

A BILL

FOR

AN ACT TO AMEND THE HIRE-PURCHASE ACT, CAP. H4, LAWS OF THE
FEDERATION OF NIGERIA, 2004

Sponsored by Hon. Sylvester Ogbaga

[] Commencement

ENACTED by the National Assembly of the Federal Republic of
Nigeria as follows:

1 1. The Hire-Purchase Act, Cap. H4, Law of the Federation of
2 Nigeria, 2004 (hereinafter referred to as "the Principal Act") is hereby
3 amended as set in this Bill.

Amendment of
the Principal Act,
Cap. H4, LFN,
2004

4 2. Section 1 of the Principal Act is amended by deleting the
5 existing section 1 and substituting therefor, the following new section 1, is:

Amendment of
Section:
Transactions
regulated by this
Act

6 "1. Transactions regulated by this Act;
7 Subject to the provisions of section 19 of this Act (other than the provisions
8 relating to the control of advertisements) shall apply in relation to all hire-
9 purchase agreements and credit-sale agreement in respect of goods and
10 motor vehicles, irrespective of the hire-purchase price or the total purchase
11 price, being agreement made after the commencement of this Act; and the
12 expression "hire-purchase agreement" in the following provisions of this
13 Act shall be construed accordingly."

14 3. Section 2 (2)(a) of the Principal Act is amending by deleting the
15 existing section 2 (2) (a) and substituting therefor, the following new 2 (2)
16 (a), that is:

Amendment of
Section 2 (2) (a):
Requirements
relating to Hire-
purchase and
Credit-Sale
Agreements

17 “(2) (a) a note or memorandum of the agreement is made and
18 signed by or on behalf of all the parties to the agreement; and”

19 4. Section 5 (d) of the Principal Act is admitted by substituting the
20 word "twenty" for the word "one" that is:

Amendment of
Section 5 (d):
Power of Minister
to regulate terms
of hire-purchase
and credit-sale
transactions

21 “(d) for prescribing penalties for offences against the regulations

1 not exceeding a fine of twenty thousand Naira in respect of any particular
2 offence".

Amendment of
Section 6 (1):
Duty of parties
to furnish
information

3 5. Section 6 of the Principal Act is amended by:

4 (i) Substituting the words "two thousand Naira" for the words "twenty
5 Kobo" in subsection (1). That is:

6 "6. (1) At any time before the final payment has made under a hire-
7 purchase agreement or credit-sale agreement, any person entitle to enforce the
8 agreement against the hire or buyer shall, within fourteen days from the date on
9 which he receives a request in writing from the hire or buyer and the hire or has
10 tendered to him the sum of two thousand Naira for expenses, supply to the hirer
11 or buyer a copy of any memorandum or note of agreement, together with a
12 statement signed by the said or his agent showing:

13 (ii) substituting the words "ten thousand" for the word "twenty" in
14 subsection (2) that is:

15 "(2) In the event of a failure without reasonable cause to comply with
16 subsection (1) of this section, then while the default continues:

17 (a) no person shall be entitled to enforce the agreement against the
18 hirer or buyer or to enforce any contract of guarantee relating to the agreement
19 to enforce any right to recover the goods from the hirer; and

20 (b) no security given by the hirer or buyer in respect of money payable
21 under the agreement or given by a guarantor in respect of money payable under
22 a contract of guarantee relating to the agreement shall be enforceable against
23 the hirer or buyer or the guarantor, and of the default continues for a period of
24 one month, the defaulter shall be guilty of an offence and liable on summary
25 conviction to a fine of an amount not exceeding ten thousand Naira".

26 (iii) Substituting the words "ten thousand" for the word "twenty" and
27 the words "fifty thousand" for the words "one hundred" in subsection (4) that
28 is:

29 "(4) if a hirer fails without reasonable cause to give the said
30 information within fourteen days from the date of receipt of a request under

1 subsection (3) of this section, he shall be guilty of an offence and liable on
2 summary conviction to a fine not exceeding ten thousand Naira; and if any
3 information given by or on behalf of a hirer in pursuance of a request under
4 that subsection is to his knowledge false in a material particular, the hirer
5 shall be guilty of an offence and liable on summary conviction to a fine not
6 exceeding fifty thousand Naira".

7 6. The Principal Act is amended by inserting immediately after
8 the existing section 7 the following new sections 7A and 7B, that is:

9 "7A. Assignment of rights under hire-purchase agreement;

10 (1) The right, title and interest of a hirer under a hire-purchase
11 agreement may be assigned with the consent of the owner, or if his consent is
12 unreasonably withheld, without his consent.

13 (2) Except as otherwise provided in this section, no payment or
14 other consideration shall be required by an owner for his consent to such an
15 assignment as is mentioned in subsection (1) and where requires any such
16 payment or other consideration for this consent, that consent shall be
17 deemed to be unreasonably withheld.

18 (3) Where, at the request of the hirer under a hire-purchase
19 agreement, the owner fails or refuses to give his consent to an assignment by
20 the hirer or his right, title and interest under the agreement, the hirer may
21 apply to the High Court for an order for the consent, and where such an order
22 is made that consent shall be deemed to be unreasonably withheld.

23 (4) As a condition of granting consent to an assignment of the right,
24 title and interest of the hirer under a hire-purchase agreement, the owner
25 may stipulate that all defaults under the agreement shall be made good and
26 may require the hire and assignee:

27 (a) to execute and deliver to the owner an assignment in a form
28 approved by the owner whereby without prejudicing or affecting the
29 continuing liability of owner to be personally liable to pay the installments
30 remaining unpaid and to perform and observe all other stipulations and

Insertion of new
7A and 7B
assignment of
rights under hire-
purchase agreement.
Operation of law

1 conditions of the hire-purchase agreement during the residue of the term
2 thereof and whereby the assignee indemnifies the hirer in respect of those
3 liabilities and

4 (b) to pay the reasonable cost (if any) incurred by the owner in
5 stamping or registering the assignment agreement or counterparts.

6 (5) The refusal on the part of the owner to give consent to an
7 assignment as is mentioned in subsection (1) on the ground that he requires
8 other or additional guarantors to guarantee the assignee's obligation shall be
9 deemed unreasonable:

10 (a) where the same guarantors who have guaranteed the hirer's
11 obligation under the hire-purchase agreement have agreed to guarantee the
12 assignee's obligation under the agreement; or

13 (b) where the assignee has furnished the same number of guarantee as
14 was furnished by the hirer to guarantee his obligation under the hire-purchase
15 agreement as guarantors for his obligation under the agreement.

16 7. B. Operation of Law;

17 The right, title and interest of a hire under a hire-purchase agreement shall be
18 capable of passing by operation of law to the personal representative of the
19 hirer and if the hirer is a company the liquidator may exercise the same right
20 under the agreement as the company but nothing in this section shall relieve
21 any personal representative or liquidator from compliance with the provision
22 of the agreement.

23 7. Section 9 (4) is amended by:

24 (1) substituting the words "two-third" for the word "one-half" in
25 paragraph (a); and substituting the words "four-fifths" for the words "three-
26 fifths" in paragraph (b), that is:

27 "(4) In this section and elsewhere in the Act, "the relevant proportion"
28 where the reference is to the relevant proportion of hire-purchase price of any
29 goods or to the relevant proportion of a part (however described) of that price,
30 means:

Amendment
and transfer of
Section 9 (4)
and (b): The
relevant
proportion

1 (a) in the case of goods other than motor vehicles, two-thirds; and
 2 (b) in the case of motor vehicles, four-fifths" and
 3 (ii) deleting the words "in this section and elsewhere in this Act" in
 4 the amended section "9 (4) (a) (b)"; and transferring the remaining
 5 provisions thereof to section 20, on interpretation of words used in the Act.

6 8. Section 9 (5) of the Principal Act is amended by inserting the
 7 words "having instituted an action", immediately after the words "the owner
 8 may", and substituted the words "the action" for the words "any action", that
 9 is:

Amendment of
Section 9 (5)

10 "(5) In the application of the provision of this section to motor-
 11 vehicles, where three or more installments of the hire-purchase price of a
 12 motor-vehicle under the agreement are due and unpaid, the owner may,
 13 having instituted an action, under the motor vehicle to any premises under
 14 his control for the purpose of protecting it from damage or depreciation and
 15 retain it there pending the determination of the action, and shall be liable to
 16 the hirer for any damage or loss which may be caused by the removal".

17 9. The Principal Act is amended by inserting immediately after the
 18 existing section 9, the following new section 9A (1) and (2), that is:

Insertion of new
section 9A(1) and
(2). Owner to
retain possession
of goods
repossessed for
thirty days

19 "9. Owner to retain possession of goods repossessed for thirty
 20 days;

21 (1) Where an owner has taken possession of any goods under
 22 section 9 he shall not, without the written consent of the hirer, sell or dispose
 23 of the goods or part with possession thereof until after expiration of thirty
 24 days:

25 Provided that hirer shall any reasonable cost of the repossession.

26 (2) An owner who sells or disposes of any goods in contravention
 27 of subsection (1) of this section, shall be guilty of an offence punishable with
 28 a fine of fifty thousand Naira."

29 10. Section 10 (1) of the Principal Act is amended by substituting
 30 the words "section 9 and 9A of this Act apply" for the words "section 9 of this

Amendment of
section 10 (1).
Power of Court
in actions to
recover goods

1 Act applies", that is:

2 "10. (1) Where, in any case to which section 9 and 9A of this Act
3 apply, an owner commences an action to enforce a right to recover possession
4 of goods from a hirer aforesaid, the owner shall not take any step to enforce
5 payment of any sum due under the hire-purchase agreement or under any
6 contract of guarantee to the agreement, except by claiming the sum in action".

Amendment of
Section 11

7 11. Section 11 of the Principal Act is amended by inserting the words
8 "9A" immediately after the words "sections 9" in the sectional heading and the
9 provision of the section that is:

10 "11. Application of sections 9, 9A and 10 of this Act to successive
11 hire-purchase agreements between same parties. Where goods have been let
12 under a hire-purchase agreement and at any time after the relevant proportion
13 of the hire-purchase price has been paid or tendered, the owner makes a further
14 hire-purchase agreement with the hirer comprising those goods, the provisions
15 of sections 9, 9 A and 10 of this Act shall have effect as respects that further
16 agreement from its commencement"

Amendment of
section 16 (7)
(a): Information
to be included
in advertisements

17 12. Section 16 (7) (a) of the Principal Act is amended by inserting the
18 words "or any other electronic means" immediately after the word "television
19 broadcast" and inserting the words "or electronic means" immediately after the
20 words "or other sounds", that is:

21 "(7) In the case of any advertising contained in a cinematograph film,
22 television broadcast or any other electronic means:

23 (a) for the purpose of section 15 of this Act and for the purpose of
24 determining under this section whether the advertisement contains of
25 payments in respect of any goods, anything included in any spoken words or
26 other sounds or electronic means by which the advertisement is accompanied
27 shall be taken to form part of the advertisement".

Amendment of
Section 17(1)(a)
and (b): Penalties

28 13. Section 17 (1) of the Principal Act is amended in paragraph (a) by
29 substituting the words "fifty thousand" for the words "two hundred thousand"
30 for the words "four hundred". That is:

1 “17. (1) Subject to the provision of this section, any person who
2 displays or issues an advertisement in contravention of the provision of
3 section 16 of this Act, or causes an advertisement to be displayed or issued in
4 contravention of those provisions, shall be guilty of an offence and liable on
5 summary conviction:

6 (a) If it is his first conviction of an offence under this section, to a
7 fine not exceeding fifty thousand Naira.

8 (b) In any other case, to a fine not exceeding "two hundred
9 thousand Naira".

10 14. The Principal Act is amended by inserting immediately after
11 the existing section 17, the following new sections 17A, 17B, 17C and 17D,
12 that is:

Insertion of new
sections 17A,
17B, 17C and
17D: Insurance

13 17. Insurance:

14 A. Insurance of goods comprised in hire-purchase agreements.

15 (1) An owner shall cause to be insured in his name or in the name of
16 the hirer:

17 (a) Motor vehicles comprised in a hire-purchase agreement, for the first
18 year only; and

19 (b) all other goods comprised in a hire-purchase agreement, for the
20 duration of time that the goods remain under hire-purchase, against any risks
21 that he thinks fit.

22 (2) Where the goods comprised in a hire-purchase agreement is a
23 motor vehicle, it shall be the duty of the hirer to cause the said vehicle to be
24 insured in respect of the second and all subsequent years that the motor
25 vehicle remains under hire-purchase.

26 (3) An owner shall not require a hirer to insure any risks with any
27 particular registered insurer.

28 (4) An owner who fails to comply with subsection (1) and a hirer
29 who fails to comply with subsection (2) shall be guilty of an offence under
30 this Act and liable on conviction to imprisonment for a term of two years or a

1 fine not exceeding two hundred thousand Naira.

2 (5) A hirer shall, not less than fourteen days before the date of expiry
3 of a policy of insurance in respect of a motor vehicle, inform the owner that he
4 has renewed the said policy or that he has caused a fresh policy of insurance to
5 be issued.

6 (6) Where the hirer has failed to renew the policy of insurance or to
7 cause a fresh policy to be issued, the owner shall be at liberty to cause the motor
8 vehicle to be insured and any costs thereby incurred shall be borne by the hirer.

9 (7) All amounts payable in respect of insurance, excluding such
10 amounts payable in respect of the insurance of motor vehicles for the second
11 and subsequent years, shall form part of the hire-purchase price.

12 (8) Where in respect of the insurance of goods comprised in a hire-
13 purchase agreement, the insurer allows any commission or rebate including a
14 no-claim rebate or any other rebate of similar nature (as distinct from
15 legitimate agency commission) to an owner who is also a bona fide agent of an
16 insurer and who arranges the insurance on behalf of the hirer, the hirer under
17 the hire purchase agreement is entitled to the benefit of the commission and the
18 rebate and any person who knowingly pays or allows any such commission or
19 rebate to an owner and any owner who receives such commission or rebate
20 shall be guilty of an offence under this Act and liable on conviction to
21 imprisonment for a term of one year or a fine not exceeding one hundred
22 thousand Naira.

23 17B. Powers of court in relation to insurance contracts associated
24 with hire-purchase agreements:

25 (1) In an proceedings taken in any court in respect of any difference or
26 dispute arising out of a contract of insurance if it appears to the court that a
27 failure by the insured or the hirer under the hire-purchase agreement concerned
28 to observe or perform a term or condition of the contract of insurance may be
29 reasonably excused on the ground that the insurer was not prejudiced by the
30 failure, the court may, unless an order excusing the failure has already been

1 made under subsection (2), order that the failure be excused.

2 (2) Where a difference or dispute has arisen out of a contract of
3 insurance, the insured or the hirer under the hire-purchase agreement
4 concerned or any guarantor in respect of that agreement may, unless an order
5 excusing the failure concerned has already been made under subsection (1),
6 apply to the court for an order that the failure to observe or perform a term or
7 condition of the contract of insurance be excused; and if it appears to the
8 court that the failure may reasonably be excused on the ground that the
9 insurer was not prejudiced by the failure, the court may order that the failure
10 be excused.

11 (3) Where an order of the nature referred to in subsections (1) and (2)
12 has been made the rights and liabilities of all persons in respect of the
13 contract of insurance concerned shall be determined as if the failure, the
14 subject of the order, had not occurred.

15 17 C. Contents of contracts of insurance:

16 (1) Every copy of a policy of insurance (not being a policy of third
17 party insurance), and every statement, served upon a hirer pursuant to
18 section 2 shall:

19 (a) Identify the goods or the part of the goods to be insured or are to
20 be insured; and

21 (b) Contain a statement of the amount and period for which the
22 goods are insured or are to be insured; and

23 (c) if the amount for which the goods are or are to be insured will
24 vary during the period of the agreement, contain a statement showing the
25 varying amounts.

26 (2) Subject to subsection (3) of this section, any provision in any
27 agreement, policy of insurance or other document:

28 (a) requiring differences or disputes arising out of a contract of
29 insurance to be referred to arbitration;

30 (b) providing that no action or suit shall be maintainable upon such

1 a contract or against the insurer in respect of any claim under, or difference or
 2 dispute arising out of, such a contract unless the claim, difference, or dispute
 3 has been referred to arbitration or an award pursuant to arbitration proceeding
 4 has been first obtained;

5 (c) providing that arbitration or an award pursuant to arbitration
 6 proceedings is a condition precedent to any right of action or suit upon such a
 7 contract; or

8 (d) otherwise imposing by reference to arbitration or to an award
 9 made in arbitration proceedings, any limitation on the right of person to bring
 10 or maintain any action or suit upon such a contract shall not bind the hirer.

11 (4) Nothing in subsection (2) shall prevent the parties to a contract of
 12 insurance from making an agreement, after a difference or dispute has arisen
 13 out of the contract of insurance, to submit the difference or dispute to
 14 arbitration.

15 17D. The provisions of this Part on insurance shall have effect
 16 notwithstanding anything to the contrary contained in any other written law.

Amendment of
 Section 18 (1)
 (b) and (4): Power
 of Minister to
 require
 Information about
 hire-purchase
 business, etc.

17 15. Section 18 of the Principal Act is amended:

18 (i) in subsection 1 (b) (i) and (ii) by substituting the words "one
 19 hundred thousand" for the words "one thousand"; and the words "fifty
 20 thousand" for the words "two hundred", thereof, that is:

21 "(1) (b) for prescribing penalties for offences against the regulations
 22 not exceeding:

23 (i) in the case of an offence involving the furnishing of false
 24 information, imprisonment for a term of two years or a fine of one hundred
 25 thousand Naira or both;

26 (ii) in any other case, a fine of fifty thousand Naira,

27 (ii) in subsection (4) by substituting the words "fifty thousand" for the
 28 words "one hundred", thereof, that is:

29 "(4) Any person who willfully obstructs or delays any person in the
 30 exercise of his powers of entry, inspection or taking copies under subsection (2)

1 of this section shall be guilty of an offence and liable on summary conviction
2 to a fine not exceeding fifty thousand Naira".

3 16. Section 20 of the Principal Act is amended by:

4 (i) Re-defining the words "hire-purchase" as follows:

5 "hire-purchase" means an agreement under which goods are let on hire and
6 under which the hirer has an option to purchase them in accordance with the
7 terms of the agreement and includes an agreement under which:

8 (1) The owner delivers possession on condition that the hirer pays
9 the agreed amount in periodic installments;

10 (2) The property in the goods is to pass to the hirer on the payment
11 of the last of such installments; and

12 (3) The hirer has a right to terminate the agreement at any time
13 before the property so passes;"

14 (ii) re-defining the words "hire-purchase agreement" as follows -
15 "hire-purchase agreement" means an agreement of hire-purchase; and
16 where by virtue of two or more agreements, none of which by itself
17 constitutes a hire-purchase agreement, there is a hire of goods and either the
18 hirer may buy the goods or the property therein will or may pass to the hirer,
19 the agreements shall be treated for the purposes of this Act as a single
20 agreement made at the time when the last of the agreements was made;

21 (iii) substituting the words "trade and investment or commerce" for
22 the word commerce", in the definition of "the Minister", that is- "the
23 Minister" means the Minister of the Government of the Federation
24 responsible for trade and investment or commerce, and "the Ministry" shall
25 be construed accordingly;

26 (iv) re-defining the words "the relevant proportion" as follows:
27 "the relevant proportion", where the reference is to the relevant proportion
28 of the hire-purchase price of any goods or to the relevant proportion of a part
29 (however described) of that price, means:

Amendment of
section 20:
Interpretation, etc.

1 (a) in the case of other goods other than motor vehicles, two-thirds;
 2 and
 3 (b) in the case of motor vehicles, four-fifths".

Insertion of new
 section 21A:
 Transitional
 provision

4 17. The Principal Act is amended by inserting immediately after the
 5 existing Section 21, a new section 21A as follows:

6 "21. Transitional provision;
 7 At the commencement of this Act, all pre-existing hire-purchase agreements
 8 and credit sale agreements shall by virtue of this section, continue to have
 9 effect as if they were made under this Act".

Amendment of
 Regulation 2;
 interpretation

10 18. Regulation 2 of the Hire-Purchase Regulations is amended by
 11 substituting the words "investment or commerce" for the word "tourism" in the
 12 definition of "Minister", that is:
 13 "Minister" means the Minister of the Government of the Federation
 14 responsible for trade and investment or commerce.

Citation

15 19. This Bill may be cited as the Hire-Purchase Act (Amendment)
 16 Bill, 2016.

EXPLANATORY MEMORANDUM

This Bill seeks to Amend the Hire-Purchase Act, Cap. H4, Laws of the Federation of Nigeria, 2004.