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House Bill 5892 (as passed by the House)
Sponsor: Representative Wayne Schmidt
House Committee: Commerce
Senate Committee: Regulatory Reform

Date Completed: 12-6-12

CONTENT

The bill would amend the Rental-Purchase Agreement Act to do the following:

- **Prohibit a lessor from requiring certain fees.**
- **Revise the conditions under which a lessee who fails to make timely periodic payments may reinstate a rental-purchase agreement without losing any rights or options.**
- **Revise the conditions under which a reinstatement fee may be charged, and the amount of a reinstatement fee.**
- **Revise a sample rental-purchase agreement form to reflect the bill's proposed changes.**

(A rental-purchase agreement is an agreement for the use of personal property by a lessee primarily for personal, family, or household purposes, for an initial period of four months or less that is automatically renewable with each payment after the initial period, and that permits the lessee to become the owner of the property.)

Prohibited Fees

The bill would prohibit a lessor from requiring either of the following:

- A periodic payment or late fee for a rental period beginning after the lessee had returned or surrendered the leased property to the lessor or the lessor's agent.
- Any charge or fee for reinstatement of the rental-purchase agreement in addition to or in excess of the fees expressly permitted under the Act.

Reinstatement of Agreement

Under the Act, a lessee who fails to make timely periodic payments has the right to reinstate the original rental purchase agreement without losing any rights or options previously acquired under the rental-purchase agreement if both of the following apply:

- The lessee has not missed more than three periodic payments.
- More than one periodic scheduled payment has been missed and the lessee has surrendered the item to the lessor during the time in which payments were missed.

The bill specifies instead that a lessee who failed to make a timely periodic payment could reinstate the original rental-purchase agreement without losing any rights or options previously acquired under the agreement by paying the past due periodic payment, any applicable late fee, and a delivery fee not to exceed the original delivery fee, if redelivery of an item were necessary, by the later of the following dates:

- Seven days after failing to make the timely periodic payment.
- 90 days after failing to make the timely periodic payment, if the lessee returned or voluntarily surrendered the item, other than through judicial process, within seven days after failing to make the payment.

Currently, a lessee may not be charged a reinstatement fee due to missed payments unless the lessee has missed more than one periodic payment. A reinstatement fee must equal the outstanding balance of any missed payments plus 5% of the balance of the missed payments or \$5, whichever is less. A delivery fee of up to the original delivery fee may be charged if redelivery of an item is necessary.

The bill, instead, specifies that a lessee could not be charged a late fee for failure to make a timely periodic payment unless the periodic payment was more than the following number of days past due:

- Five days, if the periodic payment were due monthly or less frequently.
- Two days, if the periodic payment were due more frequently than monthly.

A late fee could not exceed \$10 or 5% of the amount of the missed payment, whichever was greater.

Sample Agreement Form

The Act includes a sample form that may be used to satisfy the Act's requirements. The bill includes revisions to the sample form that would reflect the proposed late-fee and reinstatement changes.

MCL 445.957 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.