RENTAL-PURCHASE AGREEMENT ACT

Act 424 of 1984

AN ACT to define and regulate rental-purchase agreements; to require certain disclosures; and to provide for remedies and penalties.

History: 1984, Act 424, Eff. Mar. 29, 1985

The People of the State of Michigan enact:

445.951 Short title.

Sec. 1.

This act shall be known and may be cited as the "rental-purchase agreement act".

History: 1984, Act 424, Eff. Mar. 29, 1985

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445.952 Definitions.

Sec. 2.

As used in this act:

(a) "Lessee" means a person who leases property pursuant to a rental-purchase agreement.

(b) "Lessor" means a person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of property under a rental-purchase agreement.

(c) "Period" means a day, week, 1 month, or other subdivision of a year.

(d) "Rental-purchase agreement" means an agreement for the use of personal property by a lessee primarily for personal, family, or household purposes, for an initial period of 4 months or less that is automatically renewable with each payment after the initial period and that permits the lessee to become the owner of the property. Rental-purchase agreements shall not include any of the following:

(i) A lease or agreement which constitutes a credit sale as defined in 12 C.F.R. 226.2(a)(16) and section 1602(g) of the truth in lending act, 15 U.S.C. 1602(g).

(ii) A lease which constitutes a consumer lease as defined in 12 C.F.R. 213.2(a)(6).

(iii) Any lease for agricultural, business, or commercial purposes.

(iv) Any lease made to an organization.

(v) Any lease of money or intangible personal property.

(vi) A lease or agreement which constitutes a retail installment transaction as defined in section 2 of the retail installment sales act, Act No. 224 of the Public Acts of 1966, being section 445.852 of the Michigan Compiled Laws.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.953 Rental-purchase agreement; form; contents; information requirements; separate form; disclosure of additional information.

Sec. 3.

(1) A rental-purchase agreement shall be in the form of a written statement which shall include all of the following:

(a) A brief description of the leased property, sufficient to identify the property to the lessee and lessor including whether the property is new or previously rented. If a lease is for multiple items, a description of each item may be provided in a separate statement which is incorporated by reference in the primary disclosure statement.

(b) The total amount of any initial payment, including any advance payment, delivery charge, or any trade-in allowance to be paid by the lessee at or before consummation of the rental-purchase agreement.

(c) The amount and timing of payments.

(d) The amount of all other charges, individually itemized, payable by the lessee to the lessor, which are not included in the periodic payments.

(e) A statement of the party liable for loss, damage in excess of normal wear and tear, or destruction to the leased property.

(f) The lessee's right to reinstate and the amount or method of determining the amount of any penalty or other charge for reinstatement as established in section 8.

(g) The party responsible for maintaining or servicing the leased property together with a brief description of this responsibility.

(h) A statement of the conditions under which the lessee or lessor may terminate the lease.

(i) A statement of the product of the number of payments times the amount of each payment necessary to acquire ownership of the leased property.

(j) A statement that the lessee has the option to purchase the leased property during the term of the rental purchase agreement and, at what price, formula, or by what method the price is determined.

(k) The cash price of the property if purchased rather than leased.

(l) A statement that if any part of a manufacturer's warranty remains on the leased property at the point that a lessee assumes ownership of the property, the warranty will be passed on to the lessee.

(m) A notice in a prominent place in type not smaller than the size of 12-point type, or in legible print with letters not smaller than 1/8 inch, in substantially the following form:

NOTICE: THIS AGREEMENT IS REGULATED BY STATE LAW AND MAY BE ENFORCED BY THE ATTORNEY GENERAL OR BY PRIVATE LEGAL ACTION.

(2) All information required by this section shall be stated in a clear and coherent manner, using words and phrases of common meaning. The information shall be appropriately divided and captioned by its sections. All numerical amounts and percentages shall be stated in figures. The information shall also be disclosed by the lessor prior to the signing of the lease by the lessee on a dated written statement which identifies the lease or rental-purchase agreement and the parties to it. The written statement shall contain all of the information required by this section and shall be provided directly on the lease contract or instrument or on a separate form. A separate form may utilize the format provided for in section 19.

(3) At the lessor's option, information in addition to that required by this section may be disclosed if the additional information is not stated, utilized, or placed in a manner which will contradict, obscure, or distract attention from the required information.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.954 Amount necessary to acquire ownership; amount applied toward purchase price.

Sec. 4.

(1) The amount to be paid by the lessee to acquire ownership as disclosed in section 3(j) shall not be greater than the cash price as disclosed under section 3(k) minus an amount equal to 45% of all periodic rental payments made by the lessee.

(2) If at any time an amount equal to 45% of the total periodic rental payments paid by the lessee to the lessor equals the cash purchase price disclosed under section 3(k), then the lessee shall acquire ownership of the rental property.

(3) This section shall not prohibit a lessor from offering a rental purchase agreement which provides that an amount equal to 45% or more of the periodic rental payments is applied toward the purchase price disclosed in section 3(k).

History: 1984, Act 424, Eff. Mar. 29, 1985

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445.955 Advertising requirements; requirements as to items displayed or offered under rental-purchase agreement.

Sec. 5.

(1) An advertisement for any rental-purchase agreement shall not state that a specific lease of any property at specific amounts or terms is available unless the lessor usually and customarily leases or will lease the property at those amounts or terms.

(2) An advertisement shall not state that a payment or a periodic payment is due at the start of a lease without disclosing both the payment due at the start of the lease, the periodic payment, all other charges payable by the lessee, and the total of all periodic payments necessary to obtain ownership.

(3) Every item displayed or offered under a rental-purchase agreement shall have clearly and conspicuously indicated in arabic numerals, so as to be readable and understandable by visual inspection, each of the following stamped upon or affixed to the item:

(a) The cash price of the item.

(b) The amount of a periodic payment.

(c) The total number of periodic payments required for ownership.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.956 Prohibited provisions in rental-purchase agreement.

Sec. 6.

A rental-purchase agreement shall not contain a provision requiring any of the following:

(a) A garnishment of wages or a power of attorney to confess a judgment.

(b) Authorization to the lessor or a person acting on the lessor's behalf to unlawfully enter upon the lessee's premises or to commit any breach of the peace in the repossession of goods.

(c) The lessee to waive any defense, counterclaim, or right of action against the lessor or a person acting on the lessor's behalf, as the lessee's agent in collection of payments under the lease or in the repossession of goods.

(d) The lessee to agree not to assert against the lessor or against an assignee a claim or defense arising out of the lease.

(e) A requirement for any collection or repossession charges in excess of those allowable under section 7(e) and applicable court rules.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.957 Prohibited requirements.

Sec. 7.

A lessor shall not require any of the following:

(a) The purchase of insurance by the lessee from the lessor of a leased item.

(b) A payment that is in excess or in addition to a normal periodic payment and that is required in order to purchase a leased item at the conclusion of the periodic payments necessary to acquire ownership.

(c) A penalty for early termination of a rental-purchase agreement or for the return of an item at any point.

(d) A processing fee of any sort.

(e) A fee for in-home collection of a payment unless the lessee has expressly agreed to the fee and the amount of the fee is disclosed.

(f) A periodic payment or late fee for a rental period beginning after the lessee has returned or surrendered the leased property to the lessor or the lessor's agent.

(g) Any charge or fee for reinstatement of the rental-purchase agreement in addition to or in excess of those expressly permitted in section 8.

History: 1984, Act 424, Eff. Mar. 29, 1985 ;-- Am. 2012, Act 584, Imd. Eff. Jan. 3, 2013

445.958 Failure to make timely periodic payment; rights of lessee; reinstatement; late or delivery fee; same or substitute item provided on reinstatement.

Sec. 8.

(1) A lessee who fails to make a timely periodic payment may reinstate the original rental-purchase agreement without losing any rights or options previously acquired under the rental-purchase agreement by paying the past due periodic payment, any applicable late fee, and, if redelivery of an item is necessary, a delivery fee not to exceed the original delivery fee, by the later of the following dates:

(a) 7 days after failing to make the timely periodic payment.

(b) 90 days after failing to make the timely periodic payment, if the lessee returns or voluntarily surrenders the item, other than through judicial process, within 7 days after failing to make the timely periodic payment.

(2) A lessee shall not be charged a late fee for failure to make a timely periodic payment unless the periodic payment is more than the following number of days past due:

(a) 5 days, if the periodic payment is due monthly or less frequently.

(b) 2 days, if the periodic payment is due more frequently than monthly.

(3) A late fee shall not exceed the greater of $10.00 or 5% of the amount of the missed payment.

(4) If reinstatement occurs pursuant to this section, the lessor shall provide the lessee with either the same item leased by the lessee prior to reinstatement or a substitute item of comparable quality and condition. If a substitute item is provided, the lessor shall provide the lessee with all of the information required in section 3.

History: 1984, Act 424, Eff. Mar. 29, 1985 ;-- Am. 2012, Act 584, Imd. Eff. Jan. 3, 2013

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445.959 Temporary or permanent injunction; venue; costs; civil penalty; notice of intended action; opportunity to cease and desist or to confer with attorney general; notice of alleged violation; civil penalty for knowing violation.

Sec. 9.

(1) When the attorney general has probable cause to believe that a person has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful pursuant to this act, and upon notice given in accordance with this section, the attorney general may bring an action in accordance with principles of equity to restrain the defendant by temporary or permanent injunction from engaging in the method, act, or practice. The action may be brought in the circuit court of the county where the defendant is established or conducts business or, if the defendant is not established in this state, in the circuit court of Ingham county. The court may award costs to the prevailing party. For persistent and knowing violation of this act the court may assess the defendant a civil penalty of not more than $25,000.00.

(2) Unless waived by the court on good cause shown not less than 10 days before the commencement of an action under this section, the attorney general shall notify the person of the attorney general's intended action and give the person an opportunity to cease and desist from the alleged unlawful method, act, or practice or to confer with the attorney general in person, by counsel, or by other representative as to the proposed action before the proposed filing date. The notice may be given the person by mail, postage prepaid, to his or her usual place of business or, if the person does not have a usual place of business, to his or her last known address, or, with respect to a corporation, only to a resident agent who is designated to receive service of process or to an officer of the corporation.

(3) A prosecuting attorney or law enforcement officer receiving notice of an alleged violation of this act, or of a violation of an injunction, order, decree, or judgment issued in an action brought pursuant to this section, or of an assurance under this act, shall immediately forward written notice of the violation together with any information he or she may have to the office of the attorney general.

(4) A person who knowingly violates the terms of an injunction, order, decree, or judgment issued pursuant to this section shall forfeit and pay to the state a civil penalty of not more than $5,000.00 for each violation. For the purposes of this section, the court issuing an injunction, order, decree, or judgment shall retain jurisdiction, the cause shall be continued, and the attorney general may petition for recovery of a civil penalty as provided by this section.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.960 Assurance of discontinuance.

Sec. 10.

(1) When the attorney general has authority to institute an action or proceeding pursuant to section 9, the attorney general may accept an assurance of discontinuance of a method, act, or practice which is alleged to be unlawful under this act from the person who is alleged to have engaged, be engaging, or be about to engage in the method, act, or practice. The assurance shall not constitute an admission of guilt nor be introduced in any other proceeding. The assurance may include a stipulation for any or all of the following:

(a) The voluntary payment by the person for the costs of investigation.

(b) An amount to be held in escrow pending the outcome of an action.

(c) An amount for restitution to an aggrieved person.

(2) An assurance of discontinuance shall be in writing and may be filed with the circuit court of Ingham county. The clerk of the court shall maintain a record of the filings. Unless rescinded by the parties or voided by a court for good cause, the assurance may be enforced in the circuit court by the parties to the assurance. The assurance may be modified by the parties or by a court for good cause.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.961 Subpoena; service and contents of notice; extension of reporting date; modification or setting aside of notice and subpoena; confidentiality; disclosures; disclosure as misdemeanor; penalty.

Sec. 11.

(1) Upon the ex parte application of the attorney general to the circuit court in the county where the defendant is established or conducts business or, if the defendant is not established in this state, in Ingham county, the circuit court, if it finds probable cause to believe a person has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful under this act, may, after an ex parte hearing, issue a subpoena compelling a person to appear before the attorney general and answer under oath questions relating to an alleged violation of this act. A person served with a subpoena may be accompanied by counsel when he or she appears before the attorney general. The subpoena may compel a person to produce the books, records, papers, documents, or things relating to an alleged violation of this act. During the examination of documentary material under the subpoena, the court may require a person having knowledge of the documentary material or the matters contained therein to attend and give testimony under oath or acknowledgment with respect to the documentary material.

(2) The subpoena shall include the notice of the time, place, and cause of the taking of testimony, the examination, or the attendance and shall allow not less than 10 days before the date of the taking of testimony or examination, unless for good cause shown the court shortens that period of time.

(3) Service of the notice shall be in the manner provided and subject to the provisions that apply to service of process upon a defendant in a civil action commenced in the circuit court.

(4) The notice shall:

(a) State the time and place for the taking of testimony or the examination and the name and address of the person to be examined. If the name is not known, the notice shall give a general description sufficient to identify the person or the particular class or group to which the person belongs.

(b) State a reference to this section and the general subject matter under investigation.

(c) Describe the documentary material to be produced with reasonable specificity so as to indicate fairly the material demanded.

(d) Prescribe a return date within which the documentary material shall be produced.

(e) Identify the members of the attorney general's staff to whom the documentary material shall be made available for inspection and copying.

(5) At any time before the date specified in the notice, upon motion for good cause shown, the court may extend the reporting date or modify or set aside the notice and subpoena.

(6) The documentary material or other information obtained by the attorney general pursuant to an investigation under this section shall be confidential records of the office of the attorney general and shall not be available for public inspection or copying or divulged to any person except as provided in this section. The attorney general may disclose documentary material or other information as follows:

(a) To other law enforcement officials.

(b) In connection with an enforcement action brought pursuant to this act.

(c) Upon order of the court, to a party in a private action brought pursuant to this act.

(7) A person who discloses information designated confidential by this section, except as permitted by subsection (6) or under court order, is guilty of a misdemeanor and may be fined not more than $2,500.00, or imprisoned for not more than 1 year, or both.

History: 1984, Act 424, Eff. Mar. 29, 1985

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445.962 Compliance with terms of notice; prohibited conduct; civil penalty; petition for order to enforce compliance; violation of final order as civil contempt; enjoining person from doing business in state.

Sec. 12.

(1) A person upon whom a notice is served pursuant to section 11 shall comply with the terms of the notice unless otherwise provided by the order of the circuit court.

(2) A person who does any of the following shall be assessed a civil penalty of not more than $5,000.00:

(a) Knowingly without good cause fails to appear when served with a notice.

(b) Knowingly avoids, evades, or prevents compliance, in whole or in part, with an investigation, including the removal from any place, concealment, destruction, mutilation, alteration, or falsification of documentary material in the possession, custody, or control of a person subject to the notice.

(c) Knowingly conceals relevant information.

(3) The attorney general may file a petition in the circuit court of the county in which the person is established or conducts business or, if the person is not established in this state, in the circuit court of Ingham county for an order to enforce compliance with a subpoena or this section. A violation of a final order entered pursuant to this section shall be punished as civil contempt.

(4) Upon the petition of the attorney general, the circuit court may enjoin a person from doing business in this state if the person persistently and knowingly evades or prevents compliance with an injunction issued pursuant to this act.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.963 Class action for actual damages; order; appointment of receiver; sequestration of assets; cost of notice; effect of bona fide error; limitations.

Sec. 13.

(1) The attorney general may bring a class action on behalf of persons residing in or injured in this state for the actual damages caused by a method, act, or practice in trade or commerce which is prohibited by this act.

(2) On motion of the attorney general and without bond in an action under this section the court may make an appropriate order: to reimburse persons who have suffered damages; to carry out a transaction in accordance with the aggrieved persons' reasonable expectations; to strike or limit the application of unconscionable clauses of contracts to avoid an unconscionable result; or to grant other appropriate relief. The court after a hearing may

appoint a receiver or order sequestration of the defendant's assets if it appears to the satisfaction of the court that the defendant threatens or is about to remove, conceal, or dispose of his or her assets to the detriment of members of the class.

(3) If at any stage of the proceedings the court requires that notice be sent to the class, the attorney general may petition the court to require the defendant to bear the cost of the notice. In determining whether to impose the cost on the defendant or the state, the court shall consider the probability that the attorney general will succeed on the merits of the action.

(4) If the defendant shows by a preponderance of the evidence that a violation of this act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, the amount of recovery shall be limited to actual damages.

(5) An action shall not be brought by the attorney general under this section more than 6 years after the occurrence of the method, act, or practice which is the subject of the action nor more than 1 year after the last payment in a transaction involving the method, act, or practice which is the subject of the action, whichever period of time ends on a later date.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.964 Action for declaratory judgment or injunction; action for actual damages and attorneys' fees; class action for actual damages; order; appointment of receiver; sequestration of assets; cost of notice to class; effect of bona fide effort; limitations; defense or counterclaim.

Sec. 14.

(1) Whether or not a person seeks damages or has an adequate remedy at law, a person may bring an action to do either or both of the following:

(a) Obtain a declaratory judgment that a method, act, or practice is unlawful under this act.

(b) Enjoin in accordance with the principles of equity a person who is engaging or is about to engage in a method, act, or practice which is unlawful under this act.

(2) Except in a class action, a person who suffers loss as a result of a violation of this act may bring an action to recover actual damages or $250.00, whichever is greater, together with reasonable attorneys' fees.

(3) A person who suffers loss as a result of a violation of this act may bring a class action on behalf of persons residing or injured in this state for the actual damages caused by a method, act, or practice which is prohibited by this act.

(4) On motion of a person and without bond in an action brought under subsection (3) the court may make an appropriate order: to reimburse persons who have suffered damages; to carry out a transaction in accordance with the aggrieved persons' reasonable expectations; to strike or limit the application of unconscionable clauses of contracts to avoid an unconscionable result; or to grant other appropriate relief. The court after a hearing may appoint a receiver or order sequestration of the defendant's assets if it appears to the satisfaction of the court that the defendant threatens or is about to remove, conceal, or dispose of his or her assets to the detriment of members of the class.

(5) If at any stage of proceedings brought under subsection (3) the court requires that notice be sent to the class, a person may petition the court to require the defendant to bear the cost of notice. In determining whether to impose the cost on the defendant or the plaintiff, the court shall consider the probability that the person will succeed on the merits of his or her action.

(6) If the defendant shows by a preponderance of the evidence that a violation of this act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, the amount of recovery shall be limited to actual damages.

(7) An action under this section shall not be brought more than 6 years after the occurrence of the method, act, or practice which is the subject of the action nor more than 1 year after the last payment in a transaction involving the method, act, or practice which is the subject of the action, whichever period of time ends at a later date. However, when a person commences an action against another person, the defendant may assert, as a defense or counterclaim, any claim under this act arising out of the transaction on which the action is brought.

History: 1984, Act 424, Eff. Mar. 29, 1985

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445.965 Mailing copy of complaint, judgment, decree, or order to attorney general.

Sec. 15.

(1) Upon commencement of an action brought pursuant to section 14 or 18, the clerk of the court shall mail a copy of the complaint to the attorney general, and upon entry of a judgment or decree in the action, the clerk of the court shall mail a copy of the judgment, decree, or order to the attorney general.

(2) In a subsequent action by the attorney general brought pursuant to section 13, proof of a violation of a permanent injunction issued pursuant to this act is conclusive evidence that the defendant engaged in a method, act, or practice which is unlawful under this act.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.966 Payment of filing fees.

Sec. 16.

Payment of filing fees shall not be required in an action or filing for a voluntary assurance by the attorney general or prosecuting attorney pursuant to this act.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.967 Aid and assistance of law enforcement officer.

Sec. 17.

A law enforcement officer in the state, if requested by the attorney general or a prosecuting attorney, shall aid and assist in an investigation of an alleged or actual violation of this act.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.968 Investigation and prosecution by prosecuting attorney.

Sec. 18.

A prosecuting attorney may conduct an investigation pursuant to this act and may institute and prosecute an action under this act in the same manner as the attorney general.

History: 1984, Act 424, Eff. Mar. 29, 1985

445.969 Other causes of action not affected; inconsistent ordinance or regulation prohibited.

Sec. 19.

This act shall not affect any other cause of action which is available. A city, village, township, or county shall not enact an ordinance or other regulation inconsistent with this act or with a rule promulgated pursuant to this act.

History: 1984, Act 424, Eff. Mar. 29, 1985

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445.970 Example of form satisfying requirements of act.

Sec. 20.

The following form is an example of the form which may be used to satisfy the requirements of this act:

RENTAL-PURCHASE AGREEMENT

1. Lessor(s) Lessee(s)

_____ _____

_____ _____

_____ _____

2. Description of Leased Property:

Item	Quantity	Serial #	Mfg. Model	New/Previously Rented

3. Total Payment Due at Beginning of Contract:

Advance Payment of $_____

Delivery Charge $_____

Use Taxes $_____

Other $_____ (please specify).

Total $_____

4. Term and cost of the lease (monthly/weekly)

The first monthly/weekly payment of $_____ is due on _____.

Other regular payments of $_____ on the _____ of month/week thereafter.

Total number of monthly/weekly payments _____.

Total amount of all other charges $_____ (please specify).

Sum total of all payments $_____.

5. Periodic Payment:

You may renew the lease weekly or monthly as you choose.

The weekly rental would be $_____.

The monthly rental would be $_____.

6. For a charge of $_____ per payment, we can pick up the payment at your home.

Sign here if you want this service _____.

7. Liability:

8. Maintenance:

We will maintain the leased property in good working condition during the term of the lease and will provide all necessary service and repair (specify if in home or in store) if you notify us by phone or mail that service is needed. We are not responsible for maintenance done by anyone other than us.

9. Termination and Default:

You may terminate this lease at the end of any weekly/monthly term without paying any charges other than those previously due. We may terminate this lease for a default in payment or breach of any other material term of the lease. If a termination occurs, we shall be entitled to all rental payments up to the date of termination and the expenses of repossessing the property if you fail to surrender it to us.

10. Reinstatement:

If you miss a payment, you may reinstate this contract within 7 days after the payment due date without losing any rights or options previously acquired. The time to reinstate will be extended to 90 days after the payment due date if you return or voluntarily surrender the property, other than through judicial process, within 7 days after the payment due date. To reinstate, you must pay the past due payment and any applicable late fee. The late fee will not exceed the greater of $10.00 or 5% of the payment that is past due. However, if the payment is due monthly or less frequently, we will not charge a late fee unless the payment is more than 5 days past due. If the payment is due more frequently than monthly, we will not charge a late fee unless the payment is more than 2 days past due. Also, we may charge a delivery fee that is not more than the original delivery fee, if we must redeliver the property.

11. Purchase Option:

You may purchase the property leased to you under this contract for the cash price minus 45% of all periodic payments made. The property leased under this contract would cost $_____ if purchased rather than leased.

12. Warranty:

A manufacturer's warranty on the property leased under this contract shall be passed on to the lessee if the lessee purchases the property.

13. Notice:

This agreement is regulated by state law enforceable by the attorney general or by private legal action.

I have read the above statement before signing this agreement.

Date:_____ Lessee:_____

Date:_____ Lessee:_____

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History: 1984, Act 424, Eff. Mar. 29, 1985 ;-- Am. 2012, Act 584, Imd. Eff. Jan. 3, 2013