



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT RECEIPT

Received By Jeni Sumatarta

Time 2:15 p.m.

Date 5-7-98

Refer to
Legislative Secretary

MAY 06 1998

The Honorable Antonio R. Unpingco
Speaker
Mina'Bente Kuattro na Liheslaturan Guahan
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 5/7/98
Time: 10:45 AM
Rec'd by: [Signature]
Print Name: Janice Mesa

Dear Speaker Unpingco:

Enclosed please find Bill No. 441 (COR), "AN ACT TO ADD CHAPTER 56 TO TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING DISCLOSURES OF THE TERMS OF RENTAL-PURCHASE AGREEMENTS, TO PROVIDING SUBSTANTIAL RIGHTS TO CONSUMERS UNDER SUCH AGREEMENTS AND FOR OTHER PURPOSES.", which I have signed into law as **Public Law No. 24-186.**

This legislation includes a number of provisions concerning disclosure of terms of rental-purchase agreements which need to be included in law, and which are beneficial to the consumer. This legislation was introduced some time ago, and recent consultation with various attorneys general throughout the states have revealed deficiencies in this particular draft, which Guam will want to avoid. I am asking I Liheslaturan Guahan to make some specific amendments to this legislation in order to avoid difficulties that have occurred in other jurisdictions.

The principal deficiency that needs correction is that two protections offered to consumers in current laws appear to be deleted in this legislation, without being replaced by similar protections. For example, current consumer protection legislation on consumer credit transactions, already contained in Title 14, Guam Code Annotated, **limit the amount of interest that can be charged** to a consumer in a credit transaction. Rental-purchase agreements are a type of consumer credit transaction. The


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current law limits the amount of interest that can be charged, based on the unpaid balance of the amount financed. This legislation **deletes** the limitation on the amount of interest that can be charged on the unpaid balance of a consumer credit transaction known as a rental-purchase agreement. This is not in the best interest of the consumer, and leaves the consumer open to credit arrangements as high as the unwary consumer will tolerate. Although many of the provisions of this legislation may be beneficial, this deletion of the limitation on the amount of interest that can be charged is a fatal flaw.

A second deficiency in this legislation is that the protections currently offered to consumers where the **effective interest rate that is being charged a consumer must be clearly stated**. This legislation **deletes** the requirement of separately stating the effective interest rate so that the consumer can effectively compare a transaction under a rental-purchase agreement with other consumer credit transactions for the same or similar goods.

In order to avoid the problems that are already being experienced in other jurisdictions by implementation of this draft legislation, please amend this legislation to include these two important and vital consumer protections.

Very truly yours,


Carl T. C. Gutierrez
I Maga'lahañ Guåhan
Governor of Guam

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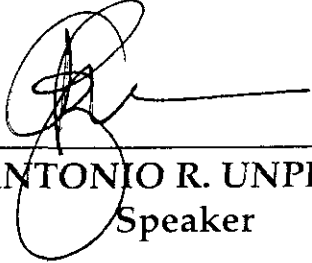
Attachment: copy attached for signed bill
 original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
 Legislative Secretary

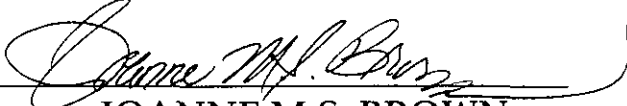
MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

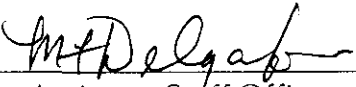
This is to certify that Bill No. 441 (COR), "AN ACT TO ADD CHAPTER 56 TO TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING DISCLOSURES OF THE TERMS OF RENTAL-PURCHASE AGREEMENTS, TO PROVIDING SUBSTANTIVE RIGHTS TO CONSUMERS UNDER SUCH AGREEMENTS AND FOR OTHER PURPOSES," was on the 27th day of April, 1998, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 1st day of May, 1998,
at 12:05 o'clock P.M.


Assistant Staff Officer
Governor's Office

APPROVED:


CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 5-6-98

Public Law No. 24-186

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1997 (FIRST) Regular Session

Bill No. 441 (COR)

As amended on the Floor.

Introduced by:

E. Barrett-Anderson
T. C. Ada
F. B. Aguon, Jr.
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
Mark Forbes
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
L. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

**AN ACT TO ADD CHAPTER 56 TO TITLE 22 OF
THE GUAM CODE ANNOTATED, RELATIVE TO
PROVIDING DISCLOSURES OF THE TERMS OF
RENTAL-PURCHASE AGREEMENTS, TO
PROVIDING SUBSTANTIVE RIGHTS TO
CONSUMERS UNDER SUCH AGREEMENTS AND
FOR OTHER PURPOSES.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Short Title.** This Act may be cited as the "*Consumer*
3 *Disclosure and Rental Purchase Agreement Act.*"

4 **Section 2. Findings and Purpose. (a) Findings.** *I Liheslaturan*
5 *Guahan* finds that a significant number of consumers engage in rental-
6 purchase transactions. These transactions have taken place, in many
7 instances, without adequate disclosures and other protection to consumers.

8 **(b) Purpose.** The purpose of the Consumer Disclosure and Rental
9 Purchase Agreement Act is:

10 (1) to assure meaningful disclosure of the terms of rental-
11 purchase agreements, including disclosures of all costs to consumers
12 under such agreements; and

13 (2) to provide certain substantive rights to consumers who enter
14 into rental-purchase agreements.

15 **Section 3. Consumer Disclosure and Rental Purchase Agreements**
16 **Act.**

17 Chapter 56 is hereby added to Title 22 of the Guam Code Annotated to read as
18 follows:

19 **"CHAPTER 56.**

20 **RENTAL PURCHASE AGREEMENTS.**

21 **Section 56101. Definitions.** For purposes of this
22 Chapter:

23 (a) The term '**advertisement**' means a commercial message in
24 any medium that aids, promotes or assists, directly or indirectly, a

1 rental-purchase agreement.

2 (b) The term '**agricultural purpose**' includes:

3 (1) the production, harvest, exhibition, marketing
4 transformation, processing or manufacture of agricultural
5 products by a natural person who cultivates plants or propagates
6 or nurtures agricultural products; and

7 (2) the acquisition of farmlands, real property with a farm
8 residence, or personal property and services used primarily in
9 farming.

10 (c) A term or clause is '**clear and conspicuous**' when it is so
11 written that a reasonable person against whom it is to operate ought to
12 have noticed it. A printed heading in capitals is conspicuous. Language
13 in the body of a form is conspicuous if it is in a larger or other
14 contrasting type or color. Whether a term or clause is clear and
15 conspicuous is for decision by the court.

16 (d) The term '**consumer**' means a natural person who leases or
17 rents personal property pursuant to a rental purchase agreement.

18 (e) The term '**date of consummation**' means the date on which a
19 consumer becomes contractually obligated under a rental-purchase
20 agreement.

21 (f) The term '**merchant**' means a person who regularly provides
22 the use of property through a rental-purchase agreement in the ordinary
23 course of business and to whom a consumer's initial obligation under
24 the agreement is payable.

25 (g) The term '**personal property**' means property that is not real

1 property under the laws of the state where the property is located when
2 it is offered or made available under a rental-purchase agreement, unless
3 otherwise stated.

4 (h) The term '**rental-purchase agreement**' means:

5 (a) a contract between a consumer and a merchant:

6 (i) under which the merchant agrees to provide the
7 consumer the use of the personal property for an initial
8 period of four (4) months or less;

9 (ii) that is automatically renewable with each
10 payment by the consumer; and

11 (iii) that permits, but does not obligate, the consumer
12 to become the owner of the property.

13 **Section 56102. Exempted Transaction.** (a) Rental-purchase
14 agreements which comply with this Act are not governed by the laws
15 relating to:

16 (1) a sale of a home under the Guam Homeowners'
17 Warranties Act;

18 (2) a consumer credit sale under the Guam Uniform
19 Commercial Credit Code in Title 14 of the Guam Code Annotated;
20 and

21 (3) a security interest as defined in 13 GCA §1201(37) and
22 governed by Article 9 of 13 GCA.

23 (b) This Act does *not* apply to the following:

24 (1) rental purchase agreements primarily for business,
25 commercial or agricultural purposes;

1 (2) a lease made to any governmental agencies or
2 instrumentalities or organizations;

3 (3) a lease of a safe deposit box; money or intangible
4 personal property;

5 (4) a lease of an automobile, motor home, mobile home or
6 manufactured housing; or

7 (5) a lease or bailment of personal property which is
8 incidental to the lease of real property, and which does not
9 provide that the consumer has an option to purchase the leased
10 property.

11 **Section 56103. General Disclosure Requirements. (a) In**
12 **General.** The merchant under a rental-purchase agreement shall
13 disclose in a clear and conspicuous manner to the consumer the
14 information required by §§56104, 56105 and 56106 of this Chapter. In an
15 agreement involving more than one (1) merchant, only one (1) merchant
16 is required to make the disclosures.

17 **(b) Disclosure.** The disclosures required under §§56104
18 and 56105 of this Chapter and the agreement provisions required to be
19 included under §56106 of this Chapter shall be made or included.

20 (1) at or before the date of consummation of the rental-
21 purchase agreement;

22 (2) clearly and conspicuously in writing and in a form that
23 the consumer may keep; and

24 (3) in a case of disclosures required under §56104 of this
25 Chapter, segregated from all other terms, data or information

1 provided to the consumer.

2 (c) **Inaccuracy.** If a disclosure required to be made by a
3 merchant to a consumer under §56104 of this Chapter becomes
4 inaccurate as the result of any mutual written agreement between the
5 merchant and such consumer occurring after delivery of the required
6 disclosure to such consumer under this Chapter, the resulting
7 inaccuracy is *not* a violation of this Chapter.

8 **Section 56104. Rental Purchase Disclosures.** For each
9 rental-purchase agreement, the merchant shall disclose to the consumer,
10 to the extent applicable, under the agreement the following:

11 (a) the total amount of the first periodic payment and the total
12 amount of advance payments, delivery charges, trade-in allowances,
13 fees, taxes or other charges which may be required at or before the date
14 of consummation of the agreement.

15 (b) the amount and timing of rental payments;

16 (c) the total number and the total dollar amount of rental
17 payments and other charges necessary to acquire ownership of the
18 property;

19 (d) a statement that the consumer will not own the property
20 until the consumer has paid the total dollar amount necessary to acquire
21 ownership;

22 (e) a disclosure that the total dollar amount payments does not
23 include certain other charges;

24 (f) a statement that the consumer may be responsible for the fair
25 market value of the property if it is lost, stolen, damaged or destroyed;

1 (g) a statement indicating whether the property is new or used,
2 except a statement indicating that new property is used property is not a
3 violation of this Chapter;

4 (h) A statement of:

5 (1) the manufacturer's suggested retail price, where
6 applicable, or

7 (2) the price for which the property is available from the
8 merchant in a cash sale;

9 (i) a clear statement of the terms of the consumer's option to
10 purchase;

11 (j) a statement:

12 (1) identifying the party responsible for maintaining or
13 servicing the property while it is being rented;

14 (2) describing the responsibility for maintenance or
15 service of the rental property; and

16 (3) disclosing that if any part of a manufacturer's express
17 warranty covers the property at the time the consumer acquires
18 ownership of the property, the warranty will be transferred to the
19 consumer if allowed by the terms of the warranty;

20 (k) the date of consummation of the transaction and the
21 identities of the merchant and consumer; and

22 (l) late fees for past due rental charges.

23 **Section 56105. Point of Rental Disclosures.** Each item of
24 property displayed or offered in connection with a rental-purchase
25 agreement shall have stamped or affixed to the property a card, tag or

1 label that clearly and conspicuously discloses only the following:

- 2 (a) whether the property is new or used;
- 3 (b) the price of the property in a cash sale;
- 4 (c) the amount of each rental payment;
- 5 (d) the total number of rental payments necessary to
- 6 acquire ownership of the property; and
- 7 (e) the total dollar amount of rental payments necessary to
- 8 acquire ownership of the property.

9 **Section 56106. Agreement Provisions. (a) In General.**

10 Each rental-purchase agreement shall:

11 (1) provide a brief description of the rented property
12 sufficient to identify the rented property to the consumer and
13 merchant. (If a rental is for multiple items of property, a
14 description of each item may be provided in a separate statement
15 incorporated by reference agreement.);

16 (2) state that the consumer is *not* required to purchase
17 insurance or liability damage waiver for the property that is the
18 subject of the agreement from the merchant or from any other
19 party owned or controlled by the merchant;

20 (3) provide a statement of any obligation of the consumer
21 and the merchant under the agreement to repair any defect or
22 malfunction of the property covered by the agreement, and any
23 limitation of those obligations;

24 (4) provide that the consumer may terminate the
25 agreement without penalty by voluntarily surrendering or

1 returning the property covered by the agreement upon expiration
2 of any rental term; and

3 (5) contain a provision for reinstatement of the agreement,
4 which at a minimum:

5 (A) permits a consumer who fails to make a timely
6 rental renewal payment to reinstate the agreement, without
7 losing any rights or options which exist under the
8 agreement, by the payment of all past due rental charges and
9 any late fee or other charge, within seven (7) business days
10 after the renewal date if the consumer pays monthly, or
11 within three (3) business days after the renewal date if the
12 consumer pays more frequently than monthly;

13 (B) if the consumer returns or voluntarily surrenders
14 the property covered by the agreement, other than through
15 judicial process, during the applicable reinstatement period
16 set forth in Subparagraph (A), permits the consumer to
17 reinstate the agreement during a period of at least thirty (30)
18 days after the date of the return or surrender of the property
19 by the payment of all past due rental charges, and any
20 applicable redelivery, repair or late fees; and

21 (C) if the consumer has paid sixty percent (60%) or
22 more of the total dollar amount of payments necessary to
23 acquire ownership of the property under the agreement and
24 returns or voluntarily surrenders the property, other than
25 through judicial process, during the applicable reinstatement

1 set forth in Subparagraph (A), permits the consumer to
2 reinstate the agreement during a period of at least ninety (90)
3 days after the date of the return of the property by the
4 payment of all past due rental charges and any applicable
5 redelivery, repair or late fees.

6 (b) **Construction.** Subsection (a) shall *not* be construed to
7 prevent a merchant from attempting to repossess property during the
8 reinstatement period pursuant to Subsection (a)(5)(A), but such a
9 repossession does not affect the consumer's right to reinstate. Upon
10 reinstatement the merchant shall provide the consumer with the same
11 property, if available; if it is not available the merchant shall substitute
12 property of comparable quality and condition.

13 **Section 56107. Prohibited Provisions of Rental-Purchase**
14 **Agreement.** A rental-purchase agreement or any document
15 that the merchant requests the consumer to execute may *not* contain:

16 (a) a confession of judgment;

17 (b) a negotiable instrument;

18 (c) a security interest or any other claim of a property
19 interest in any goods, except those goods the use of which is
20 provided by the merchant pursuant to the agreement;

21 (d) a wage assignment;

22 (e) a waiver by the consumer of a claim, counterclaim or
23 defense; or

24 (f) require that the consumer purchase insurance or
25 liability waiver against loss or damage to the rental property from

1 the merchant. This paragraph shall not, however, be construed to
2 prohibit a merchant from offering insurance or a liability waiver to
3 a consumer, provided it is clearly disclosed that acceptance of the
4 offer of insurance or a liability waiver is optional.

5 **Section 56108. Receipts and Accounts.** A merchant shall
6 provide the consumer a written receipt for each payment made by cash,
7 check or money order, the date, the total number of rental payments
8 made and the total number of payments necessary to acquire ownership
9 of the property.

10 **Section 56109. Renegotiations and Extensions.** A
11 renegotiation of a rental-purchase agreement is deemed to be a new
12 agreement for purposes of this Chapter, requiring new disclosures
13 under §§56104 and 56106. A renegotiation shall be considered to occur
14 when an existing rental-purchase agreement is satisfied and replaced by
15 a new agreement undertaken by the same merchant. Events such as the
16 following shall *not* be treated as renegotiations:

17 (a) the addition or return of property in a multiple-item
18 agreement or the substitution of property, if in either case the
19 average payment allocable to a payment period is not changed by
20 more than twenty-five percent (25%);

21 (b) a deferral or extension of one (1) or more periodic
22 payments, or portions of a periodic payment;

23 (c) a reduction in charges in the agreement; or

24 (d) an agreement involving a court proceeding.

25 **Section 56110. Rental-Purchase Advertising.**

1 (a) **Advertisements.** If an advertisement for a rental-purchase
2 agreement refers to, or states, the amount of any payment or the right to
3 acquire ownership, the merchant that makes the advertisement shall also
4 clearly and conspicuously state in the advertisement the following items:

5 (1) the transaction advertised is to occur under a rental-
6 purchase agreement;

7 (2) the total number and total dollar amount of rental
8 payments necessary to acquire ownership under the agreement;
9 and

10 (3) the consumer acquires no ownership rights in the
11 property if the total dollar amount of rental payments necessary to
12 acquire ownership is not paid.

13 (b) **Liability.** The owner or personnel of any medium in which
14 an advertisement appears or through which it is disseminated shall *not*
15 be liable for a violation of Subsection (a).

16 (c) **Exemptions.** Subsection (a) does not apply to an
17 advertisement which:

18 (1) is published in the yellow pages of a telephone
19 directory or in any similar directory of businesses; or

20 (2) is displayed in the merchant's place of business.

21 **Section 56111. Civil Liability. (a) Liability Amount.**

22 Except as otherwise provided in this Chapter, a merchant who willfully
23 violates this Chapter with respect to a consumer is liable to the
24 consumer in an amount equal to the following:

25 (1) in an action by an individual consumer, the sum of:

1 (A) actual damages sustained by the consumer as a
2 result of the violation; and

3 (B) not less than One Hundred Dollars (\$100.00).

4 (2) In a class action, the amount the court determines to be
5 appropriate with no minimum recovery as to each member. The
6 total recovery in any class action or series of class actions arising
7 out of the same violation shall not be more than the lesser of Five
8 Hundred Thousand Dollars (\$500,000.00) or one percent (1%) of
9 the net worth of the merchant.

10 (3) If a particular rental-purchase agreement has more
11 than one (1) consumer, only one (1) recovery of damages is
12 allowed for a violation of this Chapter. Multiple violations in
13 connection with a single rental-purchase agreement entitle the
14 consumer, or multiple consumers, to only one (1) recovery under
15 this Chapter.

16 **(b) Statute of Limitations.**

17 (1) **Actions to Enforce Act.** An action under
18 this Section may be brought in the Superior Court of Guam or
19 other court of competent jurisdiction, but not later than one (1)
20 year after the date of the occurrence of the violation.

21 (2) **Defense.** This Subsection does *not* bar a consumer
22 from asserting a violation of this Chapter in an action to collect a
23 debt brought more than one (1) year after the date of the
24 occurrence of the violation as a matter of defense by recoupment
25 or set off, except as otherwise provided by Guam law.

1 (c) **Offset.**

2 (1) **Limitations.** A consumer may *not* take any action
3 to offset any amount for which a merchant is potentially liable
4 under Subsection (a) against any amount owed by the consumer,
5 unless the amount of the merchant's liability has been determined
6 by judgment of a court of competent jurisdiction in an action in
7 which the merchant was a party.

8 (2) **Constructions.** This Subsection does not bar a
9 consumer who is in default on the obligation from asserting a
10 violation of this Chapter as an original action, or as a defense or
11 counterclaim to an action brought by the merchant to collect
12 amounts owed by the consumer.

13 **Section 56112. Defenses of Merchants.** A merchant is
14 not liable:

15 (a) for any violation of the requirements of this Chapter if
16 within sixty (60) days after discovering the violation, and before an
17 action is filed against a merchant or written notice of the violation
18 is received from the consumer, the merchant notifies the consumer
19 of the violation and makes whatever adjustments to the account of
20 the consumer are necessary to assure that the consumer will not be
21 required to pay an amount in excess of the amounts actually
22 disclosed;

23 (b) under this Chapter for any act done or omitted in good
24 faith conformity with any rule, regulation, interpretation, or
25 approval promulgated by a government agency or instrumentality;

1 or

2 (c) under this Chapter for a violation if the merchant
3 establishes, and at the time of the violation is implementing,
4 procedures reasonably calculated to prevent the violation.

5 Section 56112(b) applies even if, after the act or omission has
6 occurred, and the rule, regulation, interpretation or approval is
7 amended, rescinded or determined by judicial or other authority to be
8 invalid for any reason.

9 **Section 56113. Liability of Assignees. (a) Assignees.**

10 For purposes of §§5611 and 56112 and this Section, the term
11 '*merchant*' includes an assignee of a merchant. However, an action
12 under §5611 for a violation of this Chapter may be brought against an
13 assignee only if the violation is apparent on the face of the rental-
14 purchase agreement to which it relates. A violation apparent in the face
15 of a rental-purchase agreement includes a disclosure that can be
16 determined to be incomplete or inaccurate from the face of the
17 agreement. An assignee has no liability in a case in which the
18 assignment is involuntary.

19 **(b) Consumer Acknowledgement.**

20 In an action by or
21 against a assignee, the consumer's written acknowledgment of receipt of
22 a disclosure shall be conclusive proof that the disclosure was made, if
23 the assignee had no knowledge that the disclosure had not been made
24 when the assignee acquired the rental-purchase agreement to which it
relates.

25 **Section 56114. Effect on Government Agencies. No civil**

1 liability or criminal penalty under this Chapter may be imposed on the
2 United States or any of its departments or agencies, any territorial or
3 political subdivision, or any agency of the territory or political
4 subdivision.”



Committee on Judiciary, Public Safety and Consumer Protection

Twenty-Fourth Guam Legislature

Senator
Elizabeth Barrett-Anderson
Chairperson

February 19, 1998

Senator
John C. Salas
Vice-Chairman

SPEAKER ANTONIO R. UNPINGCO
Twenty Fourth Guam Legislature
155 Hesler St.
Agana, Guam 96910

Senator
Anthony C. Blaz
Member

Dear Mr. Speaker:

Senator
Joanne M.S. Brown
Member

The Committee on Judiciary, Public Safety and Consumer Protection, to which was referred **BILL NO. 441**, wishes to report back to the Legislature with its recommendation **TO DO PASS BILL NO. 441**.

Senator
Mark Forbes
Member

The voting record is as follows:

Senator
Edwardo J. Cruz, M.D.
Member

5

TO PASS

1

NOT TO PASS

Senator
Vicente C. Pangelinan
Member

0

ABSTAIN

Senator
Frank Blas Aguon, Jr.
Member

0

TO PLACE IN INACTIVE FILE

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.

Sincerely,

ELIZABETH BARRETT-ANDERSON
Chairperson

Enclosures

COMMITTEE ON JUDICIARY, PUBLIC SAFETY AND CONSUMER PROTECTION TWENTY-FOURTH GUAM LEGISLATURE

173 ASPINALL AVENUE, ADA PLAZA CENTER SUITE 108A, AGANA, GUAM 96910




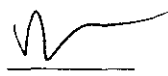

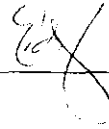

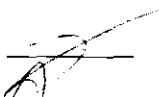
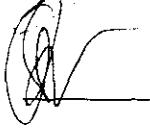
SENATOR ELIZABETH BARRETT-ANDERSON
Chairperson

SENATOR JOHN C. SALAS
Vice-Chairperson

SPEAKER ANTONIO R. UNPINGCO
Ex-Officio Member

VOTING SHEET

Bill No. 441 - An Act to add a new chapter 56 to Title 22 GCA to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, and for other purposes.

<u>COMMITTEE MEMBERS</u>	<u>INITIALS</u>	<u>TO DO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>
1). Sen. Elizabeth Barrett-Anderson Chairperson		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2). Sen. John C. Salas Vice-Chairperson		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3). Sen. Frank B. Aguon, Jr. Member		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4). Sen. Anthony C. Blaz Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5). Sen. Joanne M.S. Brown Member		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6). Sen. Edwardo J. Cruz M.D. Member		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7). Sen. Mark Forbes Member		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8). Sen. Vicente C. Pangelinan Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9). Speaker Antonio Unpingco Ex-Officio Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMITTEE ON JUDICIARY, PUBLIC SAFETY AND
CONSUMER PROTECTION**

**ELIZABETH BARRETT-ANDERSON
CHAIRPERSON**

Twenty-Fourth Guam Legislature

REPORT

on

Bill 441. An Act to add a new chapter 56 to Title 22 GCA to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, and for other purposes.

I. SUMMARY

The Committee on Judiciary, Public Safety and Consumer Protection held a public hearing on Bill No. 441 at the Committee Public Hearing Room at 2:00 PM, Thursday, January 15, 1998. Public Notice was published in the January 10 and January 15, 1997 editions of the Pacific Daily News.

Committee Members Present:

Senator Elizabeth Barrett-Anderson, Chairperson
Senator Edwardo J. Cruz
Senator Vicente C. Pangelinan
Senator Frank B. Aguon, Jr.

Senators present

Senator Carlotta Leon Guerrero

Providing Public Testimony on the Bill:

Phil Tydingco, **oral**
Dan Singh, **oral/written**

II. Summary of Testimony

MR. PHIL TYDINGCO ATTORNEY AT LAW

Mr. Tydingco testified in favor of Bill 441 urging its quick passage. Mr. Tydingco stated that since 1995 over 45 states have enacted rent-to-own or lease-to-purchase legislation. Mr. Tydingco stated that the purpose of such legislation is protection of the consumer as well as the industry with the disclosure provisions. Mr. Tydingco stated that Bill 441 is modeled after the version provided by the State Council on Legislatures. Mr. Tydingco stated that the Bill strikes a happy balance between the consumer and the business.

MR. DAN SINGH DIAL RENT-TO-OWN, REGIONAL MANAGER

Mr. Singh testified in favor of Bill 417. Mr. Singh stated that rent-to-own companies provides to the people of Guam an alternative method to gaining household goods. Mr. Singh gave a historical account of Dial Rent-to-Own dating back to 1985. Mr. Singh stated that there were three reasons why Bill 441 was good for Guam; (1) good for the customer, because the Bill provides for meaningful disclosures including cost, (2) defines the rent-to-own transaction

versus a credit sale, one of the big differences is the fact that a rent-to-own transaction allows the customer to return the product whereas a credit transaction doesn't, (3) protects from unethical businesses.

**SENATOR, ELIZABETH BARRETT-ANDERSON
CHAIRPERSON**

Senator Barrett-Anderson stated that the Committee did not receive any written testimony from the Attorney General's Office; however, she did call the Attorney General's Office and confirmed that there were no current complaints.

III. FINDINGS and RECOMMENDATIONS

The Committee on Judiciary, Public Safety and Consumer Protection finds support for the passage of Bill No. 441. The Committee Senator Barrett-Anderson and the Committee presents this report to the Twenty-Fourth Guam Legislature with its recommendation **TO DO PASS**.



RECEIVED
24th Guam Legislature
Committee on Judiciary, Public
Safety and Consumer Protection
Date: 1/15/98

January 15, 1998

SENATOR ELIZABETH BARRETT-ANDERSON
Chairperson
Committee on Judiciary, Public Safety and Consumer Protection
173 Aspinall Avenue, Suite 108A
Agana, Guam 96910

Re: Bill No. 441-Relative to Rental-Purchase Agreements

Dear Madam Chair and Committee Memebers,

Hafa adai Madam Chair Senator Barrett-Anderson, members of the Committee on Judiciary, Public Safety and Consumer Protection. Thank you for the opportunity to address this body with regards Bill No. 441-Relative to Rental-Purchase Agreements.

My name is Dan Singh, I am the Regional Manager for Guam's oldest and largest Rent to Own company, Dial Rent to Own. I have worked in the Rent to Own industry for the past 8 years through out the islands of Hawaii, on Saipan and for the last 5 years on Guam. Dial Rent to Own is a Guam Corporation, being incorporated in 1987. For nearly 11 years, we have provided the people of Guam with an alternate method of acquiring household products through Rental-Purchase, more commonly known as Rent to Own.

You may be familiar with Dial Rent to Own through our community service programs and our Dial Girl advertising. If you are not, I'd like to give you a short history and background of our company. Dial Rent to Own started back in 1985, on Oahu, Hawaii as a side venture of Bob and Susan O'Connor. This husband and wife team worked hard in the next 6 years to expand their business to 14 locations through Hawaii and on Guam and Saipan. Today, Bob and Susan are in semi-retirement after selling the Hawaii stores and operate only here in the islands. We are not affiliated with any other mainland Rent to Own companies except through our Trade Association. We are still a "mom and pop" business are not part of a chain or franchise. We believe that some of the reasons we have been so successful is because we hire locals to work and manage our "local" style of business. We have employees that speak Tagalog, Chuukese, Pohnpe'an and Chamorro. As with all growing companies, we have had our share of mistakes and growing pains. I'm sure that over the last decade of business, we have



made some employees and even some customers, mad or unhappy. But by contrast, we do have many happy employees and thousands of satisfied customers.

The reason I am here today is to express our support and ask that you please enact Bill 441. Our reason for supporting Bill 441 are threefold.

Firstly, Bill 441 is good for the consumer. Bill 441 provides meaningful disclosures of all costs to the consumer under a rental-purchase transaction. The rental purchase transaction is distinctly different from a retail sale transaction. Rental-Purchase or Rent to Own is more expensive than retail. We believe that a customer should clearly understand this. The reasons the Rental-Purchase transaction is more costly, is because it offers many more benefits than a retail store. For example, free maintenance/service, free delivery and pick up, there's no obligation to keep the rental product. These benefits and others, come with a cost to the business and by translation, to the customer. We believe that Bill 441 protects the consumer by providing the necessary disclosures for the consumer to make an educated decision whether to Rent to Own or whether not to.

Secondly, Bill 441 clearly defines the Rental-Purchase transaction. I just mentioned why the Rental-Purchase transaction is different than a retail store. But the Rental-Purchase transaction is also different than a credit sale. We are not a credit company. We do not report to credit agencies and a customers credit history in no way affects our transaction. We are completely different from a credit company because a customer may return the product at any time (even after one month) without any further obligation or payments. Try this with a credit company and their response will demonstrate just how different we are. Currently, Guam's laws do not clearly address the Rental-Purchase transaction. To date, nearly all 50 states have statues governing and defining Rental-Purchase, most recently Hawaii. We believe that Bill 441 properly characterizes the Rental-Purchase transaction.

Lastly, Bill 441 is good for Guam. With regulations for the Rental-Purchase industry here in Guam, we are protected from unscrupulous business. The industry is decades old and has had it's share of unethical operators. Bill 441 protects us from those that may see our small island as a free for all. Bill 441 prohibits unscrupulous business here in Guam. Will Bill 441 as law, we can rest assured that other Rental-Purchase companies will adhere to the same high standards and ethical business practices as Dial Rent to Own. Fortunately we feel very good about the current businesses providing Rent to Own services here on Guam. Last time I checked with the A.G.'s Consumer Protection division, we had no customer complaints. We are proud of this and are working hard to keep it that way.



Bill 441 is beneficial to the consumer, fair to business, and good for Guam. For these reasons, we support and ask for your support of Bill 441.

In closing, I would like to thank you for your time and for the privilege of being able to address this body. If there are any questions, please feel free to contact our office at 472-9321 or fax us at 472-9324.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel R. Singh".

Daniel R. Singh
Regional Manager

Carl T.C. Gutierrez
Maga'láhi
Governor



Calvin E. Holloway, Sr.
Hinirát Abugao
Attorney General

Madeleine Z. Bordallo
Tifente Gubelnadora
Lt. Governor

Ufisinan Hinirát Abugao
Tiritorian Guáhan

Gus F. Diaz
Atkádi, Sigundo Hinirát Abugao
Chief Deputy Attorney General

Office of the Attorney General
Territory of Guam

January 14, 1998

RECEIVED

24th Guam Legislature
Committee on Judiciary, Public
Safety and Consumer Protection
Date: 1/22/98 *JE*

Honorable Elizabeth Barrett-Anderson
Chairperson, Committee on Judiciary, Public Safety
and Consumer Protection
Twenty-Fourth Guam Legislature
Suite 108A, Ada Plaza Center
173 Aspinall Avenue
Agana, Guam 96910

Re: Proposed Rental - Purchase Legislation, Bill #441

Dear Senator Barrett-Anderson:

Hafa Adai!

The proposed rental-purchase legislation is clearly not pro-consumer. Our office has been in contact with many Attorney Generals' Offices concerning their states' rent-to-own legislation. Often our contacts lamented the shortcomings in their states' legislation. In particular, our contacts have criticized their states' legislation because it did not limit the effective rate of interest the rent-to-own industry was charging, nor did it require the rent-to-own industry to disclose the effective rate of interest consumers paid to eventually own the rent-to-own items. In other words, in those states the rent-to-own industry is not limited to charging the allowable rate of interest on their items. For example, while it may be usury in some states for a lender to charge 24% interest on a loan, it is legal for the rent-to-own industry to charge an effective rate of interest of 100% or 200%, on rent-to-own items.

On the other hand there are states which are moving forward to require the rent-to-own industry to disclose to consumers the effective rate of interest they must pay, to eventually own an item purchased through a rent-to-own business. Moreover, these states are also setting limits on the effective rate of interest the rent-to-own industry may charge.



Commonwealth Now!

The primary problems with Bill #441 are similar to those experienced by states who feel their rent-to-own legislation has no teeth:

- 1) While the highest legal rate of interest a seller on Guam may charge for a purchase made on credit is 36%, this proposed legislation specifically exempts the rent-to-own industry from having to comply with this limit. Therefore, the purchaser of an item from a rent-to-own business may pay an effective rate of interest far in excess of the legally allowable limit applied to other sellers on credit.
- 2) Bill #441 does not require the rent-to-own businesses to advise consumers of the effective interest rate they are liable for when they purchase an item via rent-to-own. Clearly consumers are less able to compare the cost, including interest, of a purchase via rent-to-own with the cost of a purchase on credit in which the interest rate is stated.

Therefore, the Office of the Attorney General opposes this proposed legislation, Bill #441, most particularly since its provisions affirmatively provide additional rights to the rent-to-own industry by exempting the industry from laws applicable to other sellers on credit.



GUS F. DIAZ
Acting Attorney General

TWENTY-FOURTH GUAM LEGISLATURE

PUBLIC HEARING

SENATOR ELIZABETH BARRETT-ANDERSON

Chairperson, Committee on Judiciary, Public Safety and Consumer Protection

WITNESS SIGN-IN SHEET

Committee Hearing Room, 173 Aspinall Ave., Ada Plaza Center, Suite 108A, Agana, Guam 96910

Thursday, January 15, 1998
Public Hearing on Bill No. 441

Table with 5 columns: NAME(Please print), ORGANIZATION, My Testimony: Oral/Written, I am For Bill 441, I am Against Bill 441. Includes handwritten entries for DAN SINGH and Phil Tyding co.

FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

BBMR-F7

Bill No.: 441 (COR)
 Amendatory Bill: Yes

RESERVE

Date Received: January 22, 1998
 Date Reviewed: February 6, 1998

Department/Agency Affected: Department of Law
 Department/Agency Head: Gus F. Diaz
 Total FY Appropriation to Date: \$ 6,362,136

Committee on Finance, Budget and Public Safety and Security Administration
 Date: 2/13/98

Bill Title (preamble): AN ACT TO ADD A NEW CHAPTER 56 TO TITLE 22 GUAM CODE ANNOTATED TO ASSURE MEANINGFUL DISCLOSURES OF THE TERMS OF RENTAL PURCHASE AGREEMENTS, INCLUDING DISCLOSURES OF ALL COSTS TO CONSUMERS UNDER SUCH AGREEMENTS, TO PROVIDE CERTAIN SUBSTANTIVE RIGHTS TO CONSUMERS UNDER SUCH AGREEMENTS, AND FOR OTHER PURPOSES.

Change in Law: Adds a new Chapter 56 to Title 22 of the Guam code Annotated.

Bill's Impact on Present Program Funding:

Increase: X Decrease _____ Reallocation _____ No Change _____

Bill is for:

Operations X Capital Improvement _____ Other _____

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Public Safety			

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL						
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? N/A IF NO, ADD'L AMOUNT REQUIRED: _____

AGENCY/PERSON/DATE CONTACTED: See attached comments.

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	n/a	n/a	n/a	n/a	n/a	
OTHER						
TOTAL						

ANALYST Carlos P. Bordallo

DATE 2/4/98

DIRECTOR Joseph E. Rivera

DATE FEB 10 1998

Comment on Bill 441 (COR)

The Bill proposes to mandate requirements providing for adequate disclosures and other protection to consumers who enter into rental-purchase agreements. Depending upon the number of violations that may occur and subsequent litigation, the Bill would entail fiscal impact in the number of attorney hours devoted to such litigation. Whether this could be absorbed by the current operating budget of the department would be dependent upon manpower and caseload factors.

The General Fund revenues available for appropriation, as adopted in Public Law 24-59, is \$353,292,790 (includes (\$7,600,000 Autonomous Agency Fund, \$7,000,000 Use Tax and \$36,000,000 in Section 30 funds). The appropriations for FY1998 in P.L. 24-59 is \$246,128,092 plus continuing appropriations for debt service of \$2,504,141 for a total appropriation against of \$348,632,234. Pursuant to P.L. 24-59, surplus FY1998 revenues available for appropriations is \$4.6M.

However, it should be noted that Section 30 revenues are expected to be reduced by \$1,047,129 and the expected combined collection from both the Autonomous Agency Fund and the Use Tax is only \$3.0M, a reduction of \$11.6M ($\$14.6 - 3.0 = \11.6). Thus, it is anticipated that the FY1998 revenues will be reduced by \$12.6M to a level of \$340,692,790. As such, \$340,692,790 in revenues less \$348,632,234 in appropriations leaves and expected shortfall of (\$7,939,444) as of P.L. 24-59.