



Wisconsin Briefs

from the Legislative Reference Bureau



Brief 04-11

Updated September 2004

RENT-TO-OWN STORES

INTRODUCTION

Under the Wisconsin Consumer Act, rent-to-own stores are required to disclose the annual interest rates on purchases. On August 4, 1999, the Wisconsin Department of Justice (DOJ) filed a lawsuit against *Rent-A-Center*, the nation's largest rent-to-own company, for violating the Wisconsin Consumer Act and the state's deceptive advertising law. On November 11, 2002, the company agreed to pay \$8.4 million to settle the lawsuit, but denied any wrongdoing. This settlement strengthened the standards for disclosure by rent-to-own stores by requiring them to comply with the Wisconsin Consumer Act.

During the 2003 Session, the Wisconsin Legislature considered but failed to pass 2003 Senate Bill 486 and Assembly Bill 898. Both bills would have created a new subchapter in the Wisconsin Consumer Act known as the "Wisconsin Rental-Purchase Agreements Act".

BACKGROUND

The Association for Progressive Rental Organizations (APRO), the national trade organization for the rental-purchase industry, reports that rent-to-own is a \$5.7 billion per year industry serving about 2.8 million customers annually through an estimated 7,500 stores or vendors nationwide. In Wisconsin, the Wisconsin Rental Dealers Association, a member of APRO, reports that currently there are 60 rental-purchase stores that generate \$31.5 million in annual revenues. However, the Department of Financial Institutions has reported that there are 40 rental-purchase companies operating at 70 locations in Wisconsin,

and others claim that there are probably fewer than a dozen stores left in Wisconsin.

Rent-to-own stores offer to rent consumers a variety of household items with no down payment and low weekly installments. Customers who make required payments have the option to own the item or return it. However, because of the fees retailers charge, consumers may end up paying at least twice the market value of the item.

In information it circulates to the public, the National Consumer Law Center reports that a consumer will often pay at least three or four times what it would cost to buy an item directly. Furthermore, the center claims that a rent-to-own company will sometimes rent customers a used item and indicate it is new. Under rent-to-own agreements, if a consumer misses a payment, the company could repossess the merchandise, leaving the consumer with nothing to show for the payments made.

The U.S. Public Interest Research Group argues that the rent-to-own industry should be subject to the same prohibitions against unfair practices, usury laws, interest rate caps, and other consumer protections as are all other credit transactions.

However, the rent-to-own industry argues that it fulfills a necessary purpose in the business world because it assists customers who cannot get needed items any other way. In rent-to-own based surveys, the rent-to-own industry reports that most rental-purchase companies earn less than six percent in after-tax profits annually, an amount less than the profit margin realized by many other consumer transaction businesses.

Currently, 46 states have enacted laws that regulate rent-to-own transactions in a manner

similar to leases, mandating a variety of disclosures and other requirements. In addition, courts in Wisconsin, Minnesota, and New Jersey have ruled that rent-to-own transactions are credit sales and subject to state laws governing credit sales. On the other hand, Wisconsin requires interest rate disclosure under the Wisconsin Consumer Act. Vermont does not regulate rent-to-own transactions as credit sales, but does require disclosure of the “effective annual percentage rate”.

WHO USES RENT-TO-OWN STORES

U.S. Federal Trade Commission Study. The U.S. Federal Trade Commission (FTC) conducted a study, “Survey of Rent-to-Own Customers”, between December 1998 and February 1999. Trade commission staff surveyed over 12,000 randomly selected households and identified more than 500 rent-to-own customers who were interviewed about their experiences with rent-to-own businesses.

The study found that of the rent-to-own customers surveyed: 31% were African American, 79% were 18 to 44 years old, 73% had a high school education or less, 59% had household incomes less than \$25,000, 67% had children living in the household, 62% rented their residence, 53% lived in the South, and 68% lived in nonsuburban areas.

Their investigation also found that:

- Customers ended up purchasing 70% of rent-to-own merchandise.
 - Customers purchased 90% of the merchandise on which they made substantial payments (6 months or more).
 - 75% of customers expressed satisfaction with their transactions.
 - Over a 5-year period, 40% of the customers surveyed used rent-to-own merchandise on more than one occasion.
 - Nearly half of all rent-to-own customers were late in making a payment. Of these, 64% reported “good” or “very good” treatment and another 20% “fair” treatment.
- Customers rented merchandise they purchased from a rent-to-own store for an average of 14 months, with 47% making the purchase in less than a year.

Among the difficulties reportedly found were that:

- 19% of customers were dissatisfied with their experience primarily because of prices paid. Others reported problems with merchandise or repair service, treatment by store employees, hidden or added costs, and miscellaneous issues.
- 27% of all rent-to-own customers complained about price.
- While a substantial majority of late payment customers reported good treatment, a small minority, 15%, reported being treated poorly, with 11% indicating possible abusive collection practices.

As a result, the FTC concluded that:

- Regulations should ensure that customers have the information and protections appropriate for a purchase transaction. Clear and accurate disclosure of the total cost and other terms of purchase would allow potential customers to compare rent-to-own transactions to other alternatives, and would help ensure that consumers choosing rent-to-own transactions do so on an informed basis.
- Regulatory policies mandated for other types of purchases should be applied to rent-to-own transactions only after consideration of the potential costs and benefits.

RENT-TO-OWN REGULATION IN WISCONSIN

In Wisconsin, rent-to-own transactions are subject to the Wisconsin Consumer Act (Chapters 421 through 427, Wisconsin Statutes). The consumer act grants consumers certain rights and remedies and contains notice and disclosure requirements and prohibitions relating to consumer credit transactions. Thus, a consumer lease that has a term of more than four

months is among the credit transactions that are subject to the consumer act. 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. Most importantly, under the Wisconsin Consumer Act, rent-to-own stores are required to disclose the annual interest rates on purchases.

Legislative Background. Legislation to specifically regulate rent-to-own companies in Wisconsin first appeared in the 1999 legislative session with the introduction of 1999 Assembly Bill 849, but the bill failed to pass.

Subsequently, in the 2001 legislative session, the legislature inserted regulatory provisions in 2001 Senate Bill 55 (the executive budget bill), but Governor Scott McCallum vetoed them.

In his veto message, Governor McCallum stated that he vetoed those provisions because they did not adequately address the common issues of consumer protection. Although the provisions recognized that the rental purchase industry offers a service that is in some ways different from credit sales, they did not sufficiently recognize issues common to both rental purchase and credit sales merchants. One of these issues is disclosure of annual interest rates. Without full disclosure of these rates, comparison shopping by consumers becomes even more difficult.

2001 Senate Bill 473 and Assembly Bill 393 were subsequently introduced, but they also failed to pass.

2003 SENATE BILL 486/ASSEMBLY BILL 898

During the 2003 Session, the Wisconsin Legislature considered but did not pass 2003 Senate Bill 486 and 2003 Assembly Bill 898. Both bills would have created a new statutory subchapter known as the “Wisconsin Rental-

Purchase Agreements Act” in the Wisconsin Consumer Act.

Rental-Purchase Agreement Provisions. The bills provided that every agreement must be executed or performed in good faith and consistent with reasonable standards of fair dealing.

“Rental-purchase transactions” were defined as: an agreement between a rental-purchase company and a lessee: (a) for the use of property primarily for personal, family, or household purchases; (b) that has an initial term of 4 months or less or is automatically renewable with each payment; (c) that does not obligate or require the lessee to renew the agreement beyond the initial term; and (d) that permits, but does not obligate, the lessee to acquire ownership.

In addition, the bills would have required every rental-purchase agreement to contain all of the following provisions, to the extent applicable:

- A description of the rental property.
- The cost of purchasing the rental property on the date on which the rental-purchase agreement is executed.
- A statement indicating that it may cost less to purchase the rental property from a retailer other than the rental-purchase company.
- The amount of the rental payments, and the amount of any payment due when the rental-purchase agreement is executed or the rental property is delivered.
- The total dollar amount, total number, and timing of all rental payments necessary to acquire ownership of the rental property.
- An itemization and description of any other charges or fees the rental-purchase company may charge the consumer.
- A summary of the consumer’s early-purchase option.
- A statement that the consumer may terminate the rental-purchase agreement at any time, without penalty, by surrendering the

rental property in good condition, and a description of the consumer's right to reinstate the rental-purchase agreement.

SENATE SUBSTITUTE AMENDMENT 2 TO 2003 SENATE BILL 486/ASSEMBLY SUBSTITUTE AMENDMENT 2 TO 2003 ASSEMBLY BILL 898

Senate Substitute Amendment 2 to 2003 Senate Bill 486 and Assembly Substitute Amendment 2 to 2003 Assembly Bill 898 were identical amendments recommended for adoption by the Joint Committee on Finance. Unlike the bills, the substitute amendments provided for the regulation of rental purchase companies and rental purchase agreements under the Wisconsin Consumer Act. Many of the provisions in the substitute amendments, however, were identical to those in the bills, though situated within the legal framework of the Wisconsin Consumer Act. Among the key provisions of the substitute amendments were the following:

- Required rental-purchase agreements to include the cash price of rental property, the cost of rental services over the cash price, and the total of all charges to acquire ownership in the property.
- Prohibited rental-purchase agreements from containing provisions granting the rental-purchase company a security interest in any property other than the rental property, permitting a rental-purchase company to enter a lessee's premises without the lessee's contemporaneous permission, or requiring rental payments in excess of the total dollar amount of all rental payments necessary to acquire ownership in the property.
- Limited the cash price for rental property to an amount not more than twice the

actual purchase price of the property paid by the rental-purchase company and provided that the total amount for rental services may not exceed the cash price of the property.

- Required the Administrator of the Division of Banking in the Department of Financial Institutions to promulgate rules pertaining to unconscionable conduct by rental-purchase companies.
- Mandated the display of price cards on or next to property offered for rent and provided that the cards must include the cash price to purchase the property, the timing of rental payments, the total number and amount of all rental payments necessary to acquire ownership, the cost of rental services, and whether the property is new or used.
- Provided that a lessee is in default if he or she fails to return rental property within seven days after the rental term expires; required the rental-purchase company to provide written notice of the default and of the right to cure before bringing an action, unless the lessee had defaulted at least twice in the preceding 12 months and the rental-purchase company had given notice of the default and the default had been cured; specified that a rental purchase company may not take possession of rental property by means other than legal process until at least 48 hours have elapsed after the company has made a reasonable effort to contact the lessee and request the return or voluntary surrender of the property.
- Provided that no person may operate as a rental-purchase company without a license issued by the Division of Banking in the Department of Financial Institutions.