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## COUNTY ROAD COMMISSION INSTALLMENT CONTRACTS

House Bill 4708 as enrolled  
Public Act 137 of 2003  
Second Analysis (8-5-03)

Sponsor: Rep. David Robertson  
House Committee: Transportation  
Senate Committee: Transportation

### ***THE APPARENT PROBLEM:***

County road commissioners cannot enter into installment contracts for the purchase of real estate or many kinds of personal (moveable, as opposed to fixed) property, unlike officials in other local units of government such as counties, townships, cities, villages, and school districts. See Background Information below. Instead, the law allows county road commissioners only to “enter into contracts or agreements for the purchase of machines, tools, appliances, and materials to be used for public purposes, and to be paid for in installments for five years.” Because of these restrictions on the accumulation of debt, county road commissioners often, reportedly, enter into lease-to-own contracts with equipment vendors when they must purchase the heavy equipment that is used to build or repair the roads within their jurisdictions. That equipment can be very costly—for example a road surface patching machine recently purchased by the Genesee County Road Commission had a sticker price of \$220,000—and the effective interest rates on the lease-to-own contracts, set unilaterally by the equipment rental agencies (headquartered in either Indiana or Illinois), are generally very high.

Lease-to-own contracts (sometimes called rent-to-own contracts) are technically rental-purchase agreements. The contracts allow a customer to rent merchandise either by the week or month. The customer owns the item after enough payments have been made (as stipulated in the agreement), but if a payment is missed, the agreement generally requires the customer to return the item to the vendor.

Rent-to-own agreements are different from installment contracts. With a rent-to-own contract a customer is renting the item, not buying it—paying for the use of the item for a specified amount of time. (However, if the customer chooses to keep the item and make all the payments, eventually the customer will own it.) In contrast, with an installment contract the customer is buying the item by making a regular

series of payments. The customer is required to pay more than the cash price because it takes the seller longer to collect the full price. Consequently, an installment contract spells out the annual percentage rate (or APR) of interest—the interest rate the customer is charged on the loan. In addition, an installment contract will state the monthly payment, the total installment purchase price, and any other fees.

Customers—whether county road commissioners or individual consumers—pay most for an item when they purchase it under a lease-to-own agreement. They will pay somewhat less for an item purchased under an installment contract, and they pay least of all when they make cash purchases. In fact, lease-to-own agreements are often misleading, because they fail to disclose their much higher costs, and they have been the subject of national scrutiny by the U. S. Congress and the Federal Trade Commission. See Background Information below.

Legislation has been introduced that would allow county road commissioners to enter into installment contracts, in order to buy both real estate and personal property, and to do that under terms that would enable the road commissioners to maximize their financial resources each year.

### ***THE CONTENT OF THE BILL:***

House Bill 4708 would amend Public Act 283 of 1909, the County Road Law, to allow county road commissions to enter into installment contracts.

Under the bill, the members of a county road commission could enter into a contract or agreement for the purchase of real or personal property for a public purpose, and make payments in installments over a period of not more than 15 years, or the useful life of the property acquired, whichever is less. Further, the bill would allow real and personal

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property purchased under the act to serve as collateral in support of the purchase, contract, or agreement. However, the outstanding balance of all purchases under the act could not exceed one and one-quarter percent of the value of the road commission's capital assets and infrastructure, as determined by a capitalized asset inventory.

Currently under the law, a road commission can enter into installment agreements for the purchase of machines, tools, appliances, and materials to be used for public purposes; however, the installments must be made over a period of not more than five years or the useful life of the property, whichever is less. House Bill 4708 would eliminate this provision.

MCL 224.10

**BACKGROUND INFORMATION:**

Installment contracts for other local units of government. County boards of commissioners are authorized to enter into installment contracts for the purchase of real or personal property under Public Act 156 of 1851, Section 11b (MCL 46.11b). The section allows the county commissioners to enter into a contract or agreement for the purchase of lands, property, or equipment to be used for public purposes, to be paid for in installment over a period of not more than 10 years. The aggregate outstanding balance of purchases, excluding interest, cannot exceed one half of one percent of equalized assessed value of real and personal property in the county at the date of the contract or agreement. (Under a very limited circumstance from June 30, 1983 to July 1, 1984, the installments for a contract or agreement to purchase lands, property, or equipment could be for a period of up to 15 years, if all of the following conditions were met: the lands, property, or equipment were entirely within a county; they were purchased from a city which was entirely within the county; and they were to be used for airport purposes.)

Township boards of trustees, city and village councils or commissions, and school boards also are authorized to enter into installment contracts for the purchase of real or personal property under Public Act 99 of 1933, Section 1 (MCL 123.721). The section allows these local officials to enter into a contract or agreement for the purchase of real or personal property for public purposes, to be paid for in installments over a period of not to exceed 15 years, and not to exceed the useful life of the property acquired. The provision specifies that for school buses, the determined useful life cannot exceed six

years. Further, under the law the outstanding balance of all purchases exclusive of interest, cannot exceed one and one-quarter percent of the taxable value of the real and personal property in the village, township, city, or school district at the date of the contract or agreement.

Rent-to-own transactions. In July 2001, the Federal Trade Commission presented key findings of its survey of about the Rent-to-Own industry in the United States to the Financial Institutions and Consumer Credit Subcommittee of the U.S. House of Representatives' Financial Service Committee. A brief summary of that report is available at [www.ftc.gov/opa/2001/07rtotest.htm](http://www.ftc.gov/opa/2001/07rtotest.htm)

The Montana State University Extension Service published a guide called "Rent-to-Own Contracts" in June 2002. The chart below illustrates the degree to which the total cost of an item can vary depending upon the type and terms of the purchase.

Comparison: Three Ways to Buy a Television—Cash, Installment Payment and Rent-to-Own

| Type of Purchase              | Amount to Pay (a) | # of Pays (b) | Other Fees (c) | Total Cost (a x b) + c | Who Makes Repairs |
|-------------------------------|-------------------|---------------|----------------|------------------------|-------------------|
| Cash sale                     | \$649.99          | 1             | \$0            | \$649.99               | You do            |
| Installment contracts 12% APR | \$34.47/month     | 21            | \$15           | \$738.87               | You do            |
| Installment contract 8½% APR  | \$33.42/month     | 21            | \$15           | \$716.83               | You do            |
| Rent-to-own agreement         | \$17.95/week      | 91            | \$0            | \$1,633.45             | Read contract     |

Source: Montana State University Extension, June 2002. See [www.montana.edu/wwwpb/pubs/mt9812.html](http://www.montana.edu/wwwpb/pubs/mt9812.html)

This chart is for illustration purposes only. In Michigan, rent-to-own contracts are regulated under the Rental Purchase Agreement Act, which is enforced by the attorney general. That act which applies primarily to household goods, contains limits on the amount of the total cost of the purchase of a product.

**FISCAL IMPLICATIONS:**

The House Fiscal Agency notes that there are no apparent fiscal impacts. (6-5-03)

**ARGUMENTS:****For:**

A spokesman for the Genesee County Road Commission indicated during committee testimony that the ability to purchase personal property (that is, moveable as opposed to fixed property such as real estate) with installment contracts rather than through lease-to-own agreements will save taxpayers in that county an estimated \$90,000 a year.

**For:**

County road commissioners should have the same ability to purchase real and personal property as do other local government officials. Currently, the public officials who work in township and city government, as well as on school boards, are able to enter into 15-year installment contracts, and to collateralize their purchases, as this bill proposes for county road commissioners. County commissioners can also enter into installment contracts to purchase real estate and personal property, although they are limited to 10-year contracts.

**Against:**

This bill would make the accumulation of debt for real estate and moveable property far easier. County road commissioners should not be encouraged to incur a heavier burden of debt overall than they have already assumed.

**Response:**

It is true that the legislation will allow for the accumulation of more debt. However, as a safeguard, the bill limits the total amount of debt the road commissioners can assume, capping the outstanding balance of their installment purchases at not more than one and one-quarter percent of the road commission's capital assets, as determined by its capitalized asset inventory, the form of budget record-keeping that all county road commissions must adopt in the coming year. In a similar manner, the installment debt load is limited for county officials, as well as officials working in other units of local government. [For county commissioners, the law specifies that the aggregate outstanding balance of purchases, excluding interest, cannot exceed one-half of one percent of the equalized assessed value of real and personal property in the county at the date of the contract or agreement. For city, village, and school board officials, the outstanding balance of all purchases exclusive of interest, cannot exceed one and one-quarter percent of the taxable value of the real and personal property in the village, township, city, or school district at the date of the contract or agreement.]

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.