

1 ENGROSSED SENATE  
2 BILL NO. 102

By: Newberry and Marlatt of the  
Senate

3 and

4 McDaniel of the House  
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7 An Act relating to consumer protection; prohibiting  
8 automatic renewal provision in rental contracts;  
9 providing exception; construing provision; amending  
10 59 O.S. 2011, Section 1955, as amended by Section 3,  
11 Chapter 278, O.S.L. 2016 (59 O.S. Supp. 2016, Section  
12 1955), which relates to the Oklahoma Rental-Purchase  
13 Act; modifying jurisdiction and venue for review;  
14 providing for codification; and providing an  
15 effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 222 of Title 15, unless there is  
19 created a duplication in numbering, reads as follows:

20 No contract for the rental of goods or rental-related services  
21 where all or substantially all of the contract terms are drafted by  
22 the provider of such goods or services shall contain any automatic  
23 renewal provision that extends the initial term of the contract for  
24 any period longer than six (6) months, unless the contract provides  
the nondrafting party with the ability to terminate at any time  
during the renewal period without penalty by providing notice of not

1 more than sixty (60) days. Nothing in this section shall be  
2 construed to prohibit the parties to the contract from entering into  
3 a new contract at the end of the initial term of the contract or at  
4 any time after an extension of the contract as provided by this  
5 section.

6 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1955, as  
7 amended by Section 3, Chapter 278, O.S.L. 2016 (59 O.S. Supp. 2016,  
8 Section 1955), is amended to read as follows:

9 Section 1955. A. A consumer damaged by a violation of the  
10 Oklahoma Rental-Purchase Act by a lessor is entitled to recover from  
11 the lessor:

12 1. Actual damages;

13 2. Twenty-five percent (25%) of an amount equal to the total  
14 amount of payments required to obtain ownership of the merchandise  
15 involved, except that the amount recovered under this section shall  
16 not be less than One Hundred Dollars (\$100.00) nor more than One  
17 Thousand Dollars (\$1,000.00), or in the case of a class action, an  
18 amount the court may allow, except that as to each member of the  
19 class no minimum recovery may be applicable and the total recovery  
20 other than for actual damages in any class action or series of class  
21 actions arising out of the same failure to comply by the same lessor  
22 shall not be more than the lesser of Five Hundred Thousand Dollars  
23 (\$500,000.00) or one percent (1%) of the net worth of the lessor;  
24 and

1        3. Reasonable attorney fees and court costs.

2        B. In addition to the enforcement powers provided in Section 6-  
3 102 of Title 14A of the Oklahoma Statutes, the Administrator of  
4 Consumer Credit or a duly authorized representative of the  
5 Administrator may investigate the books, accounts, papers,  
6 correspondence and records of any lessor licensed under the Oklahoma  
7 Rental-Purchase Act. For the purposes of this section, any person  
8 who advertises for, solicits or holds himself or herself out as  
9 willing to make rental-purchase transactions, shall be presumed to  
10 be a rental-purchase lessor. Each lessor shall pay to the  
11 Administrator an examination fee as prescribed by rule of the  
12 Commission on Consumer Credit. The Administrator may require  
13 payment of an examination fee either at the time of initial  
14 application, renewal of the license, or after an examination has  
15 been conducted.

16        C. The Administrator may promulgate rules and regulations  
17 necessary for the enforcement of the Oklahoma Rental-Purchase Act  
18 and consistent with all its provisions.

19        D. The Administrator shall appoint an independent hearing  
20 examiner to conduct all administrative hearings involving alleged  
21 violations of the Oklahoma Rental-Purchase Act. The independent  
22 hearing examiner shall have authority to exercise all powers granted  
23 by Article II of the Administrative Procedures Act in conducting  
24 hearings. The independent hearing examiner shall have authority to

1 recommend penalties authorized by the Oklahoma Rental-Purchase Act  
2 and issue proposed orders, with proposed findings of fact and  
3 proposed conclusions of law, to the Administrator pursuant to  
4 Article II of the Administrative Procedures Act. The Administrator  
5 shall review the proposed order and issue a final agency order in  
6 accordance with Article II of the Administrative Procedures Act.  
7 Any person aggrieved by a final agency order of the Administrator  
8 may obtain judicial review in accordance with the Administrative  
9 Procedures Act. The jurisdiction and venue of any such action shall  
10 be in the district court of Oklahoma County or the county of the  
11 aggrieved. Hearing costs may be assessed against the respondent,  
12 unless the respondent is the prevailing party.

13 E. After notice and hearing, the Administrator may decline to  
14 renew a license, or suspend or revoke any license issued pursuant to  
15 the Oklahoma Rental-Purchase Act for violating any provision of the  
16 Oklahoma Rental-Purchase Act or any rules promulgated by the  
17 Administrator, or in lieu of or in addition to such denial,  
18 suspension or revocation, order the refund of any unlawful or  
19 excessive fees, enter a cease and desist order or impose an  
20 administrative fine in an amount not less than One Hundred Dollars  
21 (\$100.00) nor more than Two Thousand Five Hundred Dollars  
22 (\$2,500.00) for each violation of the Oklahoma Rental-Purchase Act,  
23 not to exceed Five Thousand Dollars (\$5,000.00) for all violations  
24 of a lessor.

1 F. Except as otherwise expressly provided in the Oklahoma  
2 Rental-Purchase Act, the Administrative Procedures Act, Sections  
3 250.3 through 323 of Title 75 of the Oklahoma Statutes, applies to  
4 and governs all administrative actions and civil proceedings taken  
5 by the Administrator pursuant to the Oklahoma Rental-Purchase Act.

6 G. Where there are multiple lessees to a rental-purchase  
7 agreement, there shall be no more than one recovery under the  
8 Oklahoma Rental-Purchase Act for a violation.

9 H. A lessor is not liable under the Oklahoma Rental-Purchase  
10 Act for a violation thereof caused by the lessor's error if before  
11 the sixtieth day after the date the lessor discovers the error, and  
12 before an action under this section is filed or written notice of  
13 the error is received by the lessor from the lessee, the lessor  
14 gives the lessee written notice of the error and makes adjustments  
15 in the lessee's account as necessary to ensure that the lessee will  
16 not be required to pay an amount in excess of the amount disclosed  
17 and that the agreement otherwise complies with this subsection. Nor  
18 may a lessor be held liable in any action brought under the Oklahoma  
19 Rental-Purchase Act for a violation of the Oklahoma Rental-Purchase  
20 Act if the lessor shows by a preponderance of the evidence that the  
21 violation was not intentional and resulted from a bona fide error  
22 notwithstanding the maintenance of procedures reasonably adopted to  
23 avoid the error. A bona fide error includes, but is not limited to,  
24 a clerical, calculation, computer malfunction in programming, and

1 printing error, but not an error of legal judgment with respect to a  
2 lessor's disclosure obligations under the Oklahoma Rental-Purchase  
3 Act.

4 I. Any entity or individual offering to engage or engaged as a  
5 rental-purchase lessor in this state without a license shall be  
6 subject to an administrative fine not to exceed Five Thousand  
7 Dollars (\$5,000.00).

8 J. The Administrator may impose an administrative fine as  
9 prescribed in subsection I of this section, after notice and hearing  
10 in accordance with Article II of the Administrative Procedures Act.  
11 Any administrative order or settlement agreement may be enforced in  
12 the same manner as civil judgments in this state. The Administrator  
13 may file an application to enforce an administrative order or  
14 settlement agreement in the district court of Oklahoma County or the  
15 county of the aggrieved.

16 SECTION 3. This act shall become effective November 1, 2017.  
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1 Passed the Senate the 22nd day of March, 2017.

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2017.

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9 Presiding Officer of the House  
10 of Representatives