

PREDATORY BUSINESS ON MAIN STREET

Sub-prime mortgages and the games played with them have sparked a lot of outrage. But we hear little about a form of predatory lending at least as destructive of people's lives. It's the "rental-purchase agreement," specialty of the rent-to-own industry.

8,000+ rent-to-own stores in the US peddle furniture, appliances, TV's and other goods to 3,000,000 customers a year. The biggest operators – Rent-A-Center and Aaron's – have stores in smaller towns everywhere, including 14 stores in nine Vermont towns from Brattleboro to St. Albans.

If you're a typical customer, you've just rented an apartment and own little to put in it. So you come to a rent-to-own store for a bed.

Beds are available. But they're rarely what's featured at the entrance to the store. What greets you is more likely a large-screen TV, tuned to a popular program with awesome clarity and color.

Whether you buy a bed or the TV, the rent-to-own scheme is the same. To start with, the item's "cash price" usually is 75-100% higher than in other stores. But you don't pay that price. You pay much more.

The Toshiba LCD42" TV¹ displayed recently at the Rent-A-Center store in Keene showed a cash price of \$1,539.62 (120% higher than the \$699.50 at Electronic Express). But this is not a cash deal – it's what normally would be called a credit or installment sale. You buy the TV by paying \$39.99 a week for 77 weeks, or a total of \$3,079.23. Based on the store's inflated cash price, that's a 68.2% annual interest rate. Based on the \$699.50 price, the rate is 192%. (There may also be a security deposit and "loss/damage waiver" or other fees.)

There is no real credit check. The process is quick and easy. And, if you make your payments without fail for 77 weeks, the TV will be yours. But, if you miss a payment, there will be collection calls or visits, then a truck at the door. The industry goal is to repossess within seven days.

The TV is then cleaned up and sold to another customer. So everything you paid over many weeks is lost, and they start the process again with someone else.

Much of what's in the stores is used – has been sold before and repossessed. In fact it turns out that the \$699 TV you were offered for \$3,079 was "previously rented." New, the cost would have been more.

It's not clear what percentage of rent-to-own goods are used. But a survey of the large-screen TV's displayed at one Aaron's and two Rent-A-Center stores in June found that 26 out of 30 were used – had been in most cases repossessed.

Rent-A-Center's revenue in 2008 was \$2.884 billion.² They paid, for new inventory, \$730 million.³ Heavy collection, repossession and litigation costs add to expenses. But it's a very profitable business – especially when times are bad.

While many retailers were losing ground, Rent-A-Center's second quarter net earnings were up 11% over last year.⁴ Aaron's were up 24%.⁵ And, while the Dow gained 12% between last fall's low⁶ and this June 30, Rent-A-Center stock gained 48%, and Aaron's 37%. As Rent-A-Center's website notes, "This economy has created a window of opportunity."

Poor people go to rent-to-own stores because others won't extend them credit and don't want to be in the business of repossession. "Then they should save up until they can buy what they need at another store." But saving is difficult when you're poor, and few rent-to-own customers have connection with a bank. Besides, if there are few nice things in your life, rent-to-own is seductive. "Sign here and we'll deliver the TV this evening."

And how does the industry get away with what's usually termed criminal usury⁷? By insisting that its transactions are not credit or installment sales. They are rentals and therefore not subject to rules that govern loans and other credit transactions. In rent-to-own-speak, their rental-purchase agreement is "a self-renewing weekly or monthly lease with an option to purchase by continuing to pay rent for a specified period of time."

The transaction and language are carefully crafted to skirt every regulation of credit transactions. The rental-purchase agreement is precisely a "consumer lease" as defined and regulated by the Truth in Lending Act – except that a consumer lease is "for a period of time exceeding four months." By having its leases "end and self-renew" weekly or monthly, the industry skirts consumer lease rules.

Similarly, rules for "credit" and "installment" sales are skirted by a customer's right to terminate the agreement by returning the merchandise. "There is no debt or obligation to make periodic payments."⁸ The reality, however, is that the majority of terminations are repossessions, triggered by the consumer's failure to make, precisely, an obligatory payment.

On such grounds the industry and its lobbyists have persuaded 47 states to exempt rental-purchase agreements from usury and other laws that would

constrain them. The exemption usually has been buried in a law disguised as consumer protection.

Vermont's law is better than most.⁹ Consumer Protection Rule CF115 requires disclosure of some basic information in advertisements, on merchandise in the store, and in rent-to-own contracts. But, here as in almost every state, needed rules are missing, including especially a limit on interest rate¹⁰. The industry has effectively protected key predatory practices.

But the federal government has never provided rent-to-own the same legal cover. The industry has made vain attempts in every Congress since 1993. Now, however, it is closer to success.

H.R.1744 and S.738 – the "Consumer Rental-Purchase Agreement Act of 2009" – not only would give the industry federal exemption from important regulations governing credit transactions. It would overrule any state law that disagreed. (The bill outlaws any state requirement that stores disclose their interest rates. The industry trade group says that to do so would be "confusing."¹¹)

The House and Senate bills are identical. Page after page, they propose rules to ensure that the rent-to-own industry behaves. But almost everything in those pages describes current practice. The operative self-serving language is buried under "definitions" and "relation to other laws."

H.R.1744, with more than 100 sponsors, is now in the House Committee on Financial Services, S.738, with 15 sponsors, in the Committee on Banking, Housing and Urban Affairs. They stand a chance of passing, supported by legislators unaware of the fine print.

Meanwhile, every day in countless towns, unnoticed lives are destabilized by a rent-to-own purchase. It will get worse if we allow these bills to become law.

Instead, we should be supporting Barney Frank's "Consumer Financial Protection Agency Act" (H.R.3126), strengthening regulatory oversight of providers of "alternative financial services." Or H.R.1705/S.566, the "Financial Product Safety Commission Act," supported by President Obama.

And we should strengthen Vermont's rent-to-own regulation. A possible model for tighter rules is a bill being considered by the New York State legislature: S1347/A07746. Particularly important is its provision limiting rent-to-own interest rates to 25%.⁷ Vermont sets a limit of 18% for "retail installment

contracts." Rental-purchase agreements are essentially the same thing. They should be subject to a similar limit.

The need for better regulation of the rent-to-own industry is urgent – especially because of a little known fact: Rent-A-Center is now in the financial services business. 350+ stores, in 18 states with indifferent regulatory environments, offer payday advances and signature loans. (Interest rate varies by state. In Texas, currently, it's 531%¹²). And, in addition to loans, Rent-A-Center now offers a fee-laden "VIP Select Prepaid MasterCard."

That is alarming.

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notes

1. model # 42RV535U.
2. 2008 Annual Report, p 20.
3. Ibid., p 34.
4. July 27, 2009 press release re. second quarter results.
5. July 2, 2009 press release re. second quarter results.
6. November 20.
7. usury is defined differently in different states – New York State penal law (Article 190, Section 40) defines "criminal usury" in the second degree as the charging of interest higher than 25% (charging more than 32% can be prosecuted as loansharking under the RICO Act).
8. Rent to Own Magazine, March 2009, p 11.
9. ...but routinely ignored by Rent-A-Center and Aaron's if a recent visit to their stores in Barre is an indication
10. effective annual percentage interest rate =
(weekly or monthly payment X # of payments to purchase) – (the reasonable and competitive cash price for the merchandise) ÷ (that cash price) ÷ (# of weeks or months required to purchase) X (52 [if weeks] or 12 [if months]) x 100
11. Rent to Own Magazine, March 2009, p 19.
12. Rent-A-Center Financial Services website, September 23, 2009.