

LEGISLATIVE BILL 1217

Approved by the Governor March 13, 1990

Introduced by Lindsay, 9

AN ACT relating to the Consumer Rental Purchase Agreement Act; to amend section 69-2113, Revised Statutes Supplement, 1989; to change provisions relating to a lessor's liability to a consumer as prescribed; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 69-2113, Revised Statutes Supplement, 1989, be amended to read as follows:

69-2113. (1) A lessor who fails to comply with the requirements of sections 69-2104 to 69-2110 with respect to a consumer shall be liable to the consumer for: ~~in an amount equal to the greater of-~~

(a) The greater of the actual damages sustained by the consumer as a result of the violation or, in the case of an individual action, twenty-five percent of the total of payments necessary to acquire ownership but not less than one hundred dollars nor more than one thousand dollars; and

(b) The costs of the action and reasonable attorney's fees.

(2) In the case of an advertisement, any lessor who fails to comply with the requirements of section 69-2112 with regard to any person shall be liable to that person for actual damages suffered from the violation, the costs of the action, and reasonable attorney's fees.

(3) When there is more than one lessor, liability shall be imposed only on the lessor who made the disclosures. When no disclosures have been made, liability shall be imposed jointly and severally on all lessors.

(4) When there is more than one consumer, there shall be only one recovery of damages under subsection (1) of this section for a violation of the Consumer Rental Purchase Agreement Act.

(5) Multiple violations in connection with a single consumer rental purchase agreement shall entitle the consumer to a single recovery under this section.

(6) A consumer shall not take any action to

offset any amount for which a lessor is potentially liable under subsection (1) of this section against any amount owed by the consumer unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action to which the lessor was a party. This subsection shall not bar a consumer then in default on the obligation from asserting a violation of the act as an original action or as a defense or counterclaim to an action brought by the lessor to collect an amount owed by the consumer.

(7) In connection with any transaction covered under the act, the lessor shall preserve evidence of compliance with the provisions of the act for not less than two years from the date of consummation of the agreement.

Sec. 2. That original section 69-2113, Revised Statutes Supplement, 1989, is repealed.