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Subcommittee on Financial Institutions and Consumer Credit
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Testimony Of
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Mr. Chairman and members of the Subcommittee on Financial Institutions and Consumer Credit, on behalf of Wisconsin Attorney General James E. Doyle, I appreciate the invitation to appear before you today regarding H.R. 1701, a proposal for federal regulation of rent-to-own programs. General Doyle asked me to testify today to oppose this measure because it would harm Wisconsin consumers.

This measure would take away state law protections from low-income consumers—particularly consumers who have few alternatives in the marketplace. In Wisconsin rent-to-own transactions are subject to the Wisconsin Consumer Act.¹ Under the Consumer Act, rent-to-own businesses must disclose interest rates--sometimes higher than 200 percent--and comply with other requirements that apply to their competitors that use installment payment or other credit plans to sell household furniture and appliances. The Consumer Act also restricts “unconscionable practices” and unfair collection tactics as well as extra-judicial repossession.

As has been the case in other states, in Wisconsin consumer complaints have documented unfair and abusive practices of the rent-to-own industry. The use of unfair collection tactics, excessive charges, implicit interest rates of more than 200 percent, ambiguous default terms and extra-judicial repossession are reminiscent of practices before truth-in-lending and other credit laws were enacted.² According to some complaints, rent-to-own stores have threatened criminal action against customers who are late with payments. Other complaints have reported that customers are forced to purchase damage waivers as part of the arrangement. Former sales agents have reported that penetration rates for “optional” waivers of 90 percent are expected.

¹ Wis. Stat. chs. 421-427.

² Attached is an illustration of the credit disclosures that should have been made for two rent-to-own contracts (Attachment 1).

The Wisconsin Consumer Act has provided a basis to stop some of these unfair and overreaching practices by the rent-to-own industry. When the Act was passed in 1973, both supporters and critics alike recognized this Act as “the most sweeping consumer credit legislation . . . enacted in any state.”³ The Wisconsin Legislature used Truth-in-Lending as a basis and expressly intended to comprehensively cover all types of consumer credit arrangement, whether or not required under federal law.⁴ Three appellate courts in Wisconsin have upheld the Act’s application to rent-to-own transactions. *Palaces v. ABC TV & Stereo Rental*, 123 Wis. 2d 79, 65 N.W.2d 882 (Ct. App. 1985); *Rent-A-Center v. Hall*, 181 Wis. 2d 143, 510 N.W.2d 789 (Ct. App. 1993); *Lebanon Rent-To-Own v. Warrens*, 223 Wis. 2d. 582, 589 N.W.2d 425 (Ct. App. 1998).

The Wisconsin Department of Justice has pursued enforcement actions to obtain compliance by the rent-to-own industry. In 1996, contempt charges were filed against Colortyme, Inc., for violation of a 1984 injunction with regard to the failure to disclose interest rates that allegedly exceeded 84 percent for used bedroom furniture, over 99 percent for a washing machine and more than 200 percent for a television set. The company settled the action with the payment of a forfeiture of \$25,000. Since that action, two other companies settled enforcement actions and agreed to injunctions that require compliance with the Consumer Act including credit disclosures.⁵ As a result of these enforcement efforts, a contract form that combines credit disclosures with a rent-to-own contract has been approved for use in Wisconsin.⁶

Wisconsin law provides meaningful private remedies for consumers who are injured by companies that violate these laws. During the last five years, there have been three class actions based on violations of state consumer laws that have settled. In one case, Rent-A-Center, Inc., paid \$16,000,000 to settle a class action based on violations of the Wisconsin Consumer Act involving about 20,000 customers.⁷

Unfortunately the 1998 Rent-A-Center, Inc., settlement did not involve injunctive remedies similar to the judgments obtained by the state. Instead of making credit disclosures, Rent-A-Center, Inc., repackaged its rent-to-own program and renamed it “rental retail.” Under this approach, Rent-A-Center, Inc., uses a printed form entitled “Rental Agreement” that does not have a purchase option. At the same time Rent-A-Center, Inc., assures its customers that the price to own merchandise will continue to decline if they continue the rental program for two years. By excluding the purchase option from the written agreement, Rent-A-Center, Inc., sought to circumvent the requirements of the Consumer Act.

³ Heiser, *Wisconsin Consumer Act – A Critical Analysis*, 57 Marq.L. Rev 389 (1974).

⁴ Wis. Stat. § 422.301.

⁵ Attached are copies of statements issued about enforcement actions filed by the Wisconsin Department of Justice (Attachment 2).

⁶ Attached is a copy of a form that has been approved by the Wisconsin Department of Financial Institutions, the agency responsible for administering the Wisconsin Consumer Act (Attachment 3).

⁷ Attached are newspaper articles that describe these actions (Attachment 4).

In August 1999, the state filed civil charges that Rent-A-Center, Inc., was engaging in “unconscionable practices” and other “knowing and willful” violations of the Consumer Act. If proven at trial, which is expected early next year, forfeitures up to \$10,000 may be imposed for each “knowing and willful” violation of the Act.⁸

It is also important to note that the rent-to-own industry has actively lobbied to pass legislation to specifically regulate rent-to-own programs apart from the Wisconsin Consumer Act. Under these legislative proposals, rent-to-own programs would be excluded from the Consumer Act and regulated separately as rental-purchase transactions. These legislative proposals have failed.

If this bill is enacted, all these protections--the current state of the law for rent-to-own programs in Wisconsin--likely will be preempted under Section 1018. This section appears to “annul” “inconsistent” state laws and explicitly “supersedes” state law relating to cost disclosure for rent-to-own purchase programs.

The preemptive provisions of H.R. 1701 contradict the long-standing federal tradition of permitting states to go beyond minimum federal standards for consumer protection. Consumer protection and consumer credit are traditional and critical areas of state concern. States such as Wisconsin have established comprehensive regulatory systems to ensure fairness in the relationship between consumers and businesses. These laws reflect each state’s own assessment of how best to balance protecting consumers with legitimate business interests.

If this measure is adopted, rent-to-own transactions will no longer be subject to the Wisconsin Consumer Act. Under the guise of consumer protection, the rent-to-own industry seeks to federalize its version of these transactions and displace the established law in Wisconsin and several other states. Public policy considerations do not support special federal treatment for the rent-to-own industry. The traditional state interest in consumer protection matters should be preserved for rent-to-own transactions.

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⁸ A statement regarding the most recent enforcement action is attached (Attachment 2).