

By: Carona

S.B. No. 709

A BILL TO BE ENTITLED

AN ACT

relating to the amount of a late charge or reinstatement fee under a rental-purchase agreement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 35.72, Business & Commerce Code, is amended to read as follows:

(c) A rental-purchase agreement may not contain a provision:

(1) requiring a confession of judgment;

(2) authorizing a merchant or an agent of the merchant to commit a breach of the peace in the repossession of merchandise;

(3) waiving a defense, counterclaim, or right the consumer may have against the merchant or an agent of the merchant;

(4) requiring the purchase of insurance or a loss damage waiver from the merchant to cover the merchandise;

(5) requiring the payment of a late charge or reinstatement fee unless a periodic payment is delinquent for more than seven days if the payment is due monthly, or is delinquent for more than three days if the payment is due more frequently than monthly, and the charge or fee is in an amount equal to not more than the lesser of 10 [~~five~~] percent of the delinquent payment or \$10 [~~\$5~~], and not less than \$5 [~~\$2~~]; or

(6) requiring a payment at the end of the scheduled rental-purchase term in excess of or in addition to a regular

1 periodic payment in order to acquire ownership of the merchandise.
2 In no event shall the consumer be required to pay a sum greater than
3 the total amount to be paid to acquire ownership, as disclosed in
4 Subsection (g)(3) of this section.

5 SECTION 2. The change in law made by this Act applies only
6 to a rental-purchase agreement entered into on or after the
7 effective date of this Act. A rental-purchase agreement entered
8 into before the effective date of this Act is governed by the law in
9 effect when the rental-purchase agreement was entered into, and the
10 former law is continued in effect for that purpose.

11 SECTION 3. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2005.