

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 374
PROPOSED HOUSE COMMITTEE SUBSTITUTE S374-PCS15320-SU-50

Short Title: NC Lease-Purchase Act/Charter Sch. Priority.

(Public)

Sponsors:

Referred to:

March 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE LEASE-PURCHASE AGREEMENT ACT AND TO AMEND THE
3 LAW ON ENROLLMENT PRIORITY FOR CHARTER SCHOOLS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1.(a) The General Statutes are amended by adding a new Chapter to read:

6 "Chapter 25D.

7 "North Carolina Lease-Purchase Agreement Act.

8 "§ 25D-1. Title.

9 This Chapter shall be known and may be cited as the "North Carolina Lease-Purchase
10 Agreement Act."

11 "§ 25D-2. Definitions.

12 As used in this Chapter, the following definitions apply:

- 13 (1) Advertisement. – A commercial message in any medium that directly aids,
14 promotes, or assists a lease-purchase agreement.
- 15 (2) Cash price. – The price at which the property is offered for sale by the lessor
16 to a consumer for cash in the ordinary course of business, measured on the
17 date of the lease-purchase agreement.
- 18 (3) Consumer. – An individual who rents personal property under a
19 lease-purchase agreement to be used primarily for personal, family, or
20 household purposes.
- 21 (4) Consummation. – The point in time when a consumer becomes contractually
22 obligated via a lease-purchase agreement.
- 23 (5) Lessor. – A person who regularly provides the use of property through
24 lease-purchase agreements and to whom lease payments are initially payable
25 on the face of the lease-purchase agreement.
- 26 (6) Lease-purchase agreement. – An agreement for the use of personal property
27 by a consumer for an initial period of four months or less that contains all of
28 the following characteristics:
- 29 a. Automatic periodic renewal with each payment after the initial period.
- 30 b. Contains no provision obligating the consumer to continue use of the
31 property beyond the initial period.
- 32 c. A provision permitting the consumer to become the owner of the
33 property.

34 "§ 25D-3. Applicability of Chapter.

35 (a) The provisions of this Chapter do not apply to the following:



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- 1 (1) A lease-purchase agreement entered into primarily for business, commercial,
2 or agricultural purposes, or those entered into with governmental entities.
3 (2) A lease of a safe deposit box.
4 (3) A lease or bailment of personal property which is incidental to the lease of
5 property and which does not provide the consumer an option to purchase the
6 leased property.
7 (4) A lease of an automobile.
8 (b) A lease-purchase agreement meeting the requirements of this Chapter shall not be
9 governed by the statutes relating to any of the following:
10 (1) A home solicitation sale, as defined in G.S. 25A-38.
11 (2) A closed-end installment loan.
12 (3) A security interest, as defined in G.S. 25-1-201(35).

13 **"§ 25D-4. Disclosures.**

- 14 (a) The lessor shall disclose to the consumer in the lease-purchase agreement all of the
15 following, if applicable:
16 (1) The total number, full amount, and timing of all payments necessary to acquire
17 ownership of the property.
18 (2) A statement that the consumer will not own the property until the consumer
19 has satisfied all payment requirements necessary to acquire ownership.
20 (3) A statement that the consumer is responsible for the fair market value of
21 property lost, stolen, damaged, or destroyed, measured at the time the property
22 is lost, stolen, damaged, or destroyed.
23 (4) A brief description of the property, sufficient to identify the property to the
24 consumer and the lessor, and a statement indicating whether the property is
25 new or used. A statement that indicates that the property is used, if
26 subsequently found to be false, shall not constitute a violation of this Chapter.
27 (5) A statement of the cash price of the property. For agreements covering a lease
28 of five or more items as a set, a statement of the aggregate cash price of all
29 items.
30 (6) The total amount of payments to be paid prior to consummation of the
31 agreement or delivery of the property, whichever is later.
32 (7) A statement that the total amount of payments does not include other charges,
33 including late payment, default, pickup, and reinstatement fees.
34 (8) A statement clearly summarizing the terms of the consumer's option to
35 purchase, including a statement that the consumer has the right to exercise an
36 early purchase option. The terms shall list the formula or method used to
37 determine the price of the purchase of the property.
38 (9) A statement (i) identifying the party responsible for maintaining or servicing
39 the property during the term of the lease; (ii) providing a description of the
40 maintenance or service responsibility; and (iii) notifying the consumer that
41 any applicable express warranties covering the lease property at the time the
42 consumer acquires ownership of the property shall be transferred to the
43 consumer, if the terms of the warranty allow.
44 (10) The date of the transaction and the identities of the lessor and consumer.
45 (11) A statement that the consumer may terminate the agreement without penalty
46 by voluntarily surrendering or returning the property in good repair upon
47 expiration of any lease term along with any past due rental payments and fees
48 owed.
49 (12) Notice of the right to reinstate an agreement.

1 (b) For transactions involving more than one lessor, the disclosures required pursuant to
2 this section may be made by a single lessor, however, all lessors shall be bound by those
3 disclosures.

4 (c) All disclosures shall be made (i) at or before consummation of the agreement, (ii)
5 clearly and conspicuously, (iii) in writing, (iv) on the face of the agreement, and (v) above the
6 consumer's signature line. A copy of the lease-purchase agreement shall be provided to the
7 consumer.

8 (d) If a disclosure subsequently becomes inaccurate as the result of any act, occurrence,
9 or agreement by the consumer, the inaccuracy shall not constitute a violation of this Chapter.

10 (e) Compliance with the disclosure requirements of the federal Consumer Credit
11 Protection Act 15 U.S.C. § 1667, et seq., as amended, shall be deemed to meet the disclosure
12 requirements of this section.

13 **"§ 25D-5. Prohibited practices.**

14 (a) A lease purchase agreement may not contain any of the following:

15 (1) A confession of judgment.

16 (2) A negotiable instrument.

17 (3) A security interest or any other claim of a property interest in any goods except
18 those goods delivered by the lessor to the consumer pursuant to the terms of
19 the lease-purchase agreement.

20 (4) A wage assignment.

21 (5) A waiver of claims or defenses by the consumer.

22 (6) An authorization for the lessor or the lessor's agent to enter upon the
23 consumer's premises, or to commit any breach of the peace, in the
24 repossession of goods.

25 (b) No fees, charges, or penalties shall be chargeable to the consumer in conjunction with
26 a lease-purchase agreement unless those fees, costs, or penalties are disclosed in the agreement.

27 **"§ 25D-6. Reinstatement.**

28 (a) A consumer who fails to make a timely rental payment shall be entitled to reinstate
29 the agreement without losing any rights or options that exist under the terms of the agreement,
30 provided that the consumer pays all past due payments, fees, charges, and penalties within five
31 days of the renewal date, if the consumer pays monthly, or within two days of the renewal date,
32 if the consumer pays more frequently than monthly.

33 (b) If a consumer has (i) returned or voluntarily surrendered the property, other than
34 through judicial process, during the reinstatement period and (ii) paid less than two-thirds of the
35 total payments necessary to acquire ownership pursuant to the lease-purchase agreement, then
36 the consumer shall be entitled to reinstate the agreement for a period of at least 21 days after the
37 date the property was returned or voluntarily surrendered.

38 (c) If a consumer has (i) returned or voluntarily surrendered the property, other than
39 through judicial process, during the reinstatement period and (ii) paid two-thirds or more of the
40 total payments necessary to acquire ownership pursuant to the lease-purchase agreement, then
41 the consumer shall be entitled to reinstate the agreement for a period of at least 45 days after the
42 date the property was returned or voluntarily surrendered.

43 (d) Nothing in this section shall prohibit a lessor from repossessing the property pursuant
44 to the lease-purchase agreement. However, upon reinstatement by the consumer, the lessor shall
45 provide the consumer with the same property or substitute property of comparable quality and
46 condition.

47 **"§ 25D-7. Receipts and accounts.**

48 A lessor shall provide the consumer with a written receipt for each payment made by cash or
49 money order.

50 **"§ 25D-8. Renegotiations and extensions.**

1 (a) A lessor and consumer may renegotiate an existing lease-purchase agreement. A
2 renegotiated agreement shall satisfy and replace the prior agreement and shall be considered a
3 new lease-purchase agreement, subject to all of the terms of this Chapter.

4 (b) The following are not considered a renegotiation:

5 (1) The addition or return of property in an agreement covering multiple items of
6 property or the substitution of the property; provided, however, that the
7 average payment allocable to a payment period is not changed by more than
8 twenty-five percent (25%).

9 (2) A deferral or extension of one or more periodic payments or a portion of a
10 periodic payment.

11 (3) A reduction of charges in the agreement.

12 (4) A lease or agreement involved in a court proceeding.

13 (c) Disclosures shall not be required for an extension of a lease-purchase agreement.

14 **"§ 25D-9. Advertising.**

15 (a) If an advertisement for a lease-purchase agreement refers to or states the dollar
16 amount of any payment and the right to acquire ownership of any one specific item, the
17 advertisement shall clearly and conspicuously state all of the following, as applicable:

18 (1) The advertised transaction is a lease-purchase agreement.

19 (2) The total amount of payments necessary to acquire ownership.

20 (3) A consumer acquires no ownership rights if the total amount necessary to
21 acquire ownership is not paid.

22 (b) Nothing in this section shall be construed to impose liability on any entity, or its
23 employees, that serves as a medium in which an advertisement appears or is disseminated.

24 (c) A listing in a telephone or other similar business directory is not considered an
25 advertisement for the purposes of this section.

26 **"§ 25D-10. Conflict with Consumer Credit Protection Act.**

27 In all cases of irreconcilable conflict between the provisions of this Chapter and the
28 provisions of the Consumer Credit Protection Act, 15 U.S.C. § 1601, et seq., as amended, the
29 provisions of the Consumer Credit Protection Act shall control."

30 **SECTION 1.(b)** This section becomes effective January 1, 2019, and applies to
31 lease-purchase agreements advertised or entered into on or after that date.

32 **SECTION 2.** G.S. 115C-218.45(f) reads as rewritten:

33 "(f) The charter school may give enrollment priority to any of the following:

34 (1) Siblings of currently enrolled students who were admitted to the charter school
35 in a previous year.school. For the purposes of this section, the term "siblings"
36 includes any of the following who reside in the same household: half siblings,
37 stepsiblings, and children residing in a family foster home.

38 "

39 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
40 law.