

House Bill 327

By: Representative Howard of the 118<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling  
2 and other trade practices, so as to provide for used appliance warranty rights; to provide for  
3 a short title; to provide for definitions; to require express written warranties; to provide for  
4 repair, refund, or replacement; to provide for applicability with respect to other rights and  
5 remedies; to prohibit waiver of rights; to provide for damages; to provide for other matters  
6 relative to the foregoing; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other  
10 trade practices, is amended by inserting at the end thereof a new Article 34 to read as  
11 follows:

12 "ARTICLE 34

13 10-1-900.

14 This article shall be known and may be cited as the 'Used Appliance Warranty Rights Act'.

15

16 10-1-901.

17 As used in this article, the term:

18 (1) 'Appliance' means a refrigerator, stove, freezer, washing machine, dryer, or other  
19 large household appliance.

20 (2) 'Collateral costs' means expenses incurred by a consumer in connection with the  
21 repair of a nonconformity, including the costs of obtaining an alternative used appliance.

22 (3) 'Consumer' means any person who has entered into an agreement or contract for the  
23 transfer or purchase of a used appliance primarily for personal, family, or household  
24 purposes, regardless of how the documents characterize the transaction.

1 (4) 'Nonconformity' means a condition or defect that substantially impairs the use, value,  
 2 or safety of a used appliance which is covered by an express warranty applicable to the  
 3 used appliance or to a component of the used appliance but does not include a condition  
 4 or defect that is the result of abuse, neglect, or unauthorized modification or alteration of  
 5 the used appliance by a consumer.

6 (5) 'Reasonable attempt to repair' means any of the following occurring within the term  
 7 of an express warranty applicable to a used appliance or within 60 days after first delivery  
 8 of the used appliance to a consumer, whichever is sooner:

9 (A) The same nonconformity with the warranty is subject to repair at least once by the  
 10 used appliance dealer; or

11 (B) The used appliance is out of service for an aggregate of at least seven days because  
 12 of warranty nonconformities.

13 (6) 'Used appliance dealer' means a person who is engaged in the business of purchasing,  
 14 selling, servicing, exchanging, distributing, or dealing in used appliances.

15 10-1-902.

16 A used appliance dealer who sells a used appliance to a consumer shall furnish the  
 17 consumer with an express written warranty for the used appliance warranting parts and  
 18 performance. The duration of the express written warranty shall be not less than 60 days  
 19 after first delivery of the used appliance to the consumer. If a used appliance dealer fails  
 20 to furnish an express written warranty as required by this Code section, the used appliance  
 21 shall be covered by an express warranty as if the used appliance dealer had furnished an  
 22 express written warranty to the consumer as required by this Code section.

23 10-1-903.

24 (a) If a used appliance does not conform to an applicable express warranty and the  
 25 consumer reports the nonconformity to the used appliance dealer and makes the used  
 26 appliance available for repair before 60 days after first delivery of the used appliance to a  
 27 consumer, the nonconformity shall be repaired at the used appliance dealer's expense,  
 28 including the costs of parts and labor and pick-up and delivery, to correct the  
 29 nonconformity regardless of whether the repairs are made after the expiration of the  
 30 warranty rights period. If in any subsequent proceeding it is determined that the  
 31 consumer's repair did not qualify under this article and the used appliance dealer was not  
 32 otherwise obligated to repair the used appliance, the consumer shall be liable to the used  
 33 appliance dealer for costs of repair.

34 (b)(1) If, after a reasonable attempt to repair, the nonconformity is not repaired, the used  
 35 appliance dealer shall carry out the requirements of paragraph (2) of this subsection.

1 (2) At the direction of the consumer, the used appliance dealer shall do one of the  
2 following:

3 (A) Accept return of the used appliance and replace the used appliance with a  
4 comparable used appliance and refund any collateral costs; or

5 (B) Accept return of the used appliance and refund to the consumer the full purchase  
6 price plus any finance charge, amount paid by the consumer at the point of sale, and  
7 collateral costs, less a reasonable allowance for use.

8 (c) To receive a comparable used appliance or a refund due under subsection (b) of this  
9 Code section, the consumer shall offer to transfer possession of the used appliance having  
10 the nonconformity to the used appliance dealer of that used appliance. No later than 30  
11 days after that offer, the used appliance dealer shall provide the consumer with a  
12 comparable new used appliance or a refund. When the used appliance dealer provides the  
13 used appliance or refund, the consumer shall return the used appliance having the  
14 nonconformity to the used appliance dealer, along with any endorsements necessary to  
15 transfer legal possession to the used appliance dealer.

16 (d) No used appliance returned by a consumer in this state under subsection (b) of this  
17 Code section or by a consumer in another state under a similar law of that state may be sold  
18 again in this state unless full disclosure of the reasons for return is made to any prospective  
19 buyer.

20 10-1-904.

21 (a) This article shall not be deemed to limit rights or remedies available to a consumer  
22 under any other law or contract.

23 (b) Any waiver by a consumer of rights under this article is void.

24 (c) In addition to pursuing any other remedy, a consumer may bring an action to recover  
25 for any damages caused by a violation of this article. The court shall award a consumer  
26 who prevails in such an action twice the amount of any pecuniary loss together with costs,  
27 disbursements, and reasonable attorneys' fees and any equitable relief that the court  
28 determines is appropriate."

## 29 SECTION 2.

30 All laws and parts of laws in conflict with this Act are repealed.