RSC
Republican Study Committee

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Legislative Bulletin……..……September 18, 2002

Contents:

Year-to-Date Spending Totals

As of the end of last week, the House has passed legislation this year that if enacted into law would authorize the expenditure of approximately **$471 billion** of taxpayer funds over the next five years.

In addition, the House has approved mandatory spending increases that if enacted would cost taxpayers approximately **$235 billion** over the next five years.

H.R. 1701—Consumer Rental Purchase Agreement Act (Jones of North Carolina)

Order of Business: The bill is scheduled to be considered on Wednesday, September 18th, subject to a structured rule. For summaries of the amendments made in order, see the "Amendments" section below.

Summary: H.R. 1701 would create a national regulatory environment for consumer, non-governmental rental-purchase (or "rent-to-own") transactions. Most states currently regulate rent-to-own transactions as leases, yet the specific regulations vary from state to state. H.R. 1701 would remove such variation by federalizing (and therefore standardizing) the oversight of the rent-to-own industry. This legislation would provide a uniform method of disclosing the cost of rent-to-own transactions in advertisements, product tags, and agreements, while increasing disclosure requirements for merchants and otherwise offering increased consumer protections. Further, the bill would ensure consistent treatment of rent-to-own transactions as leases and not as credit sales. [Businesses engaged in credit transactions can be required to meet state usury regulations and finance charge limits.]

Disclosure

The bill would require a merchant of rent-to-own items to disclose clearly in writing to any customer the following information before finalizing the rent-to-own contract:

- The start-date of the transaction;
- The identities of the merchant and the consumer;
- A brief description of the rental property (including serial number, if applicable);
- A statement indicating whether the property is new or used;
- A description of any fee, charge, or penalty (in addition to the periodic payment) that the customer may be required to pay;
- A statement identifying the transaction as rent-to-own and emphasizing that the customer will not own the property until the total dollar amount has been paid;
- The amount of any up-front payment;
- The total amount of any fees, taxes, or other associated charges required;
- The cash price of the property;
- The amount and timing of periodic payments;
- The total number of periodic payments necessary to acquire ownership;
- A statement of "total cost" (using that specific term) indicating how much the customer will pay if he or she makes all the periodic payments to acquire ownership; and
- A statement of the customer's right to voluntarily terminate the agreement without paying any fee not previously included in the contract.

The disclosure information would have to appear at the beginning of the rental agreement underneath this exact (bold, upper-case) heading: "**IMPORTANT RENTAL-PURCHASE DISCLOSURES**."

Though the merchant would also have to tell the customer in writing that the purchase of leased property insurance or liability waiver coverage is not required, the merchant *could* provide such insurance or coverage (directly or indirectly) if the merchant discloses the cost of such coverage and the customer signs an affirmative written request for such coverage.

In addition to the information required to be disclosed above, each rent-to-own agreement would have to provide:

- A statement specifying who is responsible for loss, theft, damage, and destruction of the property;
- A statement specifying who is responsible for maintaining or servicing the property (and a brief description of such maintenance);
- A provision for reinstating a terminated agreement (subject to certain conditions);
- A statement specifying all the terms under which the customer would acquire ownership of the property
- A statement disclosing that if any part of a manufacturer's warranty covers the property at the time the customer acquires ownership, the warranty would be transferred to the customer if allowed by the terms of the warranty; and

- A description of any grace period for making a periodic payment and the amount of security deposit required.

The bill would also outline certain provisions that could **not** appear in a rent-to-own contract, such as a waiver of any legal claim or remedy or a requirement that the customer pay more than the fair market value of the property, should it be lost, stolen, damaged, or destroyed.

Upon request, a merchant would have to provide a statement of a customer's account (free of charge unless more than four requests are made in any 12-month period).

Certain renegotiations and extensions of contracts would require new disclosure information.

Merchants would be required to display on or near the item a card, tag, or label that "clearly and conspicuously" discloses the following:

- A brief description of the property;
- Whether the property is new or used;
- The case price of the property;
- The amount of each rental payment;
- The total number of rental payments necessary to acquire ownership; and
- The rent-to-own cost.

In place of such a tag or label, a merchant may disclose this information in a list or catalog that is readily available to the consumer at the point of rental.

Advertising

H.R. 1701 would require that any advertisement for a rent-to-own transaction (that refers to or states a payment amount) contain:

- A statement that the advertised transaction is a rent-to-own agreement;
- The amount, timing, and total number of rental payments necessary to acquire ownership;
- The amount of the rent-to-own cost;
- A statement that to acquire ownership the consumer must pay the rent-to-own cost plus applicable taxes; and
- Whether the advertised property is new or used.

Such information would have to appear "clearly and conspicuously" in an advertisement, as prescribed by regulations crafted by the Board of Governors of the Federal Reserve System.

Liability

The bill establishes (federal) civil liability for the failure to comply with any requirement of this legislation. A consumer would have one year (subject to certain exceptions) after the last payment to file suit in any U.S. district court. Merchants would also be civilly liable for actual damages inflicted on consumers by failure to comply with the labeling and advertising requirements. If a merchant repeatedly violates the labeling and advertising requirements, the Federal Trade Commission (or any appropriate state attorney general) could initiate an action

to prevent the merchant from entering into rent-to-own transactions and to levy a monetary penalty.

The Board of Governors of the Federal Reserve System would be charged with prescribing the necessary regulations (including model disclosure forms) for carrying out this legislation. The Federal Trade Commission (FTC) would be charged with enforcing all the requirements imposed by H.R. 1701 (though states could also enforce the requirements, as long as they inform the FTC). The FTC could intervene in a state action and remove it to a federal court.

Willful and knowing violations of this legislation (including providing false information) would trigger *criminal* liability.

No civil or criminal liability from this legislation could be applied to any government entity.

State Law

H.R. 1701 states that this legislation does not "annul, alter, or affect in any manner the meaning, scope or applicability of the laws of any State relating to rental-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency." The Board of Governors would determine the inconsistency (though a state law that "affords greater protection and benefit to the consumer" than the federal law would trump the federal law).

However, this legislation would supersede any state law that regulates a rent-to-own agreement as a security interest, credit sale, retail installment sale, or any other transaction that imputes the creation of a debt or extension of credit—or any state law that requires the disclosure of a percentage rate calculation (including a time-price differential or an annual percentage rate).

According to the office of Rep. Walter Jones, the bill's sponsor, the federal standards in H.R. 1701 are "consistent with the existing consumer protection standards in 46 states and enhance consumer and business protections in many of those states."

Merchants would not have to comply with the requirements of this legislation until six months after this bill's enactment.

Additional Background: The Judiciary Committee, in House Report 107-590—Part 2, provides the following background information on rent-to-own agreements; "In a rent-to-own agreement the consumer typically leases a product for a month and has the option to return the product with no obligation or penalty, pay to keep the product another month, or purchase the product. The consumer usually acquires ownership of the product if it is leased for a specified amount of time, usually 18 months. Every year, millions of Americans enter 'rent-to-own' agreements because they cannot otherwise afford the purchase price, [cannot] qualify for credit, or need the product for a short period of time."

Amendments: The following two amendments were made in order under the rule:

LaFalce (D-NY): Makes the Board of Governors of the Federal Reserve System in charge of determining by regulation the criteria for calculating the cash price of new and used property subject to rent-to-own agreements. The Board-determined cash price could not be less than twice the documented actual acquisition cost of the property to the merchant (though the merchant could still sell the property for less than the regulated price).

Grants ownership to the consumer upon making "periodic payments totaling more than an amount, 50 percent of which equals the case price of the rental property." The renter would also acquire ownership if at any time after the initial payment, the renter pays "an amount equal to the amount by which the cash price of the leased property exceeds 50 percent of all previous payments" under the rent-to-own contract. According to Rep. LaFalce's office, this standard for limiting the total purchase price of rent-to-own property is derived from New York, Ohio, and Nebraska state law. (20 minutes)

Waters (D-CA): Prohibits the shifting of liability for loss, damage, or destruction of the rent-to-own property to the consumer. Such liability would remain with the merchant, unless the consumer deliberately caused or caused by negligence the loss, damage, or destruction. Any attempt to waive or shift the merchant's normal liability would be "null and void." (20 minutes)

Committee Vote: On June 27, 2002, the Financial Services Committee reported H.R. 1701 favorably by a vote of 29-9. On September 5, 2002, the Judiciary Committee reported H.R. 1701 favorably by a vote of 14-12.

Administration Position: At a hearing before the Subcommittee on Financial Institutions and Consumer Credit on July 12, 2001, a representative of the Federal Trade Commission testified that, "the Commission does not recommend federal legislation regarding the rent-to-own industry at this juncture."
http://financialservices.house.gov/media/pdf/071201hb.pdf

At that same hearing, a representative of the Board of Governors of the Federal Reserve System was ambivalent about the legislation.
http://financialservices.house.gov/media/pdf/071201ds.pdf

Cost to Taxpayers: CBO estimates that H.R. 1701 would cost about $650,000 a year, subject to appropriations. The bill would have "negligible effects" on mandatory spending and revenues.

Does the Bill Create New Federal Programs or Rules?: Yes. H.R. 1701 would federalize the regulation of the rent-to-own industry, currently overseen by the states.

Constitutional Authority: The Financial Services Committee, in House Report 107-590—Part 1, cites constitutional authority in Article I, Section 8, Clause 1 (relating to the general welfare of the United States) and Clause 3 (relating to the regulation of interstate commerce).

The Judiciary Committee, in House Report 107-590—Part 2, cites constitutional authority in Article I, Section 8, Clause 3 (relating to the regulation of interstate commerce) and Article I, Section 8, Clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the government of the United States).

Outside Organizations: At a hearing before the Subcommittee on Financial Institutions and Consumer Credit on July 12, 2001, a representative of the Association of Progressive Rental Organizations testified in support of H.R. 1701, saying that it "balances the interests of [its] customers and the concerns of the industry."
http://financialservices.house.gov/media/pdf/071201mh.pdf

However, at that same hearing, the National Consumer Law Center (which represented the Consumer Federation of America, Consumers Union, and the U.S. Public Interest Research Group) testified that it is "unalterably opposed to H.R. 1701."
http://financialservices.house.gov/media/pdf/071201ms.pdf

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Motion to Instruct Conferees on H.R. 3295 (Help America Vote Act) (*Waters*)

Order of Business: On Wednesday, September 18th, Rep. Waters of California is expected to offer a motion to instruct conferees on H.R. 3295, the "Help America Vote Act."

Summary: The Waters motion would instruct House conferees to take appropriate actions as needed to ensure that a conference report on the bill is filed before October 1, 2002.

Additional Background: For detailed information on H.R. 3295 as it passed the House, please visit these websites:
http://www.house.gov/burton/RSC/electionreform.PDF
http://www.house.gov/burton/RSC/ElectionRefMgrsAmnd.PDF

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H.Res. 523 — Recognizing the contributions of historically Black colleges and universities (Watts)

Order of Business: The resolution is scheduled for consideration on Wednesday, September 18th, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 523 resolves that the House of Representatives:

- "recognizes the significance of historically Black colleges and universities;
- "recognizes that historically Black colleges and universities have been educating students for more than 100 years;
- "commends the Nation's historically Black colleges and universities for their commitment to academic excellence for all students, including low-income and educationally disadvantaged students;
- "urges the presidents, faculty, and staff of the Nation's historically Black colleges and universities to continue their efforts to recruit, retain, and graduate students who might otherwise not pursue a postsecondary education;
- "recognizes the significance of title III of the Higher Education Act, which aids in strengthening the academic quality, institutional management, and financial stability of historically Black colleges and universities; and
- "requests that the President issue a proclamation calling on the people of the United States and interested groups to demonstrate support for historically Black colleges and universities in the United States during that week with appropriate ceremonies, activities, and programs."

Additional Background: According to the resolution, there are 105 historically Black colleges and universities in the United States that provide a "quality education so essential to full participation in a complex, highly technological society" and "have a rich heritage and have played a prominent role in American history."

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.Con.Res. 337—Recognizing the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to baseball and the Nation (Watts)

Order of Business: The resolution is scheduled to be considered on Wednesday, September 18, 2002, under a motion to suspend the rules and pass the bill.

Summary: The resolution has 11 findings regarding the "Negro Baseball Leagues" formed in 1920 and 1960 including:

> "Whereas by achieving success on the baseball field, African-American baseball players helped break down color barriers and integrate African-Americans into all aspects of society in the United States," and
>
> "Whereas during an era of sexism and gender barriers, 3 women played in the Negro Baseball Leagues"

And resolves that the House (with the Senate concurring):

> "recognizes the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to baseball and the Nation."

Cost to Taxpayers: The resolution has no cost.

Does the Bill Create New Federal Programs or Rules?: No.

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