
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 30, 1998

Revised: _____

Subject: Motor Vehicles

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Schmeling</u>	<u>Austin</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>TR</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The committee substitute provides that if certain disclosure items contained in a lease agreement are consistent with federal law and regulations, certain disclosure requirements provided in state law are not required. The committee substitute further amends the Florida Lemon Law to include "lease" and "earned rent" charges as costs manufacturers are required to refund to lessors for a nonconforming motor vehicle.

This committee substitute amends sections 521.004 and 681.102, Florida Statutes.

II. Present Situation:

The Legislature enacted the Motor Vehicle Lease Disclosure Act in 1995 (ch. 521, F.S.) to ensure lessees are adequately apprised of the total cost of the vehicle lease. "Capitalized cost" as defined in s. 521.003, F.S., means the agreed-upon total amount which, after deducting any capitalized cost reductions, serves as the basis for calculating the amount of the periodic payment under the lease agreement. The capitalized cost may include, without limitation: taxes; registration fees; license fees; insurance charges; charges for guaranteed auto protection or GAP coverage; charges for service contracts and extended warranties; fees and charges for accessories and for installing accessories; charges for delivery, service, and repair; administrative fees, acquisition fees, and any and all fees or charges for providing services incidental to the lease agreement; the unpaid balance of any amount financed under an outstanding motor vehicle loan agreement or motor vehicle retail installment contract with respect to a motor vehicle used as a trade-in; the unpaid portion of the early termination obligation under an outstanding lease agreement; and the first periodic payment due at the inception of the lease agreement.

Section 521.004, F.S., provides disclosure requirements for retail lessors. A lease agreement must contain the terms “capitalized cost,” “capitalized cost reduction,” and “adjusted or net capitalized cost,” including definitions of such terms with applicable costs. The section further requires these costs, along with a disclosure statement, to be in at least 12-point bold type and set apart in a box.

The Consumer Leasing Act (CLA), 15 U.S.C. 1667-1667e, was enacted into law in 1976 as an amendment to the Truth in Lending Act (TILA), 15 U.S.C. 1601 et seq. The Federal Reserve Board (board) was given rulewriting authority, and its Regulation M (12 CFR part 213) implements the CLA.

The CLA generally governs consumer leases of personal property involving \$25,000 or less and a term of more than 4 months. An automobile lease is the most common type of consumer lease covered by the CLA. Like the credit provisions of the TILA, the CLA requires lessors to provide uniform cost and other disclosures in consumer lease transactions and in lease advertising. Prior to entering into a lease agreement, lessors must give consumers fifteen to twenty disclosures, including the amount of initial charges to be paid, an identification of leased property, a payment schedule, the responsibilities for maintaining the leased property, and the liability for terminating a lease early.

Following a review under the board's Regulatory Planning and Review Program, the board published a revised Regulation M on October 7, 1996 (61 FR 52246), and a new staff commentary on April 4, 1997 (62 FR 16053). The final rule made a significant number of substantive revisions to the regulation, and essentially established a new disclosure scheme that should substantially improve consumer understanding of automobile lease transactions. The new disclosure scheme required the preparation of new forms and the reprogramming of computer software.

This new version of Regulation M stems from the increased use of automobile leasing over the last several years and the board's review of the regulation in accordance with its policy of periodically examining its regulations to carry out the purpose of the underlying law more effectively.

In general, the revisions to Regulation M:

- Adopt a revised disclosure format, including the segregation of certain disclosures;
- Adopt a total of payments disclosure to facilitate comparisons;
- Revise the disclosure of costs paid at lease signing to make it easier for a consumer to understand the amounts to be paid and how they are allocated;
- Require a mathematical progression that shows how the monthly lease payment is calculated, and the relationship of terms such as the “capitalized cost” and the “residual value” of the leased property;
- Require narrative warnings about possible charges for terminating a lease early and for excess wear and tear;

- Require changes in advertising rules to implement statutory amendments, simplify disclosure requirements, and deter misleading advertising; and
- Require a disclosure to accompany any percentage rate indicating the limitations of rate information.

Chapter 681, F.S., is the “Motor Vehicle Warranty Enforcement Act,” more commonly known as the Lemon Law. Section 681.104, F.S., provides that if a manufacturer cannot conform the motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer, within 40 days, must repurchase the motor vehicle and refund the full purchase price to the consumer, less a reasonable offset for use. In the case of a leased motor vehicle, the lessee receives the lessee cost and the lessor receives the lease price less the lessee cost.

Section 681.102, F.S., defines “lessee cost” as the aggregate deposit and rental payments previously paid to the lessor for the leased vehicle but excludes debt from any other transaction. “Lease price” is defined as the aggregate of: lessor’s actual purchase costs; collateral charges (those additional charges to a consumer wholly incurred as a result of the acquisition of the motor vehicle, including, but not limited to, manufacturer-installed or agent-installed items or service charges, earned finance charges, sales taxes, and title charges), if applicable; any fee paid to another to obtain the lease; any insurance or other costs expended by the lessor for the benefit of the lessee; an amount equal to state and local sales taxes, not otherwise included as collateral charges, paid by the lessor when the vehicle was initially purchased; and, an amount equal to 5 percent of the lessor’s actual purchase cost.

III. Effect of Proposed Changes:

Section 1 amends s. 521.004, F.S., to provide that if the lessor includes the itemized list of costs required by federal regulation in the lease agreement, certain state itemization does not have to be included.

Section 2 amends 681.102, F.S., to include “lease charges” in the definition of “collateral charges.” This section modifies the definition of “lease price” to include capitalized cost, as defined in s. 521.003(2), F.S., and “earned rent charges through the date of repurchase,” while removing from the definition “lessor’s actual purchase costs” and “an amount equal to 5 percent of lessor’s actual purchase costs.” This section further modifies the definition of “lessee cost” to clarify the term “deposit” as “security deposit” and includes in the definition “capitalized cost-reduction” as defined in s. 521.003(3), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

As applicable under the Lemon Law, motor vehicle manufacturers will be required to reimburse leasing companies for “lease” and “earned rent” charges. The costs, if any, relating to the modification of cost definitions in s. 681.102, F.S., are indeterminate.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.