

1-1 By: Carona S.B. No. 709
1-2 (In the Senate - Filed February 24, 2005; March 2, 2005,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 March 31, 2005, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 31, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the amount of a late charge or reinstatement fee under a
1-9 rental-purchase agreement.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsection (c), Section 35.72, Business &
1-12 Commerce Code, is amended to read as follows:

1-13 (c) A rental-purchase agreement may not contain a
1-14 provision:

1-15 (1) requiring a confession of judgment;

1-16 (2) authorizing a merchant or an agent of the merchant
1-17 to commit a breach of the peace in the repossession of merchandise;

1-18 (3) waiving a defense, counterclaim, or right the
1-19 consumer may have against the merchant or an agent of the merchant;

1-20 (4) requiring the purchase of insurance or a loss
1-21 damage waiver from the merchant to cover the merchandise;

1-22 (5) requiring the payment of a late charge or
1-23 reinstatement fee unless a periodic payment is delinquent for more
1-24 than seven days if the payment is due monthly, or is delinquent for
1-25 more than three days if the payment is due more frequently than
1-26 monthly, and the charge or fee is in an amount equal to not more than
1-27 the lesser of 10 [~~five~~] percent of the delinquent payment or \$10
1-28 [~~\$5~~], and not less than \$5 [~~\$2~~]; or

1-29 (6) requiring a payment at the end of the scheduled
1-30 rental-purchase term in excess of or in addition to a regular
1-31 periodic payment in order to acquire ownership of the merchandise.
1-32 In no event shall the consumer be required to pay a sum greater than
1-33 the total amount to be paid to acquire ownership, as disclosed in
1-34 Subsection (g)(3) of this section.

1-35 SECTION 2. The change in law made by this Act applies only
1-36 to a rental-purchase agreement entered into on or after the
1-37 effective date of this Act. A rental-purchase agreement entered
1-38 into before the effective date of this Act is governed by the law in
1-39 effect when the rental-purchase agreement was entered into, and the
1-40 former law is continued in effect for that purpose.

1-41 SECTION 3. This Act takes effect immediately if it receives
1-42 a vote of two-thirds of all the members elected to each house, as
1-43 provided by Section 39, Article III, Texas Constitution. If this
1-44 Act does not receive the vote necessary for immediate effect, this
1-45 Act takes effect September 1, 2005.

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