

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 10. CONSUMER LEASING
SUBCHAPTER 5. DISCLOSURES**

160:10-5-1.1. General disclosure requirements

(a) **General requirements.** A lessor shall make the disclosures required by 160:10-5-1.2, as applicable. The disclosures shall be made clearly and conspicuously in writing in a form the consumer may keep, in accordance with this section. The disclosures required by this chapter may be provided to the lessee in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. § 7001 *et seq.*). For an advertisement accessed by the consumer in electronic form, the disclosures required by 160:10-7-1.1 may be provided to the consumer in electronic form in the advertisement, without regard to the consumer consent or other provisions of the E-Sign Act.

(1) **Form of disclosures.** The disclosures required by 160:10-5-1.2 shall be given to the lessee together in a dated statement that identifies the lessor and the lessee; the disclosures may be made either in a separate statement that identifies the consumer lease transaction or in the contract or other document evidencing the lease. Alternatively, the disclosures required to be segregated from other information under paragraph (a)(2) of this section may be provided in a separate dated statement that identifies the lease, and the other required disclosures may be provided in the lease contract or other document evidencing the lease. In a lease of multiple items, the property description required by 160:10-5-1.2(1) may be given in a separate statement that is incorporated by reference in the disclosure statement required by this paragraph.

(2) **Segregation of certain disclosures.** The following disclosures shall be segregated from other information and shall contain only directly related information: 160:10-5-1.2(2) through 160:10-5-1.2(6), 160:10-5-1.2(7)(B), 160:10-5-1.2(8)(C), 160:10-5-1.2(9)(A), 160:10-5-1.2(10), and 160:10-5-1.2(13)(A). The headings, content, and format for the disclosures referred to in this paragraph shall be provided in a manner substantially similar to the applicable model form in the appendixes of this chapter.

(3) **Timing of disclosures.** A lessor shall provide the disclosures to the lessee prior to the consummation of a consumer lease.

(4) **Language of disclosures.** The disclosures required by 160:10-5-1.2 may be made in a language other than English provided that they are made available in English upon the lessee's request.

~~(5) **Electronic communication.** For rules governing the electronic delivery of disclosures, including a definition of electronic communication, see 160:10-5-1.4.~~

(b) **Additional information; nonsegregated disclosures.** Additional information may be provided with any disclosure not listed in paragraph (a)(2) of this section, but it shall not be stated, used, or placed so as to mislead or confuse the lessee or contradict, obscure, or detract attention from any disclosure required by this chapter.

(c) **Multiple lessors or lessees.** When a transaction involves more than one lessor, the disclosures required by this chapter may be made by one lessor on behalf of all the lessors. When a lease involves more than one lessee, the lessor may provide the disclosures to any lessee who is primarily liable on the lease.

(d) **Use of estimates.** If an amount or other item needed to comply with a required disclosure is unknown or unavailable after reasonable efforts have been made to ascertain the information, the lessor may use a reasonable estimate that is based on the best information available to the lessor, is clearly identified as an estimate, and is not used to circumvent or evade any disclosures required by this chapter.

(e) **Effect of subsequent occurrence.** If a required disclosure becomes inaccurate because of an event occurring after consummation, the inaccuracy is not a violation of this chapter.

(f) **Minor variations.** A lessor may disregard the effects of the following in making disclosures:

- (1) that payments must be collected in whole cents;
- (2) that dates of scheduled payments may be different because a scheduled date is not a business day;
- (3) that months have different numbers of days; and
- (4) that February 29 occurs in a leap year.

160:10-5-1.4. Electronic communication [REVOKED]

~~(a) **Definition.** "Electronic communication" means a message transmitted electronically between a lessor and a lessee in a format that allows visual text to be displayed on equipment, for example, a personal computer monitor.~~

~~(b) **General rule.** In accordance with the Electronic Signatures in Global and National Commerce Act (the E-Sign Act) (15 U.S.C. 7001 et seq.) and the rules of this chapter, a lessor may provide by electronic communication any disclosure required by this chapter to be in writing.~~

~~(c) **When consent is required.** Under the E-Sign Act, a lessor is required to obtain a lessee's affirmative consent when providing disclosures related to a transaction. For purposes of this requirement, the disclosures required under 160:10-7-1.1 are deemed not to be related to a transaction.~~

~~(d) **Address or location to receive electronic communication.** A lessor that uses electronic communication to provide disclosures required by this chapter shall:~~

- ~~(1) send the disclosure to the consumer's electronic address; or~~
- ~~(2) make the disclosure available at another location such as a web site; and~~
 - ~~(A) alert the lessee of the disclosure's availability by sending a notice to the consumer's electronic address (or to a postal address, at the lessor's option). The notice shall identify the transaction involved and the address of the Internet web site or other location where the disclosure is available; and~~
 - ~~(B) make the disclosure available for at least 90 days from the date the disclosure first becomes available or from the date of the notice alerting the lessee of the disclosure, whichever comes later.~~

~~(3) **Exceptions.** A lessor need not comply with paragraph (d)(2)(i) and (ii) of this section for the disclosures required under 160:10-7-1.1.~~

~~(e) **Redelivery.** When a disclosure provided by electronic communication is returned to a lessor undelivered, the lessor shall take reasonable steps to attempt redelivery using information in its files.~~

SUBCHAPTER 7. ADVERTISING

160:10-7-1.1. Advertising

(a) **General rule.** An advertisement for a consumer lease may state that a specific lease of property at specific amounts or terms is available only if the lessor usually and customarily leases or will lease the property at those amounts or terms.

(b) **Clear-and-conspicuous standard.** Disclosures required by this section shall be made clearly and conspicuously.

(1) **Amount due at lease signing.** Except for the statement of a periodic payment, any affirmative or negative reference to a charge that is a part of the disclosure required under paragraph (d)(2)(B) of this section shall not be more prominent than that disclosure.

(2) **Advertisement of a lease rate.** If a lessor provides a percentage rate in an advertisement, the rate shall not be more prominent than any of the disclosures in 160:10-5-1.2, with the exception of the notice in 160:10-5-1.2(19) required to accompany the rate; and lessor shall not use the term "annual percentage rate," "annual lease rate," or equivalent term.

(c) **Catalogs ~~and/or other multipage advertisements;~~ electronic advertisements.** A catalog or other multipage advertisement, or an electronic advertisement (such as an advertisement appearing on an Internet Web site), that provides a table or schedule of the required disclosures shall be considered a single advertisement if, for lease terms that appear without all the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.

(d) **Advertisement of terms that require additional disclosure.**

(1) **Triggering terms.** An advertisement that states any of the following items shall contain the disclosures required by paragraph (d)(2) of this section, except as provided in paragraphs (e) and (f) of this section:

(A) the amount of any payment; or

(B) a statement of any capitalized cost reduction or other payment (or that no payment is required) prior to or at consummation or by delivery, if delivery occurs after consummation.

(2) **Additional terms.** An advertisement stating any item listed in paragraph (d)(1) of this section shall also state the following items:

(A) that the transaction advertised is a lease;

(B) the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;

(C) the number, amounts, and due dates or periods of scheduled payments under the lease;

(D) a statement of whether or not a security deposit is required; and

(E) a statement that an extra charge may be imposed at the end of the lease term where the lessee's liability (if any) is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

(e) **Alternative disclosures - merchandise tags.** A merchandise tag stating any item listed in paragraph (d)(1) of this section may comply with paragraph (d)(2) of this section by referring to a sign or display prominently posted in the lessor's place of business that contains a table or schedule of the required disclosures.

(f) **Alternative disclosures - television or radio advertisements.**

(1) **Toll-free number or print advertisement.** An advertisement made through television or radio stating any item listed in paragraph (d)(1) of this section complies with paragraph

(d)(2) of this section if the advertisement states the items listed in paragraphs (d)(2)(A) through (C) of this section, and -

(A) lists a toll-free telephone number along with a reference that such number may be used by consumers to obtain the information required by paragraph (d)(2) of this section; or

(B) directs the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that information required by paragraph (d)(2) of this section is included in the advertisement. The written advertisement shall be published beginning at least three days before and ending at least ten days after the broadcast.

(2) **Establishment of toll-free number.**

(A) The toll-free telephone number shall be available for no fewer than ten days, beginning on the date of the broadcast.

(B) The lessor shall provide the information required by paragraph (d)(2) of this section orally, or in writing upon request.