

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 761

Introduced by Scheer, 19.

Read first time January 06, 2016

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Consumer Rental Purchase Agreement Act;
- 2 to amend sections 69-2103, 69-2104, and 69-2112, Revised Statutes
- 3 Cumulative Supplement, 2014; to change and update certain federal
- 4 references; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 69-2103, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 69-2103 For purposes of the Consumer Rental Purchase Agreement Act:

4 (1) Advertisement means a commercial message in any medium that
5 aids, promotes, or assists directly or indirectly a consumer rental
6 purchase agreement but does not include in-store merchandising aids such
7 as window signs and ceiling banners;

8 (2) Cash price means the price at which the lessor would have sold
9 the property to the consumer for cash on the date of the consumer rental
10 purchase agreement for the property;

11 (3) Consumer means a natural person who rents property under a
12 consumer rental purchase agreement;

13 (4) Consumer rental purchase agreement means an agreement which is
14 for the use of property by a consumer primarily for personal, family, or
15 household purposes, which is for an initial period of four months or
16 less, whether or not there is any obligation beyond the initial period,
17 which is automatically renewable with each payment, and which permits the
18 consumer to become the owner of the property. A consumer rental purchase
19 agreement in compliance with the act shall not be construed to be a lease
20 or agreement which constitutes a credit sale as defined in 12 C.F.R.
21 1026.2(a)(16) ~~12 C.F.R. 226.2(a)(16)~~, as such regulation existed on
22 January 1, 2016 ~~2011~~, and 15 U.S.C. 1602(h) ~~15 U.S.C. 1602(g)~~, as such
23 section existed on January 1, 2016 ~~2011~~, or a lease which constitutes a
24 consumer lease as defined in 12 C.F.R. 1013.2 ~~12 C.F.R. 213.2(e)~~, as such
25 regulation existed on January 1, 2016 ~~2011~~. Consumer rental purchase
26 agreement does not include:

27 (a) Any lease for agricultural, business, or commercial purposes;

28 (b) Any lease made to an organization;

29 (c) A lease or agreement which constitutes an installment sale or
30 installment contract as defined in section 45-335;

31 (d) A security interest as defined in subdivision (35) of section

1 1-201, Uniform Commercial Code; and

2 (e) A home solicitation sale as defined in section 69-1601;

3 (5) Consummation means the occurrence of an event which causes a
4 consumer to become contractually obligated on a consumer rental purchase
5 agreement;

6 (6) Department means the Department of Banking and Finance;

7 (7) Lease payment means a payment to be made by the consumer for the
8 right of possession and use of the property for a specific lease period
9 but does not include taxes imposed on such payment;

10 (8) Lease period means a week, month, or other specific period of
11 time, during which the consumer has the right to possess and use the
12 property after paying the lease payment and applicable taxes for such
13 period;

14 (9) Lessor means a person who in the ordinary course of business
15 operates a commercial outlet which regularly leases, offers to lease, or
16 arranges for the leasing of property under a consumer rental purchase
17 agreement;

18 (10) Property means any property that is not real property under the
19 laws of this state when made available for a consumer rental purchase
20 agreement; and

21 (11) Total of payments to acquire ownership means the total of all
22 charges imposed by the lessor and payable by the consumer as a condition
23 of acquiring ownership of the property. Total of payments to acquire
24 ownership includes lease payments and any initial nonrefundable
25 administrative fee or required delivery charge but does not include
26 taxes, late charges, reinstatement fees, or charges for optional products
27 or services.

28 Sec. 2. Section 69-2104, Revised Statutes Cumulative Supplement,
29 2014, is amended to read:

30 69-2104 (1) Before entering into any consumer rental purchase
31 agreement, the lessor shall disclose to the consumer the following items

1 as applicable:

2 (a) A brief description of the leased property sufficient to
3 identify the property to the consumer and lessor;

4 (b) The number, amount, and timing of all payments included in the
5 total of payments to acquire ownership;

6 (c) The total of payments to acquire ownership;

7 (d) A statement that the consumer will not own the property until
8 the consumer has paid the total of payments to acquire ownership plus
9 applicable taxes;

10 (e) A statement that the total of payments to acquire ownership does
11 not include other charges such as taxes, late charges, reinstatement
12 fees, or charges for optional products or services the consumer may have
13 elected to purchase and that the consumer should see the rental purchase
14 agreement for an explanation of these charges;

15 (f) A statement that the consumer is responsible for the fair market
16 value, remaining rent, early purchase option amount, or cost of repair of
17 the property, whichever is less, if it is lost, stolen, damaged, or
18 destroyed;

19 (g) A statement indicating whether the property is new or used. A
20 statement that indicates that new property is used shall not be a
21 violation of the Consumer Rental Purchase Agreement Act;

22 (h) A statement of the cash price of the property. When the
23 agreement involves a lease for two or more items, a statement of the
24 aggregate cash price of all items shall satisfy the requirement of this
25 subdivision;

26 (i) The total amount of the initial payments required to be paid
27 before consummation of the agreement or delivery of the property,
28 whichever occurs later, and an itemization of the components of the
29 initial payment, including any initial nonrefundable administrative fee
30 or delivery charge, lease payment, taxes, or fee or charge for optional
31 products or services;

1 (j) A statement clearly summarizing the terms of the consumer's
2 options to purchase, including a statement that at any time after the
3 first periodic payment is made the consumer may acquire ownership of the
4 property by tendering an amount which may not exceed fifty-five percent
5 of the difference between the total of payments to acquire ownership and
6 the total of lease payments the consumer has paid on the property at that
7 time;

8 (k) A statement identifying the party responsible for maintaining or
9 servicing the property while it is being leased, together with a
10 description of that responsibility and a statement that if any part of a
11 manufacturer's warranty covers the leased property at the time the
12 consumer acquires ownership of the property, such warranty shall be
13 transferred to the consumer if allowed by the terms of the warranty; and

14 (1) The date of the transaction and the names of the lessor and the
15 consumer.

16 (2) With respect to matters specifically governed by the Consumer
17 Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on
18 January 1, 2016 ~~2011~~, compliance with such act shall satisfy the
19 requirements of this section.

20 (3) Subsection (1) of this section shall not apply to a lessor who
21 complies with the disclosure requirements of the Consumer Credit
22 Protection Act, 15 U.S.C. 1667a, as such section existed on January 1,
23 2016 ~~2011~~, with respect to a consumer rental purchase agreement entered
24 into with a consumer.

25 Sec. 3. Section 69-2112, Revised Statutes Cumulative Supplement,
26 2014, is amended to read:

27 69-2112 (1) Any advertisement for a consumer rental purchase
28 agreement which refers to or states the amount of any payment or the
29 right to acquire ownership for any specific item shall also state clearly
30 and conspicuously the following if applicable:

31 (a) That the transaction advertised is a consumer rental purchase

1 agreement;

2 (b) The total of payments to acquire ownership; and

3 (c) That the consumer acquires no ownership rights until the total
4 of payments to acquire ownership is paid.

5 (2) Any owner or employee of any medium in which an advertisement
6 appears or through which it is disseminated shall not be liable under
7 this section.

8 (3) Subsection (1) of this section shall not apply to an
9 advertisement which does not refer to a specific item of property, which
10 does not refer to or state the amount of any payment, or which is
11 published in the yellow pages of a telephone directory or any similar
12 directory of business.

13 (4) With respect to matters specifically governed by the Consumer
14 Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on
15 January 1, 2016 ~~2011~~, compliance with such act shall satisfy the
16 requirements of this section.

17 Sec. 4. Original sections 69-2103, 69-2104, and 69-2112, Revised
18 Statutes Cumulative Supplement, 2014, are repealed.