

SENATE BILL REPORT

SB 5673

As of February 17, 2011

Title: An act relating to leases incident to service contracts.

Brief Description: Requiring leases incident to service contracts to provide disclosures under chapter 63.10 RCW.

Sponsors: Senator Swecker.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/15/11.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Ingrid Mungia (786-7423)

Background: Consumer leases are governed by federal and state law. Both federal and state law require that a lessor disclose certain information to the lessee.

Federal Consumer Leasing Act. The Federal Consumer Leasing Act (15 USC 1667 et. seq.) (CLA) was passed in 1976 to assure that meaningful and accurate disclosure of lease terms is provided to consumers before entering into a contract. It applies to consumer leases of personal property. With this information, consumers can more easily compare one lease with another, as well as compare the cost of leasing with the cost of buying on credit or the opportunity cost of paying cash. In addition, the CLA puts limits on balloon payments sometimes due at the end of a lease, and regulates advertising.

Under the CLA, leases incident to a service are exempt from regulations. Specific leases listed that are not subject to CLA regulations are leases for home entertainment systems requiring the consumer to lease receiving equipment that enable a television to receive the transmitted programming.

Washington Consumer Leasing Act. The Washington Consumer Leasing Act (Act) regulates the terms and conditions of lease-purchase agreements in the state. The Act uses the Federal CLA as guidance. In a lease contract under the Act, certain information must be disclosed, including a brief description of the leased property, the total amount and number of payment to be paid by the lessee, the total amount of charges, any express warranties, description of any security interested, and method of determining penalties.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

When disclosures required under the Act are the same as disclosures required under the CLA, disclosures complying with the CLA are deemed to comply with the disclosure requirements of the Act.

A violation of the provisions of the Act is a violation of Washington's Consumer Protection Act (CPA).

Consumer Protection Act. The state's CPA prohibits unfair or deceptive acts or practices and unfair methods of competition in the conduct of trade or commerce that directly or indirectly affect the people of Washington. Several statutes specify practices that constitute unfair acts, but they do not provide an exhaustive list. A court may find that conduct not specifically enumerated in statute may constitute an unfair or deceptive act.

Summary of Bill: The Act is amended to require that a lease incident to a service contract must disclose all requirements under the Act even if they are exempt under the CLA.

A lease incident to a service contract must disclose the following:

- a brief description of the leased property;
- the total amount of any payment to be paid by the lessee at consummation of the lease;
- the number, amount, total, and due dates of payments;
- the total amount of all other charges payable by the lessee to the lessor;
- a brief identification of insurance in connection with the lease;
- a statement identifying any express warranties or guarantees;
- an identification of the party responsible for maintaining or servicing the leased property;
- a description of any security interest;
- the amount or method of determining any penalty;
- a statement of whether or not the lessee has the option to purchase the leased property;
- the conditions under which the lessee or lessor may terminate the lease;
- a statement that the lessee is liable for the difference between the estimated values of the property and its realized value at early termination or end of lease; and
- the lessee's liability at early termination or at the end of the lease.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The highest number of consumer complaints received by the Attorney General's Office is with DirecTV. Under this bill, a service contract must disclose the price for service in a written contract. This bill will force companies that

enter into a consumer lease to disclose the terms of the offers they make, even if the disclosures are except under federal law.

Persons Testifying: PRO: Senator Swecker, prime sponsor.