



Americans for Financial Reform
1629 K St NW, 10th Floor, Washington, DC, 20006
202.466.1885

May 26, 2014

Member of the Senate Banking Committee
United States Senate
Washington, DC 20510

(VIA EMAIL)

Re: Please Oppose S. 1208 (Tester) -- Unfair To Rent-to-Own Consumers

Dear Senator:

We write on behalf of Americans for Financial Reform and the other undersigned organizations to strongly urge you not to co-sponsor or support S. 1208, The Consumer Rental-Purchase Agreement Act, regarding rental purchase agreements of consumer goods. Although the bill's supporters argue that it protects consumers in rent-to-own ("RTO") transactions, in actuality its sole goal is to preempt state consumer protection laws. The bill is designed to preempt the state laws providing the strongest protections for the consumers of these transactions, including the laws of Minnesota, New Jersey, Vermont and Wisconsin. Congress should not overturn state laws that prevent predatory financial practices or that provide consumers basic information about the cost of RTO transactions.

Rent-to-own businesses are essentially appliance and furniture retailers which arrange lease agreements rather than typical installment sales contracts for those customers who cannot purchase goods with cash or who are unsophisticated about money management. These lease agreements contain several special features. First, the leases are short term, so that "rental payments" are due weekly or monthly. Second, the lease agreements contain various purchase options which typically enable the consumers to obtain title to the goods by completing all payments over a period such as eighteen months or seventy-eight weeks, or more. Third, the leases are "at will." In other words, the leases theoretically need not be renewed at the end of each weekly or monthly term.

The RTO industry aims its marketing efforts at low-income consumers by advertising in minority media, buses, and public housing projects. Statistics from the FTC show that the RTO customer base is among the poorest and that the vast majority of their customers enter into these transactions with the expectation of buying an appliance and are seldom interested in the rental aspect of the contract. This attitude is encouraged by RTO dealers who emphasize the purchase

option in their marketing even while they are minimizing its importance in the written contract. Data also show that the RTO industry targets military families. Increasingly, the industry is also targeting middle class consumers.

The chief problems with RTO contracts are that most customers use these leases as a means of achieving ownership in the goods, and the costs for this process using RTO are exorbitantly expensive, with undisclosed annual percentage rates. Under most RTO contracts, the customer will pay between \$1000 and \$2400 for a TV, stereo, or other major appliance worth as little as \$200 retail, if used, and seldom more than \$600 retail, if new. A study in Ohio found that the most vulnerable consumers were “in the position of paying three to four times the retail price for products that are sub-par to start with.”

There should be no misunderstanding about S. 1208 – it is not a consumer protection bill. The sole purpose of this bill is to preempt stronger state laws that provide more meaningful consumer protections (see Sec. 17(b)). A cursory reading of the bill might lead one to believe that some of the provisions would actually help consumers. However, a close evaluation reveals that there are no meaningful protections whatsoever in this bill. The section that comes closest to requiring some helpful information to consumers is Sec. 12 (Point-of-Rental Disclosures). It would require disclosures about the cost of the RTO transactions to be displayed on a tag attached to the item. However, there are no enforceable penalties on a dealer for failing to comply with this provision. Only the FTC has any enforcement power. As – according to the bill – there are millions of these transactions every year, it is unlikely that the FTC can adequately protect consumers in all of these transactions. There is no private right of action.

The RTO customer base, almost exclusively low-income, could certainly benefit from meaningful consumer protections from an industry which preys upon consumers’ lack of perceived options. Mostly these consumers need protection from high costs and unfair practices. There are numerous ways in which RTO legislation can be improved, *none of which* are included in a meaningful way in this bill.

Instead of the meaningless provisions of S. 1208, RTO consumers would truly benefit from protections such as the following:

- Limitations on the total of payments that a consumer should be required to pay for the purchase of the item. Some states have these limits already, but many do not.
- Limits on “fees” such as late fees, insurance fees, home pick-up fees, reinstatement fees, and etc. Some states have limits already, many do not.
- Reinstatement rights that clearly allow the consumer to have payments made on previous contracts applied to new contracts for the same types of items. While S. 1208 has a minimal provision on this point (Sec. 7(a)(3)) it provides no meaningful protections to consumers, and there is no enforcement mechanism.
- Price tag disclosures (or point-of rental), as well as contract disclosures. By the time the customer gets the contract, the decision to proceed with the transaction has often been made. Yet, this bill, while ostensibly requiring these disclosures – in section 12 – actually only requires a list or a catalogue to be available nearby with the information somewhere in it. This is not helpful.

- Meaningful penalties for dealers who violate the provisions of the RTO statute. There are no statutory penalties for non-compliance even for the minimal requirements in S. 1208. Individuals harmed by dealers, who seek a remedy, would not even have a right of private action under this bill.
- A disclosure like the annual percentage rate (APR) to show the consumer the true cost of renting to own, to allow comparison with other methods of purchasing personal items. This bill would preempt Vermont's law, which requires such a disclosure.
- Limits on maximum RTO interest rates, as New Jersey requires. Recently, the New Jersey Supreme Court upheld these limits on rent-to-own interest rates. The industry's petition to the U.S. Supreme Court for review has been rejected. That is the primary reason this bill has been introduced in the Congress: to get relief from strong state laws.

On behalf of America's poorest consumers – the customer base of the rental purchase industry – please oppose S. 1208. It only serves to preempt the state laws of Wisconsin, Minnesota, Vermont, and New Jersey – all of which provide more protections to consumers. It does not, in any way, advance consumer protection. Further, the notion advanced by the industry proponents of the bill that the bill does not preempt stronger state laws is false. While the bill allows states to tweak the limited protections it allows, which many states already provide, its core provision is designed to eliminate the strongest state laws and prevent other states from emulating those laws.

We would be happy to provide you with further information. If you have concerns or questions, you may contact Margot Saunders at the National Consumer Law Center (202-452-6252) or Ed Mierzwinski at U.S. PIRG (202-461-3821).

Sincerely,

Americans for Financial Reform
 Center for Responsible Lending
 Consumer Action
 Consumer Federation of America
 Consumers Union
 National Association of Consumer Advocates
 National Consumer Law Center
 U.S. PIRG

Following are the partners of Americans for Financial Reform.

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

- A New Way Forward
- Accountable America

- AFL-CIO
- AFSCME
- Alliance For Justice
- American Family Voices
- American Income Life Insurance
- American Sustainable Business Council
- Americans for Democratic Action, Inc
- Americans United for Change
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Coffee Party
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group
- Demos
- Economic Affairs Bureau/Dollars & Sense
- Economic Policy Institute
- Essential Action
- Green America
- Greenlining Institute
- Good Business International
- Help is on the Way, Inc.
- HNMA Funding Company
- Home Actions
- Housing Counseling Services
- Information Press
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project

- International Brotherhood of Teamsters
- Institute of Women’s Policy Research
- Keystone Research Center
- Krull & Company
- Laborers’ International Union of North America
- Lake Research Partners
- Lawyers' Committee for Civil Rights Under Law
- Main Street Brigade
- Move On
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Institute
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National People’s Action
- National Council of Women’s Organizations
- NEDAP
- Next Step
- OMB Watch
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO National Network
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Responsible Endowments Coalition
- Sargent Shriver Center on Poverty Law
- SEIU
- Sojourners
- State Voices
- Taxpayer’s for Common Sense
- The Association for Housing and Neighborhood Development
- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal
- TICAS
- U.S. Public Interest Research Group
- UNITE HERE

- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- Working America
- World Business Academy
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community