



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2011 Assembly Bill 582

**Assembly Substitute
Amendment 1**

Memo published: March 16, 2012

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2011 ASSEMBLY BILL 582

Generally, 2011 Assembly Bill 582 provides for the exemption of rental-purchase companies and rental-purchase agreements from regulation under the Wisconsin Consumer Act (chs. 421 to 427, Stats.). Instead, the bill provides for regulation of rental-purchase agreements and rental-purchase companies under a new, separate chapter of the Wisconsin Statutes created under the bill.

Under the bill, rental-purchase companies would be required to file notice with the Department of Financial Institutions (DFI) within 30 days of commencing business in Wisconsin. A separate notice and an annual fee of \$1,000 would be required for each place of business maintained by the rental-purchase company. The bill would place limitations on the cash prices of rental property and the costs of rental services and other charges that may be charged under a rental-purchase agreement. Additionally, the bill regulates the terms under which a lessee may exercise an early purchase option on the rental property subject to a rental-purchase agreement, the terms of reinstatement of an agreement, and penalties for violation of the regulations created by the bill. The bill also grants DFI rule-making authority with regard to disclosure requirements in connection with rental-purchase agreements, maintenance of records, and reporting requirements.

ASSEMBLY SUBSTITUTE AMENDMENT 1

Generally, in addition to the contents of Assembly Bill 582, Assembly Substitute Amendment 1 to Assembly Bill 582 also includes provisions relating to requirements of disclosure and required provisions of rental-purchase agreements, prohibited provisions of rental-purchase agreements, receipts and statements, and regulation of advertising and price cards for rental-purchase agreements and rental-property.

Required Provisions of Rental-Purchase Agreements

Under the substitute amendment, a rental-purchase company must include all of the following information, to the extent applicable, in each rental-purchase agreement:

- A description of the rental property, including a statement indicating whether the rental property is new or used. However, under the substitute amendment, a statement that new property is used is not a violation of the regulations concerning rental-purchase agreements.
- The cash price of the rental property.
- The total number, total dollar amount and timing of all rental payments necessary to acquire the property, excluding taxes, charges, and fees.
- The difference between the total dollar amount necessary to acquire ownership and the cash price of the property.
- The rental payment and any applicable taxes and fees.
- The total amount of any up-front payment made by the lessee including the initial rental payment, any application or processing charges, and any delivery fee or fee for optional services.
- The total of all charges to be paid by the lessee to acquire ownership of the rental property.
- Itemization of charges and fees.
- A summary of the lessee's early purchase option.
- A statement of the lessee's liability for theft or damage.
- A statement of the rental-purchase company's service and warranty obligations as specified by the substitute amendment.
- A statement that the lessee may terminate the agreement at any time without penalty by voluntarily surrendering or returning the property in good repair.
- A statement of the lessee's right to reinstate the rental-purchase agreement.
- A statement that informs the lessee of the rental-purchase nature of the transaction.
- Contact information for the rental-purchase company and the lessee.
- A specific, separately signed, affirmative, written indication of the lessee's desire for optional services for which a charge is assessed.

General Requirements of Disclosure

In addition to the content described above, the substitute amendment prescribes the form, location, size, and time of disclosures required for rental-purchase agreements. In particular, disclosures must be clear and conspicuous, in writing, above the line for the lessee's signature, and disclosed before the time the lessee becomes legally obligated under the agreement. Generally, disclosures must be made in at least 8-point standard type, except that certain disclosures relating to the cash price, total required payments, cost of rental services, and total payments required to obtain ownership must be grouped together in a box and printed in at least 10-point boldface type on the face of the agreement.

Prohibited Provisions of Rental-Purchase Agreements

The substitute amendment prohibits certain provisions in rental-purchase agreements, including:

- A confession of judgment.
- A provision authorizing a rental-purchase company or agent thereof 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.
- A waiver of defenses, counterclaims, any provision of the chapter of statutes created by the bill, or any other rights a lessee may have against the rental-purchase company.
- A provision requiring rental payments in excess of the rental payments required to acquire ownership as disclosed in the rental-purchase agreement.
- A provision requiring the lessee to purchase insurance from the rental-purchase company for the rental property.
- A provision requiring the lessee to pay any attorney fees.

Receipts and Statements

The substitute amendment requires a rental-purchase company to provide a written receipt to the lessee for any payment made by the lessee in cash, or upon request of the lessee, for any other type of payment. Additionally, a lessee may request a written statement of payment history unless a rental-purchase agreement ended more than one year prior to the request. A lessee, or a lessee's designee, may request one statement without charge every 12 months.

Advertising Disclosures

For an advertisement for a rental-purchase agreement that states the amount of a payment for a specific item, the substitute amendment requires the disclosure of the nature of the transaction as a rental-purchase agreement, the total number and total dollar amount of rental payments necessary to acquire ownership, and a statement that the lessee does not acquire ownership of the property if the lessee fails to make all rental payments or other payments necessary to acquire ownership.

Price Cards

Generally, the substitute amendment requires price cards for rental property to disclose:

- The cash price of the property.
- The amount and timing of rental payments.
- The total number and total amount of all rental payments necessary to acquire ownership.
- The cost of rental services under the rental-purchase agreement.
- Whether the property is new or used.

The substitute amendment provides an exception for price cards in catalog advertisements, or if the display of a price card would be impractical, if the rental-purchase company makes the disclosures listed above in a catalog, list, or disclosure sheet that is readily available to prospective lessees and provided upon request.

Other Provisions

In addition to the provisions described above, Assembly Substitute Amendment 1 modifies the applicability of regulations under the bill to rental-purchase companies that generate less than 75% of their total revenue from transactions involving rental-purchase agreements. Under the substitute amendment, these companies may elect whether to file notice with DFI. Under the bill, as introduced, the act of filing of notice with DFI triggers the exemption from the Wisconsin Consumer Act. Accordingly, the substitute amendment permits qualifying rental-purchase companies to elect whether to be regulated under current law, including the Wisconsin Consumer Act, or under the regulations created under the bill.

Additionally, Assembly Substitute Amendment 1 amends the bill to specify that percentage rate calculations may be disclosed in rental-purchase agreements, but may not be mandated. Under the bill, as introduced, rental-purchase companies are prohibited from disclosing percentage rate calculations in rental-purchase agreements.

The substitute amendment also excludes musical instruments intended to be used in schools from the bill's definition of "rental property."

LEGISLATIVE HISTORY

2011 Assembly Bill 582 was introduced on February 17, 2012, by Representatives Petryk, Bernier, Litjens, Stone, and Suder, cosponsored by Senator Moulton. On March 13, 2012, Representative Petryk introduced Assembly Substitute Amendment 1. On March 15, 2012, the Assembly adopted Assembly Substitute Amendment 1 and passed Assembly Bill 582 on a vote of Ayes, 52; Noes, 39; and Paired, 2.

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