conspicuously state all of the following:

(1) That the transaction advertised is a rental-purchase agreement.

(2) The total number and total dollar amount of all rental payments necessary to acquire ownership of the property.

(3) That the lessee does not acquire ownership of the property if the lessee fails to make all payments necessary to acquire ownership of the property.

420.10 Price cards displayed. (1) PRICE CARDS GENERALLY. Except as provided in sub. (2), a card or tag that clearly and conspicuously states all of the following shall be displayed on or next to any property displayed or offered by a rental-purchase company for rent under a rental-purchase agreement:

(a) The cash price that a lessee would pay to purchase the property.

(b) The amount and timing of the rental payments.

(c) The total number and total amount of all rental payments necessary to acquire ownership of the property under a rental-purchase agreement.

1 (d) The cost of rental services under a rental-purchase agreement.

2 (e) Whether the property is new or used.

3 **(2)** EXCEPTIONS. If property is offered for rent under a rental-purchase
4 agreement through a catalog, whether print or electronic, or if the size of the property
5 is such that displaying a card or tag on or next to the property would be impractical,
6 a rental-purchase company may make the disclosures required under sub. (1) in a
7 catalog, list, or disclosure sheet if the catalog, list, or disclosure sheet is readily
8 available to prospective lessees and provided upon request.

9 **420.11 Rule making.** The department may promulgate rules to administer
10 and enforce the requirements of this chapter.

11 **420.12 Penalties. (1)** AWARD OF DAMAGES. Subject to sub. (3), a
12 rental-purchase company that violates any provision of this chapter, rule
13 promulgated under this chapter, or order issued under this chapter pertaining to a
14 lessee is liable to the lessee in an amount equal to the greater of the following:

15 (a) The actual damages sustained by the lessee as a result of the violation.

16 (b) If the action is not brought as a class action, 25 percent of the total payments
17 necessary for the lessee to acquire ownership of the rental property, but not less than
18 $100 nor more than $1,000.

19 (c) If the action is brought as a class action, the amount the court determines
20 to be appropriate, subject to sub. (2).

21 **(2)** DAMAGE LIMITATIONS IN CLASS ACTIONS. The total recovery by all lessees in
22 any class action or series of class actions arising out of the same violation may not
23 be more than the lesser of $500,000 or 1 percent of the net worth of the
24 rental-purchase company. In determining the amount of any award in a class action,
25 the court shall consider, among other relevant factors, the amount of actual damages

awarded, the frequency and persistence of the violation, the rental-purchase company's resources, and the extent to which the rental-purchase company's violation was intentional.

(3) UNINTENTIONAL VIOLATIONS. A rental-purchase company is not liable for any violation of this chapter if the rental-purchase company shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, and the rental-purchase company maintained procedures reasonably adapted to avoid such an error.

(4) COSTS AND ATTORNEY FEES. If a court awards any monetary amount under sub. (1) to a lessee, the rental-purchase company shall also be liable to the lessee for the costs of the action and, notwithstanding s. 814.04 (1), for reasonable attorney fees as determined by the court.

420.13 Inapplicability of Consumer Act and ch. 409. A rental-purchase company that has filed notice as provided under s. 420.02 (1) is not subject to the Wisconsin consumer act, chs. 421 to 427, or any related rule or order adopted under chs. 421 to 427, or to any provision of ch. 409, and any rental-purchase agreement entered into by such a rental-purchase company may not be construed or regulated as a security interest, credit sale, retail installment sale, conditional sale, or any other form of consumer credit, nor considered to be the creation of a debt or extension of credit.

SECTION 3. 421.202 (11) of the statutes is created to read:

421.202 **(11)** Any rental-purchase company that has filed notice as provided under s. 420.02 (1) and any rental-purchase agreement entered into by a such a rental-purchase company.

SECTION 4. Initial applicability.

Insert 13-25

1 (1) This act first applies to rental-purchase agreements, and conduct pursuant
2 to those agreements, that are entered into on the effective date of this subsection.
3 **SECTION 5. Effective date.**
4 (1) This act takes effect on the 90th day after publication.
5 **(END)**

1

2 **INSERT ANAL:**

COMMERCE AND ECONOMIC DEVELOPMENT

BUSINESS ORGANIZATIONS AND FINANCIAL INSTITUTIONS

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 creates requirements that specifically apply to rental–purchase agreements, imposes requirements on rental–purchase companies, and exempts rental–purchase companies and rental–purchase agreements from the scope of the consumer act and from provisions of the Uniform Commercial Code relating to security interests. The bill defines a "rental–purchase agreement" as an agreement between a rental–purchase company and a lessee for the use of rental property if all of the following apply: 1) the rental property is to be used primarily for personal, family, or household purposes; 2) the agreement has an initial term of four months or less and is renewable with each payment after the initial term; 3) the agreement does not obligate or require the lessee to renew the agreement beyond the initial term; and 4) the agreement permits, but does not obligate, the lessee to acquire ownership of the rental property. For purposes of a rental–purchase agreement, "rental property" does not include motor vehicles or musical instruments used in schools. A "rental–purchase company" is defined as a person engaged in the business of entering into rental–purchase agreements in this state or acquiring rental–purchase agreements that are entered into in this state.

The bill requires a rental–purchase company to file notice with DFI within 30 days after commencing business in this state, except that a rental–purchase company that generates less than 75 percent of its total revenues in this state from transactions involving rental–purchase agreements may elect not to file notice with DFI and not to be governed by the provisions of the bill. A separate notice is required for each place of business maintained by the rental–purchase company. In addition, the rental–purchase company must pay to DFI an annual fee of $1,000 for each location for which a notice is filed.

Under the bill, the total amount charged by a rental–purchase company for all required charges or fees, excluding applicable taxes and any late fees or

reinstatement fees, in a rental–purchase transaction may not exceed twice the maximum cash price of the rental property. The maximum cash price of rental property may not exceed the greater of the following: 1) an amount equal to twice the actual purchase price of the rental property, including any applicable freight charges, paid by the rental–purchase company; or 2) the price at which property of like type and quality is offered, in the ordinary course of business, for sale for cash in the market area of the rental–purchase store where the property is offered for rental purchase. The bill also limits the maximum amount that a lessee must pay to acquire ownership of the property if the lessee elects an early–purchase option after the initial rental period. This maximum amount to acquire ownership under an early–purchase option is the greater of the following: 1) an amount not to exceed 55 percent of the difference between the total of rental payments necessary to acquire ownership of the rental property and the total amount of rental payments paid for use of the rental property at that time, plus applicable taxes; or 2) the amount of one rental payment. Before a lessee acquires ownership of the rental property under an early–purchase option, the rental–purchase company may require the lessee to pay any accrued unpaid rental payments and fees.

Under the bill, a lessee may reinstate a rental–purchase agreement that has ended without losing any rights or options previously acquired if all of the following apply: 1) the lessee voluntarily returned or surrendered the rental property within seven days after the expiration of the rental–purchase agreement; and 2) not more than 120 days have passed after the date on which the rental–purchase agreement ended. As a condition of reinstatement, the rental–purchase company may require the payment of all past–due rental charges, any applicable late fees, a reinstatement fee not to exceed $5, and the rental payment for the next term. Upon reinstatement, the rental–purchase company must provide the lessee with the same rental property or with substitute property of comparable quality and condition. A rental–purchase company must provide written notice to a lessee of the lessee's rights and obligations relating to reinstatement of the rental–purchase agreement within 15 days of repossession or voluntary return or surrender of the rental property, if the lessee is entitled to reinstatement.

The bill specifies that a rental–purchase company is not required to disclose, in a rental–purchase agreement or otherwise, any percentage rate calculation, including an annual percentage rate. However, every rental–purchase agreement must contain certain provisions, including the following, to the extent applicable:

1. A description of the rental property.
2. The cash price of the rental property.
3. The total amount of the rental payments necessary to acquire ownership of the property.
4. The difference between the amount described under item 3. above and the cash price of the rental property.
5. The total amount of the initial payment due when the rental–purchase agreement is executed or the rental property is delivered.
6. The rental payment and any applicable taxes and fees for optional services to which the lessee agrees.

7. An itemized description of any other charges or fees the rental–purchase company may charge upon the occurrence of a contingency specified in the rental–purchase agreement, such as late fees.

8. The total amount of all charges necessary to acquire ownership of the rental property.

9. A summary of the lessee's early–purchase option.

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

11. A statement that, with certain exceptions, the rental–purchase company is required to service the rental property and 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. An explanation of the lessee's right to reinstate the rental–purchase agreement.

14. A statement that the lessee will not own the rental property until the lessee exercises an early–purchase option or makes all rental payments necessary to acquire ownership.

All required provisions of a rental–purchase agreement must be clearly and conspicuously disclosed to the lessee in the rental–purchase agreement in at least eight–point standard type, except for certain provisions that must be disclosed in at least ten–point boldface type. The bill also 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 rental–purchase agreement.

The bill also prohibits the inclusion of certain provisions in a rental–purchase agreement. The prohibited provisions include the following: 1) a confession of judgment; 2) a provision granting the rental–purchase company permission to enter the lessee's residence or commit a breach of the peace in repossessing the rental property; 3) a waiver of any defense or counterclaim or any provision of the bill's requirements; 4) a provision requiring rental payments totaling more than the total dollar amount of all rental payments necessary to acquire ownership; 5) a provision requiring the lessee to purchase insurance from the rental–purchase company to insure the rental property; and 6) a provision requiring the lessee to pay attorney fees.

Under the bill, 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 the lessee designates 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.

The bill creates requirements for advertising rental–purchase agreements. 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 and timing of the rental payments, and the total number and total 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 rental–purchase agreement that refers to the amount of a payment for a specific item of property also states that the advertisement is for a rental–purchase agreement and that the lessee does not acquire ownership of the property if the lessee fails to make all 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.

Under the bill, a rental–purchase company that violates any of the provisions of the bill, or any applicable rule or order of DFI, pertaining to a lessee is liable to the lessee in an amount equal to the greater of the following: 1) the actual damages sustained by the lessee as a result of the violation; 2) if the action is not brought as a class action, 25 percent of the total payments necessary for the lessee to acquire ownership of the rental property, but not less than $100 nor more than $1,000; or 3) if the action is brought as a class action, the amount the court determines to be appropriate. However, there are two limitations on such an award of damages. First, a rental–purchase company is not liable for any violation if the rental–purchase company shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, and the rental–purchase company maintained procedures reasonably adapted to avoid such an error. Second, in a class action or series of class actions, the total recovery by all lessees arising out of the same violation may not be more than the lesser of $500,000 or 1 percent of the net worth of the rental–purchase company. If a court awards any monetary amount of damages to a lessee, the rental–purchase company is also liable to the lessee for the costs of the action and reasonable attorney fees.

The bill allows DFI to promulgate rules to administer and enforce the requirements of the bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

1 (end insert anal)

2 **INSERT 13–25:**

3 **SECTION 9314. Initial applicability; Financial Institutions.**

auto ref A

4 (1) RENTAL–PURCHASE AGREEMENTS. The treatment of sections 409.109 (4) (n)

5 and 421.202 (11) and chapter 420 of the statutes first applies to rental–purchase

6 agreements, and conduct pursuant to those agreements, that are entered into on the

7 effective date of this subsection.

8

1 **SECTION 9414. Effective dates; Financial Institutions.**

2 (1) RENTAL–PURCHASE AGREEMENTS. The treatment of sections 409.109 (4) (n)
3 and 421.202 (11) and chapter 420 of the statutes and SECTION 9314 (1) and of this act
4 takes effect on the 90th day after publication.

auto ref A

(end ins)

State of Wisconsin
2013 - 2014 LEGISLATURE

LRB-1326/1
ARG:jld:jm

DOA:.....Quinn, BB0421 - Rental purchase agreements

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; **relating to:** regulation of rental-purchase agreements and granting
2 rule-making authority.

Analysis by the Legislative Reference Bureau

COMMERCE AND ECONOMIC DEVELOPMENT

BUSINESS ORGANIZATIONS AND FINANCIAL INSTITUTIONS

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 creates requirements that specifically apply to rental-purchase agreements, imposes requirements on rental-purchase companies, and exempts rental-purchase companies and rental-purchase agreements from the scope of the consumer act and from provisions of the Uniform Commercial Code relating to security interests. The bill defines a "rental-purchase agreement" as an agreement

between a rental–purchase company and a lessee for the use of rental property if all of the following apply: 1) the rental property is to be used primarily for personal, family, or household purposes; 2) the agreement has an initial term of four months or less and is renewable with each payment after the initial term; 3) the agreement does not obligate or require the lessee to renew the agreement beyond the initial term; and 4) the agreement permits, but does not obligate, the lessee to acquire ownership of the rental property. For purposes of a rental–purchase agreement, "rental property" does not include motor vehicles or musical instruments used in schools. A "rental–purchase company" is defined as a person engaged in the business of entering into rental–purchase agreements in this state or acquiring rental–purchase agreements that are entered into in this state.

The bill requires a rental–purchase company to file notice with DFI within 30 days after commencing business in this state, except that a rental–purchase company that generates less than 75 percent of its total revenues in this state from transactions involving rental–purchase agreements may elect not to file notice with DFI and not to be governed by the provisions of the bill. A separate notice is required for each place of business maintained by the rental–purchase company. In addition, the rental–purchase company must pay to DFI an annual fee of $1,000 for each location for which a notice is filed.

Under the bill, the total amount charged by a rental–purchase company for all required charges or fees, excluding applicable taxes and any late fees or reinstatement fees, in a rental–purchase transaction may not exceed twice the maximum cash price of the rental property. The maximum cash price of rental property may not exceed the greater of the following: 1) an amount equal to twice the actual purchase price of the rental property, including any applicable freight charges, paid by the rental–purchase company; or 2) the price at which property of like type and quality is offered, in the ordinary course of business, for sale for cash in the market area of the rental–purchase store where the property is offered for rental purchase. The bill also limits the maximum amount that a lessee must pay to acquire ownership of the property if the lessee elects an early–purchase option after the initial rental period. This maximum amount to acquire ownership under an early–purchase option is the greater of the following: 1) an amount not to exceed 55 percent of the difference between the total of rental payments necessary to acquire ownership of the rental property and the total amount of rental payments paid for use of the rental property at that time, plus applicable taxes; or 2) the amount of one rental payment. Before a lessee acquires ownership of the rental property under an early–purchase option, the rental–purchase company may require the lessee to pay any accrued unpaid rental payments and fees.

Under the bill, a lessee may reinstate a rental–purchase agreement that has ended without losing any rights or options previously acquired if all of the following apply: 1) the lessee voluntarily returned or surrendered the rental property within seven days after the expiration of the rental–purchase agreement; and 2) not more than 120 days have passed after the date on which the rental–purchase agreement ended. As a condition of reinstatement, the rental–purchase company may require the payment of all past–due rental charges, any applicable late fees, a reinstatement

fee not to exceed $5, and the rental payment for the next term. Upon reinstatement, the rental–purchase company must provide the lessee with the same rental property or with substitute property of comparable quality and condition. A rental–purchase company must provide written notice to a lessee of the lessee's rights and obligations relating to reinstatement of the rental–purchase agreement within 15 days of repossession or voluntary return or surrender of the rental property, if the lessee is entitled to reinstatement.

The bill specifies that a rental–purchase company is not required to disclose, in a rental–purchase agreement or otherwise, any percentage rate calculation, including an annual percentage rate. However, every rental–purchase agreement must contain certain provisions, including the following, to the extent applicable:

1. A description of the rental property.

2. The cash price of the rental property.

3. The total amount of the rental payments necessary to acquire ownership of the property.

4. The difference between the amount described under item 3., above, and the cash price of the rental property.

5. The total amount of the initial payment due when the rental–purchase agreement is executed or the rental property is delivered.

6. The rental payment and any applicable taxes and fees for optional services to which the lessee agrees.

7. An itemized description of any other charges or fees the rental–purchase company may charge upon the occurrence of a contingency specified in the rental–purchase agreement, such as late fees.

8. The total amount of all charges necessary to acquire ownership of the rental property.

9. A summary of the lessee's early–purchase option.

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

11. A statement that, with certain exceptions, the rental–purchase company is required to service the rental property and 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. An explanation of the lessee's right to reinstate the rental–purchase agreement.

14. A statement that the lessee will not own the rental property until the lessee exercises an early–purchase option or makes all rental payments necessary to acquire ownership.

All required provisions of a rental–purchase agreement must be clearly and conspicuously disclosed to the lessee in the rental–purchase agreement in at least eight–point standard type, except for certain provisions that must be disclosed in at least ten–point boldface type. The bill also 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 rental–purchase agreement.

The bill also prohibits the inclusion of certain provisions in a rental–purchase agreement. The prohibited provisions include the following: 1) a confession of judgment; 2) a provision granting the rental–purchase company permission to enter the lessee's residence or commit a breach of the peace in repossessing the rental property; 3) a waiver of any defense or counterclaim or any provision of the bill's requirements; 4) a provision requiring rental payments totaling more than the total dollar amount of all rental payments necessary to acquire ownership; 5) a provision requiring the lessee to purchase insurance from the rental–purchase company to insure the rental property; and 6) a provision requiring the lessee to pay attorney fees.

Under the bill, 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 the lessee designates 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.

The bill creates requirements for advertising rental–purchase agreements. 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 and timing of the rental payments, and the total number and total 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 rental–purchase agreement that refers to the amount of a payment for a specific item of property also states that the advertisement is for a rental–purchase agreement and that the lessee does not acquire ownership of the property if the lessee fails to make all 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.

Under the bill, a rental–purchase company that violates any of the provisions of the bill, or any applicable rule or order of DFI, pertaining to a lessee is liable to the lessee in an amount equal to the greater of the following: 1) the actual damages sustained by the lessee as a result of the violation; 2) if the action is not brought as a class action, 25 percent of the total payments necessary for the lessee to acquire ownership of the rental property, but not less than $100 nor more than $1,000; or 3) if the action is brought as a class action, the amount the court determines to be appropriate. However, there are two limitations on such an award of damages. First, a rental–purchase company is not liable for any violation if the rental–purchase company shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, and the rental–purchase company maintained procedures reasonably adapted to avoid such an error. Second, in a class action or series of class actions, the total recovery by all lessees arising out of the same violation may not be more than the lesser of $500,000 or 1 percent of the net worth of the rental–purchase company. If a court awards any monetary amount of

damages to a lessee, the rental–purchase company is also liable to the lessee for the costs of the action and reasonable attorney fees.

The bill allows DFI to promulgate rules to administer and enforce the requirements of the bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 409.109 (4) (n) of the statutes is created to read:

2 409.109 **(4)** (n) Any rental–purchase company that has filed notice as provided
3 under s. 420.02 (1) and any rental–purchase agreement entered into by such a
4 rental–purchase company.

5 **SECTION 2.** Chapter 420 of the statutes is created to read:

6 **CHAPTER 420**

7 **RENTAL–PURCHASE COMPANIES**

8 **420.01 Definitions.** In this chapter:

9 **(1)** "Cash price" means the price at which a rental–purchase company would
10 sell rental property to the lessee of the rental property if the lessee were to pay for
11 the rental property in full on the date on which the rental–purchase agreement is
12 executed.

13 **(2)** "Department" means the department of financial institutions.

14 **(3)** "Rental property" means property rented under a rental–purchase
15 agreement but does not include any motor vehicle, as defined in s. 340.01 (35), or any
16 musical instrument that is intended to be used in whole or in part in an elementary
17 school or high school.

(4) "Rental–purchase agreement" means an agreement between a rental–purchase company and a lessee for the use of rental property if all of the following apply:

(a) The rental property 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 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.

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

(5) "Rental–purchase company" means a person engaged in the business of entering into rental–purchase agreements in this state or acquiring rental–purchase agreements that are entered into in this state.

420.02 Notice to the department. (1) NOTICE. (a) Except as provided in par. (b), a rental–purchase company shall file notice with the department, in the form and manner prescribed by the department, within 30 days after commencing business in this state. A separate notice is required for each place of business maintained by the rental–purchase company.

(b) A rental–purchase company that generates less than 75 percent of its total revenues in this state from transactions involving rental–purchase agreements may elect not to file notice with the department under par. (a) and, upon informing the department of this election in a manner prescribed by the department, shall not be governed by the provisions of this chapter.

1 **(2)** FEE. For each location for which a notice is filed under sub. (1), the
2 rental–purchase company shall pay to the department an annual fee of $1,000. If a
3 rental–purchase company fails to timely pay the annual fee, the department shall
4 order the rental–purchase company to cease operating until the annual fee is paid.

5 **420.03 General requirements of disclosure. (1)** FORM, LOCATION, SIZE, AND
6 TIME OF DISCLOSURE. The information that is required to be disclosed under s. 420.04
7 shall satisfy all of the following:

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

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

10 (c) Except as provided in par. (f), the information shall be disclosed in the
11 rental–purchase agreement above the line for the lessee's signature. Multiple pages
12 or backs of pages may be used as long as the face of the rental–purchase agreement
13 is signed by the lessee and other pages are signed or initialed by the lessee.

14 (d) Except as provided in par. (f), the information shall be disclosed in not less
15 than 8–point standard type.

16 (e) The information shall be disclosed before the time that the lessee becomes
17 legally obligated under the rental–purchase agreement.

18 (f) The disclosures required by s. 420.04 (2), (3), (4), and (7) shall be printed in
19 at least 10–point boldface type on the face of the rental–purchase agreement, and
20 shall be grouped together in a box, in the form and order prescribed by the
21 department.

22 **(2)** ACCURACY OF DISCLOSURE. The information required under s. 420.04 must
23 be accurate as of the time that it is disclosed to the lessee. If any information
24 subsequently becomes inaccurate as a result of any act, occurrence, or agreement by

the lessee, the resulting inaccuracy is not a violation of any provision of this chapter relating to rental–purchase agreements.

(3) COPY OF RENTAL–PURCHASE AGREEMENT. The rental–purchase company shall provide the lessee with a copy of the completed rental–purchase agreement signed by the lessee. If more than one lessee is legally obligated under the same rental–purchase agreement, delivery of a copy of the completed rental–purchase agreement to one of the lessees shall satisfy this subsection.

420.04 Required provisions of rental–purchase agreement. A rental–purchase company shall include all of the following information, to the extent applicable, in every rental–purchase agreement:

(1) DESCRIPTION. A brief description of the rental property, sufficient to identify the rental property to the lessee and the rental–purchase company, including any identification number, and a statement indicating whether the rental property is new or used. A statement that new rental property is used shall not be a violation of this subchapter.

(2) CASH PRICE. The cash price of the rental property.

(3) RENTAL PAYMENTS TO ACQUIRE OWNERSHIP. The total number, total dollar amount, and timing of all rental payments necessary to acquire ownership of the rental property, excluding any applicable taxes, application or processing charge, delivery fee, liability damage waiver fee, and fees for optional services.

(4) COST OF RENTAL SERVICES. The difference between the total dollar amount of payments necessary to acquire ownership of the rental property disclosed under sub. (3) and the cash price of the property disclosed under sub. (2). The rental–purchase company shall also include a statement substantially similar to the following: "The cost of rental services is the amount you will pay in addition to the

1 cash price if you acquire ownership of the rented goods by making all payments
2 necessary to acquire ownership."

3 **(5)** PERIODIC PAYMENT. The rental payment and any applicable taxes and fees
4 for optional services to which the lessee agrees.

5 **(6)** UP-FRONT PAYMENT. The total amount of the initial payment to be made by
6 the lessee at the time that the rental–purchase agreement is executed or the rental
7 property is delivered, including the initial rental payment, any application or
8 processing charge, any delivery fee, and fees for other optional services to which the
9 lessee agrees.

10 **(7)** TOTAL PAYMENTS TO ACQUIRE OWNERSHIP. The total of all charges to be paid
11 by the lessee to acquire ownership of the rental property, which shall consist of the
12 total dollar amount of all rental payments disclosed under sub. (3), and the total
13 dollar amount of all required fees and taxes.

14 **(8)** OTHER CHARGES. An itemized description of any other charges or fees that
15 the rental–purchase company may charge upon the occurrence of a contingency
16 specified in the rental–purchase agreement, such as late fees.

17 **(9)** SUMMARY OF EARLY–PURCHASE OPTION. A statement summarizing the terms
18 of the lessee's options to acquire ownership of the rental property as provided in s.
19 420.06 (3).

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

1 will be determined as of the date on which the rental property is stolen, damaged,
2 or destroyed.

3 **(11)** SERVICE AND WARRANTY. A statement that during the term of the rental–
4 purchase agreement, the rental–purchase company is required to service the rental
5 property and maintain it in good working condition, as long as no other person has
6 serviced the rental property. In lieu of servicing the rental property, the
7 rental–purchase company may, at its option, replace the rental property with
8 substitute property of comparable quality and condition. The rental–purchase
9 company's obligation to provide service is limited to defects in the property not
10 caused by improper use or neglect by the lessee or harmful conditions outside the
11 control of the rental–purchase company or manufacturer.

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

15 **(13)** RIGHT TO REINSTATE. A brief explanation of the lessee's right to reinstate
16 a rental–purchase agreement under s. 420.07.

17 **(14)** RENTAL, NOT PURCHASE. A statement reading substantially as follows: "You
18 are renting this property. You will not own the property until you make all payments
19 necessary to acquire ownership or until you exercise your early–purchase option. If
20 you do not make your payments as scheduled or exercise your early–purchase option,
21 the rental–purchase company may repossess the property."

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

1 **(16)** OPTIONAL SERVICES. Space for a specific, separately signed or initialed,
2 affirmative, written indication of the lessee's desire for any optional service for which
3 a charge is assessed. The lessee's request must be obtained after a written disclosure
4 of the cost of the optional service is made, and the disclosure of the cost and purpose
5 of such service must be listed at or near the affirmation space. This requirement is
6 satisfied by a separate written agreement for an optional service that meets the
7 requirements of this subsection.

8 **420.05 Prohibited provisions of rental–purchase agreements.** A
9 rental–purchase agreement may not contain any of the following:

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

11 **(2)** REPOSSESSION. A provision authorizing a rental–purchase company, or an
12 agent of the rental–purchase company, to enter the lessee's residence without the
13 lessee's permission, or to commit a breach of the peace in the repossession of rental
14 property provided by the rental–purchase company under the rental–purchase
15 agreement.

16 **(3)** WAIVER. A waiver of a defense or counterclaim, a waiver of any right to
17 assert any claim that the lessee may have against the rental–purchase company or
18 an agent of the rental–purchase company, or a waiver of any provision of this chapter
19 relating to rental–purchase agreements.

20 **(4)** OVERPAYMENT. A provision requiring rental payments totaling more than
21 the total dollar amount of all rental payments necessary to acquire ownership, as
22 disclosed in the rental–purchase agreement.

23 **(5)** INSURANCE. A provision requiring the lessee to purchase insurance from the
24 rental–purchase company to insure the rental property.

25 **(6)** ATTORNEY FEES. A provision requiring the lessee to pay any attorney fees.

1 **420.06 Price and cost limitations. (1)** LIMITS ON CASH PRICES. The cash price
2 for rental property offered by a rental–purchase company may not exceed the greater
3 of the following:
4 (a) An amount equal to twice the actual purchase price of the rental property,
5 including any applicable freight charges, paid by the rental–purchase company.
6 (b) The price at which property of like type and quality is offered, in the
7 ordinary course of business, for sale for cash in the market area of the
8 rental–purchase store where the property is offered for rental purchase.
9 **(2)** LIMITS ON COST OF RENTAL SERVICES AND OTHER CHARGES. The total amount
10 charged by the rental–purchase company for all required charges or fees, excluding
11 applicable taxes and any late fees or reinstatement fees, in a rental–purchase
12 transaction shall not exceed twice the maximum cash price of the property as
13 determined under sub. (1).
14 **(3)** ACQUISITION OF OWNERSHIP. At any time after the initial rental period under
15 a rental–purchase agreement, if a lessee affirmatively elects an early–purchase
16 option, the lessee may acquire ownership of the rental property by tendering an
17 amount not to exceed 55 percent of the difference between the total of rental
18 payments necessary to acquire ownership of the rental property and the total
19 amount of rental payments paid for use of the rental property at that time, plus
20 applicable taxes, except that the lessee's early–purchase option amount may not be
21 less than the amount of one rental payment. Before a lessee acquires ownership of
22 the rental property as provided under this subsection, a rental–purchase company
23 may first require the lessee to pay any accrued unpaid rental payments and fees.
24 **(4)** ANNUAL PERCENTAGE RATE DISCLOSURE NOT REQUIRED. A rental–purchase
25 company shall not be required to disclose, in a rental–purchase agreement or

otherwise, any percentage rate calculation, including a time–price differential, an annual percentage rate, or an effective annual percentage rate.

420.07 Reinstatement of a rental–purchase agreement. (1) REINSTATEMENT GENERALLY. Subject to sub. (2), a lessee may reinstate a rental–purchase agreement that has ended without losing any rights or options previously acquired if all of the following apply:

(a) The lessee voluntarily returned or surrendered the rental property within 7 days after the expiration of the rental–purchase agreement.

(b) Not more than 120 days have passed after the date on which the rental–purchase agreement ended.

(2) AUTHORIZED CONDITIONS ON REINSTATEMENT. As a condition of reinstatement under sub. (1), the rental–purchase company may require the payment of all past–due rental charges, any applicable late fees, a reinstatement fee not to exceed $5, and the rental payment for the next term.

(3) EFFECT OF REPOSSESSION ON REINSTATEMENT. Subject to s. 420.05 (2), nothing in this section prohibits a rental–purchase company from repossessing or attempting to repossess rental property when a rental–purchase agreement ends, but such efforts do not affect the lessee's right to reinstate as long as the rental property is voluntarily returned or surrendered within 7 days after the rental–purchase agreement ends.

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

1 **(5)** NOTICE OF REINSTATEMENT RIGHTS. If the lessee is entitled to reinstatement
2 under subs. (1) and (2), within 15 days of repossession or voluntary return or
3 surrender of the rental property, the rental–purchase company shall provide written
4 notice to the lessee of the lessee's rights and obligations under this section.

5 **420.08 Receipts and statements. (1)** RECEIPTS. A rental–purchase company
6 shall provide a written receipt to the lessee for any payment made by the lessee in
7 cash or, upon the request of the lessee, for any other type of payment.

8 **(2)** STATEMENT DUE TO LESSEE. Subject to sub. (4), upon the request of a lessee,
9 a rental–purchase company shall provide a written statement to the lessee showing
10 the lessee's payment history on each rental–purchase agreement between the lessee
11 and the rental–purchase company. A rental–purchase company is not required to
12 provide a statement covering any rental–purchase agreement that ended more than
13 one year prior to the date of the lessee's request. A rental–purchase company may
14 provide a single statement covering all rental–purchase agreements or separate
15 statements for each rental–purchase agreement, at the rental–purchase company's
16 option.

17 **(3)** STATEMENT DUE TO OTHER PARTIES. Subject to sub. (4), upon the written
18 request of a lessee, made during the term of or no later than one year after the
19 rental–purchase agreement ended, a rental–purchase company shall provide a
20 written statement to any person the lessee designates, showing the lessee's payment
21 history under the rental–purchase agreement.

22 **(4)** FEE FOR STATEMENT. A lessee or, if appropriate, a lessee's designee, is entitled
23 to receive one statement under subs. (2) and (3) without charge once every 12
24 months. A rental–purchase company shall provide an additional statement if the

1 lessee pays the rental–purchase company's reasonable costs of preparing and
2 furnishing the statement.

3 **420.09 Advertising disclosure required.** If an advertisement for a
4 rental–purchase agreement states the amount of a payment for a specific item of
5 property, the advertisement shall also clearly and conspicuously state all of the
6 following:

7 **(1)** That the transaction advertised is a rental–purchase agreement.

8 **(2)** The total number and total dollar amount of all rental payments necessary
9 to acquire ownership of the property.

10 **(3)** That the lessee does not acquire ownership of the property if the lessee fails
11 to make all payments necessary to acquire ownership of the property.

12 **420.10 Price cards displayed. (1)** PRICE CARDS GENERALLY. Except as
13 provided in sub. (2), a card or tag that clearly and conspicuously states all of the
14 following shall be displayed on or next to any property displayed or offered by a
15 rental–purchase company for rent under a rental–purchase agreement:

16 (a) The cash price that a lessee would pay to purchase the property.

17 (b) The amount and timing of the rental payments.

18 (c) The total number and total amount of all rental payments necessary to
19 acquire ownership of the property under a rental–purchase agreement.

20 (d) The cost of rental services under a rental–purchase agreement.

21 (e) Whether the property is new or used.

22 **(2)** EXCEPTIONS. If property is offered for rent under a rental–purchase
23 agreement through a catalog, whether print or electronic, or if the size of the property
24 is such that displaying a card or tag on or next to the property would be impractical,
25 a rental–purchase company may make the disclosures required under sub. (1) in a

1 catalog, list, or disclosure sheet if the catalog, list, or disclosure sheet is readily
2 available to prospective lessees and provided upon request.

3 **420.11 Rule making.** The department may promulgate rules to administer
4 and enforce the requirements of this chapter.

5 **420.12 Penalties. (1)** AWARD OF DAMAGES. Subject to sub. (3), a
6 rental–purchase company that violates any provision of this chapter, rule
7 promulgated under this chapter, or order issued under this chapter pertaining to a
8 lessee is liable to the lessee in an amount equal to the greater of the following:

9 (a) The actual damages sustained by the lessee as a result of the violation.

10 (b) If the action is not brought as a class action, 25 percent of the total payments
11 necessary for the lessee to acquire ownership of the rental property, but not less than
12 $100 nor more than $1,000.

13 (c) If the action is brought as a class action, the amount the court determines
14 to be appropriate, subject to sub. (2).

15 **(2)** DAMAGE LIMITATIONS IN CLASS ACTIONS. The total recovery by all lessees in
16 any class action or series of class actions arising out of the same violation may not
17 be more than the lesser of $500,000 or 1 percent of the net worth of the
18 rental–purchase company. In determining the amount of any award in a class action,
19 the court shall consider, among other relevant factors, the amount of actual damages
20 awarded, the frequency and persistence of the violation, the rental–purchase
21 company's resources, and the extent to which the rental–purchase company's
22 violation was intentional.

23 **(3)** UNINTENTIONAL VIOLATIONS. A rental–purchase company is not liable for any
24 violation of this chapter if the rental–purchase company shows by a preponderance
25 of the evidence that the violation was not intentional and resulted from a bona fide

1 error, and the rental–purchase company maintained procedures reasonably adapted
2 to avoid such an error.

3 **(4)** COSTS AND ATTORNEY FEES. If a court awards any monetary amount under
4 sub. (1) to a lessee, the rental–purchase company shall also be liable to the lessee for
5 the costs of the action and, notwithstanding s. 814.04 (1), for reasonable attorney fees
6 as determined by the court.

7 **420.13 Inapplicability of Consumer Act and ch. 409.** A rental–purchase
8 company that has filed notice as provided under s. 420.02 (1) is not subject to the
9 Wisconsin Consumer Act, chs. 421 to 427, or any related rule or order adopted under
10 chs. 421 to 427, or to any provision of ch. 409, and any rental–purchase agreement
11 entered into by such a rental–purchase company may not be construed or regulated
12 as a security interest, credit sale, retail installment sale, conditional sale, or any
13 other form of consumer credit, nor considered to be the creation of a debt or extension
14 of credit.

15 **SECTION 3.** 421.202 (11) of the statutes is created to read:

16 421.202 **(11)** Any rental–purchase company that has filed notice as provided
17 under s. 420.02 (1) and any rental–purchase agreement entered into by such a
18 rental–purchase company.

19 **SECTION 9314. Initial applicability; Financial Institutions.**

20 (1) RENTAL–PURCHASE AGREEMENTS. The treatment of sections 409.109 (4) (n)
21 and 421.202 (11) and chapter 420 of the statutes first applies to rental–purchase
22 agreements, and conduct pursuant to those agreements, that are entered into on the
23 effective date of this subsection.

24 **SECTION 9414. Effective dates; Financial Institutions.**

1 (1) RENTAL-PURCHASE AGREEMENTS. The treatment of sections 409.109 (4) (n)
2 and 421.202 (11) and chapter 420 of the statutes and SECTION 9314 (1) of this act take
3 effect on the 90th day after publication.

4 **(END)**