

1999 ASSEMBLY BILL 849

INSERT ANALYSIS

March 7, 2000 - Introduced by Representatives URBAN, OLSEN, VRAKAS, LADWIG, HUEBSCH, KREIBICH, HAHN and MUSSER. Referred to Committee on Assembly Organization.

1 AN ACT to create 409.104 (12m), 421.202 (7m) and chapter 435 of the statutes;
2 relating to: regulating rental-purchase companies and granting rule-making
3 authority.

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 chapter 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:

Scope

The bill regulates the activities of a rental-purchase company, which is defined in the bill as any person who regularly provides the use of personal property through

engaged in the business of entering into

subchapter of the statutes

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or acquiring or servicing rent-to-own agreements

rent-to-own agreements and to whom rental payments are initially payable under a particular rent-to-own agreement. 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 chapter. 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 register with the department of financial institutions (department) and pay a registration fee. The bill permits the department to examine the books and records of a rental-purchase company to determine compliance with the new chapter. The department may suspend or revoke a rental-purchase company's registration if the rental-purchase company violates the new chapter and the violation is not isolated or inadvertent, or if the rental-purchase company fails to pay the registration fee, or if the department becomes aware of a fact that would be grounds for the department's refusal to honor the rental-purchase company's registration. If certain conditions are satisfied, a rental-purchase company may appeal an order of the department that suspends or revokes the rental-purchase company's registration.

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) A statement indicating that the total dollar amount of all rental payments necessary to acquire ownership does not include other, separately identified, charges that the rental-purchase company may assess.
- (8) A summary of the lessee's early purchase option.
- (9) A description of the lessee's responsibility in the event of theft of or damage to the rental property.

and make annual reports to the division

obtain a license from

division

division

refusing

grant

division of banking in the

division

division

an annual license fee

subchapter

among other things

license fees

a license

license

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The total dollar amount and an itemization of all taxes, liability damage waiver fees, fees for optional services, processing and application fees, and delivery charges that the lessee would incur if the lessee were to rent the property until the lessee acquires ownership (17) (8) An itemization and description of any other charges or fees the rental-purchase company may charge the lessee (9)

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with certain exceptions

indicating that the rental-purchase company is required to service the rental property to maintain it in good working condition.

- 11 (11) A statement identifying the party that is responsible for service and maintenance of the rental property and a statement regarding any warranty that covers the rental property.
- 12 (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 (13) A description of the lessee's right to reinstate the rental-purchase agreement.
- 14 (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 chapter, a provision requiring rental payments totaling more than the total dollar amount of all rental payments necessary to acquire ownership, or a provision requiring the purchase of insurance from the rental-purchase company to insure the rental property. Several of these prohibitions are similar to prohibitions contained in the consumer act.

lessee to

reasonable for a provision requiring the lessee to pay attorney fees

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. 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, upon the request of a lessee, a rental-purchase company must provide the lessee with a receipt for any payment made by the lessee. Under the consumer act, a payment receipt must be provided without request, unless the method of payment itself is evidence 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.

Note: The lessee's payment obligations must be evidenced by a single dated instrument that includes the signatures of the rental-purchase company and lessee.

in cash or upon request for any other type of payment

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.

Note: The bill permits a lessee to cancel a liability waiver at the end of any rental term.

Note: The rental-purchase company may charge a fee if a lessee or designated person requests more than one copy in any 12-month period.

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

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a sales tax item of 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 any property, and to the right to acquire ownership of that 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 accordingly as the lessee's monthly income increases. A rental-purchase company may reasonably require continuing evidence of reduced monthly income. In order 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

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(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.

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, in order 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.
- (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.

In addition, a rental-purchase company may not threaten criminal prosecution, unless the rental-purchase company reasonably believes, in good faith,

except that the rental-purchase company may inform the lessee of the prohibition against theft and the penalties for violating that prohibition.

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have a legitimate business need for the information

criminal

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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

~~that the lessee has committed a crime and the rental-purchase company intends to seek the filing of criminal charges against the lessee. 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, except that, with certain exceptions, the consumer act also prohibits a creditor from disclosing to another person information affecting a customer's reputation, if the creditor knows or has reason to know that the person has no legitimate business need for the information.~~

faith, consistent with reasonable standards of fair dealing

[ital. bold]

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 subject to a \$1,000 fine and imprisonment for up to six months. In addition,

Sub With certain exceptions, a rental-purchase company that violates the new chapter 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.

subject to a \$1,000 fine and imprisonment for up to six months. In addition,

for any violation of the subchapter

The bill establishes two defenses to a rental-purchase company's liability. First, a rental-purchase company is not liable for any violation resulting from an error of the rental-purchase company if, within 60 days after discovering the error, the rental-purchase company notifies the lessee of the error and makes necessary adjustments to correct the error. Second, a rental-purchase company is not liable for any violation that the rental-purchase company shows, by a preponderance of the evidence, was unintentional and resulted from a bona fide error that the rental-purchase company has acted to correct and that took place notwithstanding the maintenance of procedures reasonably adopted to avoid the error. The bill specifies that a bona fide error includes a clerical error, an error in making calculations, and an error due to computer malfunction or computer programming or a printing error. The consumer act does not contain similar defenses.

An action brought by a lessee for a violation of the new chapter must be commenced within one year after the date of the violation, two years after the date on which the rent-to-own agreement was entered into, or one year after the date of the last payment, whichever is later. This statute of limitations is generally the same as the statute of limitations under the consumer act.

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

LEAD INSD

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

SECTION 1. 409.104 (12m) of the statutes is created to read:

409.104 (12m) To a transfer of an interest under a rent-to-own agreement under ch. 435; or

SECTION 2. 421.202 (7m) of the statutes is created to read:

421.202 (7m) A rent-to-own agreement under ch. 435;

SECTION 3. Chapter 435 of the statutes is created to read:

CHAPTER 435

RENT-TO-OWN AGREEMENTS

SUBCHAPTER I

SCOPE

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

(2) EXCLUSIONS. This chapter does not apply to any of the following:

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

(b) A lease of a motor vehicle, as defined in s. 218.01 (1) (m).

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

SOON

ZMNR

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 849

March 21, 2000 - Offered by COMMITTEE ON FINANCIAL INSTITUTIONS.

re-gen

INSERT ANALYSIS

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.

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

6 SECTION 1. Chapter 218 (title) of the statutes is amended to read:

7 CHAPTER 218

8 FINANCE COMPANIES, AUTO

9 DEALERS, ADJUSTMENT COMPANIES

10 AND, COLLECTION AGENCIES,

11 RENTAL-PURCHASE COMPANIES AND

12 RENT-TO-OWN AGREEMENTS

1 SECTION 2. Subchapter XI of chapter 218 [precedes 218.61] of the statutes is
2 created to read:

3 CHAPTER 218

4 SUBCHAPTER XI

5 RENTAL-PURCHASE COMPANIES AND

6 RENT-TO-OWN AGREEMENTS

7 INSERT FROM P. 3

8 218.61² Scope. (1) INAPPLICABILITY OF OTHER LAWS. A rent-to-own agreement
9 under this subchapter is not governed by the laws relating to a security interest, as
10 defined in s. 401.201 (37)¹, or a lease, as defined in s. 411.103 (1) (j)¹, and is not
11 governed by chs. 421 to 427 and 429.

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

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

15 (b) A lease of a motor vehicle, as defined in s. 218.01¹(1)(m)⁽²²⁾.

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

18 218.61⁴ Territorial application. For the purposes of this subchapter, a
19 rent-to-own agreement is entered into in this state if any of the following applies:

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

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

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218.614, Obligation of good faith. Every agreement or duty under this

2 subchapter imposes an obligation of good faith in its performance or enforcement.

3 In this section, "good faith" means honesty in fact in the conduct or transaction

4 concerned and the observance of reasonable commercial standards of fair dealing.

5 **218.616, Definitions.** In this subchapter:

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

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

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

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

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

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

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

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

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

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CONT.

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MOVE w/ s. 218.61 ON P. 3 TO 2-6

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

3 **218.617 License required.** No person may operate as a rental-purchase
4 company without a valid license issued by the division under this subchapter.

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

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

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

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

14 1. The division may disclose information received under par. (a) 1. or 2. to the
15 department of revenue for the sole purpose of requesting certifications under s.
16 73.0301. ✓

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

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

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

1 **218.62 Issuance or denial of license. (1) INVESTIGATION.** Upon the filing
2 of an application under s. 218.618 (1)[✓] and the payment of any applicable fee, the
3 division shall perform an investigation. Except as provided in sub. (3)[✓], if the division
4 finds that the character, general fitness[✓], and financial responsibility of the applicant;
5 the members of the applicant, if the applicant is a partnership, limited liability
6 company[✓], or association; and the officers and directors of the applicant, if the
7 applicant is a corporation[✓]; warrant the belief that the business will be operated in
8 compliance with this subchapter, the division shall issue a license to the applicant.

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

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

17 (a) The applicant fails to provide the information required under s. 218.618 (1)
18 (a)[✓].

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

24 (c) The applicant fails to comply, after appropriate notice, with a subpoena or
25 warrant issued by the department of workforce development or a county child

1 support agency under s. 59.53 (5)[✓] and related to paternity or child support
2 proceedings or is delinquent in making court-ordered payments of child or family
3 support, maintenance, birth expenses, medical expenses[✓] or other expenses related
4 to the support of a child or former spouse, as provided in a memorandum of
5 understanding entered into under s. 49.857[✓]. An applicant whose application is
6 denied under this paragraph[✓] for delinquent payments is entitled to a notice and
7 hearing under s. 49.857[✓] but is not entitled to any other notice or hearing under this
8 section.

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

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

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

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

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

1 **218.624 Revocation, suspension[Ⓢ] and restriction of license. (1)**

2 DISCRETIONARY SUSPENSION OR REVOCATION. The division may issue an order
3 suspending or revoking any license issued under this subchapter if the division finds
4 that any of the following applies:

5 (a) The licensee has violated any of the provisions of this subchapter, any rules
6 promulgated under s. 218.63 (3) or any lawful order of the division under s. 218.63
7 (1).[✓]

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

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

13 (d) The licensee has failed to pay the annual license fee required under s.
14 218.622 (4)[✓] or has failed to maintain in effect any bond required under s. 218.618 (3).[✓]

15 (e) The licensee has failed to provide any additional information, data[Ⓢ] and
16 records required by the division, within the time period prescribed under s. 218.626
17 (2).[✓]

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

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

1 payments of child or family support, maintenance, birth expenses, medical expenses,
2 or other expenses related to the support of a child or former spouse, as provided in
3 a memorandum of understanding entered into under s. 49.857. A licensee whose
4 license is restricted or suspended under this subsection is entitled to a notice and
5 hearing only as provided in a memorandum of understanding entered into under s.
6 49.857 and is not entitled to any other notice or hearing under this section.

7 (3) MANDATORY REVOCATION; DELINQUENT TAXES. The division shall revoke a
8 license issued under this subchapter if the department of revenue certifies under s.
9 73.0301 that the licensee is liable for delinquent taxes. A licensee whose license is
10 revoked under this subsection for delinquent taxes is entitled to a notice under s.
11 73.0301 (2) (b) 1. b. and a hearing under s. 73.0301 (5) (a) but is not entitled to any
12 other notice or hearing under this section.

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

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

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

24 (c) If a written response containing a request for a contested case hearing under
25 s. 227.42 is received by the division within the time provided under par. (b) and if,

1 in the opinion of the division, the matter satisfies all of the conditions specified in s.
2 227.42 (1) (a) to (d),[✓] the matter shall be scheduled for a contested case hearing to
3 commence within 60 days after the date on which the division receives the written
4 response.

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

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

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

1 The licensee shall provide any additional information, data³ and records about the
2 change to the division within 20 days after the division requests the information,
3 data³ or records. The division shall determine the cost of investigating and processing
4 the change. The licensee shall pay the division's cost within 30 days after the division
5 demands payment.

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

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

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

20 **218.63 Powers and duties of division; administration. (1) ORDERS.** The
21 division may issue any general order, as defined in s. 217.02 (3)⁵, or special order, as
22 defined in s. 217.02 (10)⁶, in execution of or supplementary to this subchapter, except
23 that the division may not issue a general order or special order that conflicts with this
24 subchapter.

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

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

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

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

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

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

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

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

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

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

11 (2) ACCURACY OF DISCLOSURE. The information required under s. 218.634[✓] must
12 be accurate as of the time that it is disclosed to the lessee. If any information
13 subsequently becomes inaccurate as a result of any act, occurrence[✓] or agreement by
14 the lessee, the resulting inaccuracy is not a violation of this subchapter.

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

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

1 **218.634 Required provisions of rent-to-own agreement.** A
2 rental-purchase company shall include all of the following information, to the extent
3 applicable, in every rent-to-own agreement:

4 (1) **DESCRIPTION.** A brief description of the rental property, sufficient to identify
5 the rental property to the lessee and the rental-purchase company, including any
6 identification number, and a statement indicating whether the rental property is
7 new or used. A statement that incorrectly indicates that new rental property is used
8 is not a violation of this subchapter.

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

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

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

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

24 (6) **OTHER CHARGES AND FEES TO ACQUIRE OWNERSHIP.** The dollar amount, both
25 itemized and in total, of all taxes, liability damage waiver fees, fees for optional

1 services, processing fees, application fees and delivery charges that the lessee would
2 incur if the lessee were to rent the rental property until the lessee acquires
3 ownership, assuming that the lessee does not add or decline the liability damage
4 waiver or optional services after signing the rent-to-own agreement.

5 (7) TOTAL PAYMENTS TO ACQUIRE OWNERSHIP. The total of all charges to be paid
6 by the lessee to acquire ownership of the rental property, which shall consist of the
7 sum of the total dollar amount of all periodic rental payments disclosed under sub.
8 (5) and the total dollar amount of all other charges and fees disclosed under sub. (6),
9 along with a statement that this is the amount a lessee will pay to acquire ownership
10 of the rental property if the tax rates do not change and if the lessee does not add or
11 decline the liability damage waiver or optional services after signing the
12 rent-to-own agreement.

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

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

23 (10) RESPONSIBILITY FOR THEFT OR DAMAGE. A statement that, unless otherwise
24 agreed, the lessee is responsible for the fair market value of the rental property,
25 determined according to the early-purchase option formula under sub. (9), if the

1 rental property is stolen, damaged or destroyed while in the possession of or subject
2 to the control of the lessee. The statement shall indicate that the fair market value
3 will be determined as of the date on which the rental property is stolen, damaged or
4 destroyed.

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

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

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

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

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

5 **218.636 Prohibited provisions of rent-to-own agreement.** A
6 rental-purchase company may not include any of the following provisions in a
7 rent-to-own agreement:

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

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

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

16 **(4) 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 against an agent of the rental-purchase company or a waiver of any provision of this
19 subchapter.

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

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

25 **(7) ATTORNEYS FEES.** A provision requiring the lessee to pay attorney fees.

1 **218.638 Liability waiver.** A rental-purchase company may offer a liability
2 waiver to the lessee. The terms of the waiver shall be provided to the lessee in
3 writing, and the face of the writing shall clearly disclose that the lessee is not
4 required to purchase the waiver. The fee for the waiver may not exceed 10% of the
5 periodic rental payment due under the rent-to-own agreement. The lessee shall be
6 entitled to cancel the waiver at the end of any rental term.

7 **218.64 Early-purchase option.** An early-purchase option under a
8 rent-to-own agreement shall permit the lessee to purchase the rental property at
9 any time after the initial periodic rental payment for an amount determined
10 according to the early-purchase option formula under s. 218.634 (9).¹ As a condition
11 of exercising the early-purchase option, the rental-purchase company may require
12 the lessee to be current on the payments under the lessee's rent-to-own agreement
13 or to pay any past-due rental charges and other outstanding fees that are owed.

14 **218.642 Receipts and statements.** (1) RECEIPTS. A rental-purchase
15 company shall provide a written receipt to a lessee for any payment made by the
16 lessee in cash, or upon the request of the lessee for any other type of payment.

17 (2) STATEMENT DUE TO LESSEE. Subject to sub. (4),¹ upon the request of a lessee,
18 a rental-purchase company shall provide a written statement to the lessee showing
19 the lessee's payment history under each rent-to-own agreement between the lessee
20 and the rental-purchase company. A rental-purchase company is not required to
21 provide a statement covering any rent-to-own agreement that terminated more
22 than one year prior to the date of the lessee's request. A rental-purchase company
23 may provide a single statement covering all rent-to-own agreements or separate
24 statements for each rent-to-own agreement, at the rental-purchase company's
25 option.

1 (3) STATEMENT DUE TO 3RD PARTY. Subject to sub. (4), upon the written request
2 of a lessee, made during the term of or no later than one year after the termination
3 of a rent-to-own agreement, a rental-purchase company shall provide a written
4 statement to any person designated by the lessee, showing the lessee's payment
5 history under the rent-to-own agreement. *or, if appropriate, a lessee's designee*

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

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

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

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

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

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

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

1 **218.646 Advertising.** (1) DISCLOSURE REQUIRED. Except as provided under
2 sub. (2),¹ if an advertisement for a rent-to-own agreement refers to or states the
3 amount of a payment for a specific item of property, the rental-purchase company
4 shall ensure that the advertisement clearly and conspicuously states all of the
5 following:

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

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

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

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

15 **218.648 Referral transactions.** (1) PROHIBITED REFERRAL TRANSACTIONS. No
16 rental-purchase company may induce any individual to enter into a rent-to-own
17 agreement by giving or offering to give a rebate or discount to the individual in
18 consideration of the individual giving to the rental-purchase company the names of
19 prospective lessees² if the earning of the rebate or discount is contingent on the
20 occurrence of any event that takes place after the time that the individual enters into
21 the rent-to-own agreement.

22 (2) AUTHORIZED REFERRAL TRANSACTIONS. After entering into a rent to own
23 agreement, a rental-purchase company may give or offer to give a rebate or discount
24 to the lessee under the rent-to-own agreement³ in consideration of the lessee giving
25 to the rental-purchase company the names of prospective lessees. A rebate or

1 discount under this subsection[✓] may be contingent on the occurrence of any event that
2 takes place after the time that the names are given to the rental–purchase company.

3 **218.65 Termination of rent–to–own agreement.** The termination date of
4 a rent–to–own agreement is the earlier of the following:

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

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

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

19 (2) GRACE PERIODS. The following grace periods shall apply to periodic rental
20 payments made with respect to a rental–purchase agreement:

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

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

4 (3) COLLECTION, RECORDING ^{CS} AND LIMITATION OF LATE FEES. Late fees are subject
5 to all of the following limitations:

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

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

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

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

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

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

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

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

1 acquire ownership of the rental property, not more than 45 days have passed since
2 the date on which the rental property was returned to the rental–purchase company.

3 (2) AUTHORIZED CONDITIONS ON REINSTATEMENT. As a condition of reinstatement
4 under this section, the rental–purchase company may require the payment of all
5 past–due rental charges, any applicable late fees, a reinstatement fee not to exceed
6 \$5 and the periodic rental payment for the next term.

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

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

18 **218.656 Reduced periodic rental payment due to reduced income. (1)**

19 REDUCTION IN AMOUNT OF PERIODIC RENTAL PAYMENTS; REQUIRED EVIDENCE. (a)
20 *Reduction in amount of periodic rental payments.* If a lessee’s monthly income is
21 reduced by 25% or more due to pregnancy, disability, involuntary job loss, or
22 involuntary reduction in the amount of hours worked or wages earned, the
23 rental–purchase company shall reduce the amount of each periodic rental payment
24 due under the rent–to–own agreement by the same percentage that the lessee’s
25 monthly income is reduced or by 50%, whichever is less, for the period of time during

1 which the lessee's income is reduced. This ^{Paragraph}~~subsection~~ applies only if all of the
2 following conditions are satisfied:

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

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

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

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

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

24 (4) LIMITATION ON INCREASES. If a rental-purchase company, under sub. (2)[✓] or
25 (3),[✓] increases the amount or number of periodic rental payments due under a

1 rent-to-own agreement, the increase affects only the rights or duties of the lessee
2 to the extent authorized in sub. (2) or (3). No rental-purchase company, acting under
3 sub. (2) or (3), may increase the total dollar amount of periodic rental payments
4 necessary to acquire ownership of the rental property, or the amount of a periodic
5 rental payment, to greater than the amount disclosed in the rent-to-own agreement.

6 **218.658 Default and right to cure. (1) DEFAULT; GENERALLY.** A lessee is in
7 default under a rent-to-own agreement if any of the following occurs:

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

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

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

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

1 (4) NOTICE OF DEFAULT; EXCEPTION. A rental–purchase company is not required
2 to provide a notice of default and right to cure as a condition precedent to bringing
3 an action against a lessee if each of the following occurred twice during the 12 months
4 before the date of the current default with respect to the same rent–to–own
5 agreement:

6 (a) The lessee was in default.

7 (b) The rental–purchase company gave the lessee written notice of the default
8 and of the lessee’s right to cure under sub. (3).

9 (c) The lessee cured the default.

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

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

18 (1) USE OF FORCE. Use or threaten to use force or violence to cause physical harm
19 to the lessee or the lessee’s property or to a person related to the lessee.

20 (2) CRIMINAL PROSECUTION. Threaten criminal prosecution. It is not a violation
21 of this subsection for a rental–purchase company to inform a lessee of the existence
22 of s. 943.20 (1) (e) and the consequences of violating that ^{section} ~~statute~~

23 (3) DISCLOSURE OF FALSE INFORMATION. Disclose or threaten to disclose
24 information adversely affecting the lessee’s reputation for creditworthiness with
25 knowledge or reason to know that the information is false.

1 (4) COMMUNICATION WITH LESSEE'S EMPLOYER. Initiate or threaten to initiate
2 communication with the lessee's employer prior to obtaining final judgment against
3 the lessee, except for the purpose of enforcing an assignment of earnings authorized
4 under s. 218.68. This subsection does not prohibit a rental-purchase company from
5 communicating with a lessee's employer solely to verify employment status or
6 earnings or to determine if the employer has an established debt counseling service
7 or procedure.

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

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

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

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

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

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

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

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

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

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

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

1 Each day that a failure described in this subsection continues constitutes a separate
2 offense.

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

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

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

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

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

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

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

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

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

1 (6) LIABILITY FOR MULTIPLE VIOLATIONS. Multiple violations of this subchapter
2 in connection with the same rent-to-own agreement shall entitle the lessee to only
3 a single recovery under sub. (1), except that a violation of s. 218.66 that occurs after
4 recovery has been granted with respect to that rent-to-own agreement may entitle
5 the lessee to an additional recovery under sub. (1).

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

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

15 **218.688 Venue. (1) GENERALLY.** The venue for a claim arising out of a
16 rent-to-own agreement is any of the following counties:

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

18 (b) Where the rental property is located.

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

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

1 improper venue, the court shall transfer the action to any county that is a proper
2 place of trial.

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

6 SECTION 3. 220.02 (2) (b)[√] of the statutes is amended to read:

7 220.02 (2) (b) The lending of money under s. 138.09 or those relating to finance
8 companies, motor vehicle dealers, adjustment service companies, community
9 currency exchanges, rental-purchase companies and collection agencies under ch.
10 218.

11 SECTION 4. 220.02 (3)[√] of the statutes is amended to read:

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

20 SECTION 5. 409.104 (12m)[√] of the statutes is created to read:

21 409.104 (12m) To a transfer of an interest under a rent-to-own agreement
22 under subch. XI of ch. 218; or

23 SECTION 6. 421.202 (7m)[√] of the statutes is created to read:

24 421.202 (7m) A rent-to-own agreement under subch. XI of ch. 218;

25 SECTION 7. Nonstatutory provisions.

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

13 **SECTION 8. Initial applicability.**

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

18 (2) LIABILITY WAIVERS. The treatment of section 218.638[✓] of the statutes first
19 applies to liability waivers entered into on the effective date of this subsection.

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

1 (4) PRICE CARDS. The treatment of section 218.644[✓] of the statutes first applies
2 to a rental–purchase company that displays property on the effective date of this
3 subsection.

4 (5) ADVERTISING. The treatment of section 218.646 of the statutes first applies
5 to a rental–purchase company that advertises a rent–to–own agreement on the
6 effective date of this subsection.

7 (6) REFERRAL TRANSACTIONS. The treatment of section 218.648 of the statutes
8 first applies to a rental–purchase company giving or offering to give a rebate or
9 discount to an individual on the effective date of this subsection.

10 (7) ASSIGNMENT OF EARNINGS. The treatment of section 218.68 of the statutes
11 first applies to a rental–purchase company taking or arranging for an assignment
12 of earnings on the effective date of this subsection.

13 **SECTION 9. Effective dates.** This act takes effect on the day after publication,
14 except as follows:

15 (1) RENT-TO-OWN AGREEMENTS. The treatment of sections 220.02 (2) (b)[✓] and (3)[✓],
16 409.104 (12m)[✓] and 421.202 (7m)[✓], subchapter XI of chapter 218[✓] and chapter 218 (title)
17 of the statutes and SECTION 8 (1) to (7)[✓] of this act take effect on the first day of the
18 6th month beginning after publication.

19 (END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

February 26, 2001

MEMORANDUM

To: Representative Urban

From: Robert J. Marchant, Legislative Attorney

Re: LRB-2573 Rental-purchase companies

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-4454 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

*Please also
e-mail a
copy*

Barman, Mike

From: Barman, Mike

Sent: Wednesday, April 04, 2001 9:54 AM

To: Rep.Urban

Subject: LRB-2573/1 (attached - per your request)



RJM
2

MEMORANDUM

TO: State Representative Frank Urban
FROM: Peter A. Peshek
DATE: March 26, 2001
RE: LRB 2573/1, REGULATION OF THE RENTAL PURCHASE INDUSTRY

The text of the statutes in draft legislation LRB-2573/1 is fine. The minor changes from 1999 Assembly Bill 849, passed in the prior session, simply put the statute in a more readable order.

With respect to the LRB comments, we believe that, on Page 3, in the second line above the side-heading, "Disclosure," the word "reasonable" should be deleted, in order to reflect the statutory language. Other than that, the LRB comments accurately reflect the terms of the proposed statute.

Thank you for providing this to us for review.

Is this a
change we need to
make?

Jana

PAP:slb