SENATOR MARY LANDRIEU

STATEMENT BEFORE THE SENATE BANKING COMMITTEE

HEARING ON REGULATORY RELIEF

June 22, 2004

Good Morning, Mr. Chairman and members of the Committee. It is my pleasure to appear before this Committee today to talk about federal rent-to-own legislation. Let me begin by thanking you, Chairman Shelby, for scheduling hearings on regulatory relief in general, including legislation that I introduced earlier in this Congress, S. 884, which you and many others on this Committee have agreed to cosponsor. The bill has broad bipartisan support, including several members of this committee and I hope that the Committee will include my legislation in future regulatory relief legislation.

S. 884, standing alone or as part of this regulatory relief package, proposes to regulate the rent-to-own, or rental-purchase, transaction, for the first time at the federal level. In introducing this legislation, I have tried to insure that the interests of the consumers are protected while providing a federal floor of consumer protections.

Preemption is an important issue for many of us. Those of us who have previously served in our respective state legislatures hold our colleagues in the state legislatures in high esteem. If enacted, this legislation would serve only to establish a **floor of regulation** of the rent-to-own transaction. State legislatures would have full opportunity to pass stronger laws and regulations, modify existing statutes, or even outlaw the transaction entirely if that is what those bodies believed was appropriate. **My bill does not preempt any state statute**. This bill, however, would finally establish a federal or national definition of the term "rental-purchase", consistent with the definitions found in these various existing state statutes and within the Internal Revenue Code. Just as is the case under other federal consumer protection laws, including TILA and the CLA, states would not be permitted to define or "mischaracterize" the rent-to-own transaction in a manner that would be inconsistent with the definition in this bill.

Now let me turn to what the bill does in terms of providing consumer protection and uniformity in terms of a floor of federal consumer protections.

The rent-to-own, or rental-purchase industry, offers household durable goods—appliances, furniture, electronics, computers and musical or band instruments are the primary product lines—for rent on a weekly or monthly basis. Customers are never obligated to rent beyond the initial term, and can return the rented product at any time without penalty or further financial obligation. Of course, customers also have the option to continue renting after the initial or any renewal rental period, and can do so simply by paying an additional weekly or monthly rental payment in advance of the rental period. In addition, rent-to-own consumers have the option to purchase the property they are renting, either by making the required number of renewal payments set forth in the

agreement, or by exercising an early purchase option, paying cash for the item at any time during the rent-to-own transaction.

Rental companies typically provide delivery and set up of the merchandise, as well as service and replacement products, throughout the rental at no additional cost to the consumer. Rental companies do not check the credit of their customers, and do not require down payments or security deposits, nor do they report to credit agencies information regarding consumers. Consequently, this is a transaction that is very easy to get into and out of, ideal for the customer that wants and/or needs financial flexibility that only this unique, hybrid rental-and-purchase transaction affords.

The rent-to-own transaction appeals to a wide variety of customers, including parents of children who this week want to learn to play the violin, only to find that, two weeks later, the child is more adept at—and interested in—fiddling around. Military personnel who are frequently transferred from base-to-base, who want quality furnishings for their apartments or homes but who often cannot afford, or do not want, to purchase these items, use rent-to-own. College students sharing apartments or dorms rent furniture, appliances and electronics from rent-to-own companies. The transaction serves the needs of campaign offices, summer rentals, Super Bowl and Final Four parties, and other similar short-term needs or wants.

Importantly, however, this transaction is also frequently used by individuals and families who are just starting out and have not yet established good credit, or who have damaged or bad credit, and whose monthly income is insufficient to allow them to save and make major purchases with cash. For these consumers, rent-to-own offers an opportunity to obtain the immediate use, and eventually ownership if they so desire, of things that most of the rest of us take for granted—good beds for our children to sleep on, washers and dryers so they don't have to spend all weekend at the Laundromat, dropping coins into machines that they will never own. Computers so the kids can keep up in school, decent furniture to sit on and eat at, and so on. Rent-to-own gives these working class individuals and families a chance, without the burden of debt, and with all the flexibility they need to meet their sometimes uncertain economic circumstances. This is certainly a more viable alternative than garage sales, flea markets and second-hand stores.

The Internal Revenue Service, as a matter of law, has determined that fewer than 50% of rent-to-own transactions result in purchases and the rent-to-own industry statistics confirm that approximately one in four transactions results in the renter electing to acquire ownership of the rented goods. In the other 75%, according to the industry numbers, customers rent for a short period of time and then return the goods to the store, typically in just a few weeks or months.

There are roughly 8,000 rent-to-own furniture, appliance and electronic stores throughout the country, and in Puerto Rico. Additionally, there are several hundred musical instrument stores. The majority of companies operating in this business are "mom-and-pop" family owned businesses, with one or two locations in a particular city

or town, with less than one-half of these stores being owned by major, multi-state corporations.

Over the past 20 years, there has been a healthy and vigorous public debate, played out primarily at the state level, and to some extent here in Washington as well, about the appropriate method of regulating this transaction. Some individuals and groups have argued that rent-to-own is most similar to a credit sale, and consequently should be regulated as such. However, as you have just heard me describe, this transaction differs from consumer credit is a number of respects, most importantly in that the rent-to-own customer is never obligated to continue renting beyond the initial rental term, and has the unilateral right to terminate the agreement and have the products picked up at any time, without penalty. This is the critical distinction—under traditional credit transactions, the consumer **must make all of the payments over a predetermined period of time** or risk default, repossession, deficiency judgments and, in worst cases, damaged credit and personal bankruptcy. By way of stark contrast, the rent-to-own customer enjoys complete control over his or her use of the rented goods, and the terms of the rental transaction itself. To this point, the Federal Trade Commission distinguished between the rent-to-own transaction and a credit-sale transaction in its seminal report on the rent-to-own industry in 2000 saying that:

> "**Unlike a credit sale, rent-to-own customers do not incur any debt**, can return the merchandise at any time without obligation for the remaining payments, and do not obtain ownership rights or equity in the merchandise until all payments are completed.

Every state legislature that has enacted rent-to-own specific legislation, beginning with Michigan in 1984, has agreed that this unique transaction is not a form of consumer credit, but instead is something very different. My bill, S. 884, is consistent with the approach taken by all these various state laws. However, as I explained earlier, this proposal would set a floor of regulation, beyond which states would be free to regulate if the state legislatures saw the need to do so in response to local concerns and conditions. And in fact, any number of the existing state laws provide greater consumer protections than those imbedded in this bill, and those stronger regulatory frameworks would remain controlling in those states if this bill were to be enacted. One other note: This bill, if enacted, would align federal consumer protection law with federal tax law, which treats rent-to-own transactions as true leases and not as credit sales for income reporting and inventory depreciation purposes. In short, no state legislature would be precluded from regulating this transaction in any way. It would however, no be allowed to redefine this transaction as something it is not. This is consistent with how Congress has dealt with consumer leases over four months in length and true credit transactions.

Finally, this bill enjoys the unanimous support of the rental-purchase industry, from its largest members to its smallest.

This bill strikes a balance between the needs for consumer protection and the need to establish and maintain a fair and balanced competitive marketplace in which businessmen and –woman can survive and thrive and continue to provide a financial transaction the consumer wants. I believe that it is this balance that has made the bill so attractive to such a variety of cosponsors, evenly split between Democrats and Republicans.

The bill does 5 major things:

- One, it defines the transaction in a manner that is consistent with existing state rent-to-own laws, as well as federal tax provisions. As an aside, this definition is also consistent with the views of both the Federal Reserve Board Staff and the Federal Trade Commission, as expressed in their testimony before the House Financial Services Committee in the 107th Congress.
- Two, it provides for comprehensive disclosure of key financial terms in advertising and on price cards on merchandise displayed in these stores, as well as in the body of the rental contracts themselves. **These disclosure requirements were adopted in part from the recommendation of the FTC in its seminal report on the rent-to-own industry from 2000.** Overall, these requirements exceed the disclosure mandates under Truth-in-Lending as well as the federal Consumer Leasing Act.
- Three, the bill establishes a list of prohibited practices in the rent-to-own industry, a list similar in content and substance to the practices prohibited under the Federal Trade Commission Act, and under most state deceptive trade practices statutes. These provisions are unique—neither Truth-in-Lending nor the Consumer Leasing Act contains similar provisions.
- Four, the bill adopts certain universal substantive regulations shared by all of the existing state rental laws. For example, the bill would mandate that consumers who have terminated their rental transactions and returned the goods to the merchant be provided an extended period of time in which to "reinstate" that terminated agreement—that is, to come back to the store and rent the same or similar goods, starting on the new agreement at the same place the customer left off on the previous transaction.
- Finally, the bill adopts the remedies available to aggrieved and injured consumers under the Truth-in-Lending Act, including a private right of action for consumers.

In summary, this legislation would go farther in providing substantive protections for rent-to-own consumers than does any other federal consumer protection law on the books today. And yet, it enjoys the unanimous support of the industry, because it is fundamentally fair and balanced.