

LAW OF GEORGIA

ON PROMOTION OF LEASING ACTIVITY

The Law aims at development of relations arising under the leasing agreement provided by the Civil Code of Georgia and promotion of leasing activity.

CHAPTER I

GENERAL PROVISIONS

Article 1. Definitions

The terms used in this Law have the following meanings:

- a) **Leasing** – purchase by the Lessor of the leasing subject from the owner or manufacturer under the sale and purchase contract (or its making) for its transfer to the temporary use of the Lessee with the right of its redemption or pledging credit.
- b) **Leasing subject** – any property subject to depreciation.
- c) **Initial cost of leasing subject** – the cost of leasing subject by the moment of its transfer.
- d) **Total price of leasing agreement** – the total amount of leasing charge.
- e) **Leasing charge** – the amount (or the product appropriate of this amount) determined by the leasing agreement to be periodically paid by the Lessee to the Lessor. By paying (or providing) the leasing charge the Lessee will step-by-step compensate to the Lessor the initial cost of the leasing subject (less the book value of the leasing subject) and the leasing benefit.
- f) **Leasing benefit** – the difference between the total amount of leasing agreement and the initial cost of the leasing subject (less the book value of the leasing subject).
- g) **Grace period** – the initial leasing period when the Lessee does not pay the leasing charge.
- h) **Subleasing** – transfer of the right to use the leasing subject by the Lessee to a third person under the leasing agreement.
- i) **Leasing subject seller** – a natural or legal person who owns or manufactures the leasing subject and transfers the leasing subject to the Lessor or Lessee under the sale and purchase contract.

Article 2. Kinds of Leasing

The kinds of leasing are:

- a) direct leasing – where the Lessor is the owner or manufacturer of the leasing subject himself;
- b) back-to-back leasing – where the Lessee pays the leasing charge by product (goods, work, service);
- c) maintenance leasing – where the leasing agreement provides management, insurance, after-sales service, repair etc. of the leasing subject by the Lessor or its employee;
- d) pure leasing – where the leasing agreement does not provide any maintenance of the leasing subject by the Lessor.

CHAPTER II LEASING AGREEMENT

Article 3. Leasing Agreement

1. An agreement made by the parties for accounting and reporting shall be deemed the leasing agreement if it contains one of the following provisions:
 - a) upon expiration of the leasing agreement term the Lessee becomes the owner of the leasing subject in such way that shall not pay any additional amount or such amount is very small;
 - b) the term of leasing agreement is essentially equal or exceeds the term of economic maintenance of the leasing subject and the Lessee becomes the owner of the leasing subject by payment of a small amount;
 - c) the term of leasing agreement is essentially equal or exceeds the term of economic maintenance of the leasing subject and the Lessee has not right to terminate the leasing agreement at least without the full payment of the leasing charge;
 - d) upon expiration of one or some initial terms determined by the leasing agreement the Lessee undertakes to prolong leasing for the full or essentially full term of the economic maintenance of the leasing subject, or to buy the leasing subject;
 - e) upon expiration of one or some initial terms determined by the leasing agreement the Lessee has the right to decide whether to prolong or not the leasing for the full or essentially full term of the economic maintenance of the leasing subject without payment of the additional amount or by payment of the amount significantly smaller than the market price of the leasing price by the moment of prolongation of leasing;

- f) upon expiration of one or some initial terms determined by the leasing agreement the Lessee has the right to decide whether to become or not the owner of the leasing subject without payment of the additional amount or by payment of the amount significantly smaller than the market price of the leasing subject by the moment of becoming the owner.
2. In addition to any provision of Clause 1 of this Article the leasing agreement shall provide, as a rule, when the leasing subject is deemed as accepted as well as the date of acceptance thereof.

Article 4. Subleasing Agreement

1. The subleasing agreement is an agreement on leasing under which the Lessee transfers the leasing subject to a third person.
2. The subleasing is not permitted without the written consent of the Lessor.

Article 5. Registration of Leasing Agreement

1. The Lessor can register the leasing agreement in the relevant public register.
2. If the leasing agreement is not registered in the relevant public register, this shall not be the ground for its invalidation.

CHAPTER III

RIGHTS AND OBLIGATIONS OF PARTIES TO LEASING AGREEMENT

Article 6. Protection of Lessor's Ownership

The leasing subject is the object of a particular right and notwithstanding to in what way is it related to another movable or immovable property the Lessor's ownership of the leasing subject shall preserve in accordance with the leasing agreement till the moment of transfer of the leasing subject to the ownership of the Lessee.

Article 7. Rights and Obligations of Lessor

1. The Lessor is entitled to transfer his rights under the leasing agreement or the part of them to a third person. At the same time transfer of those rights does not release the Lessor from the obligations under the leasing agreement and does not change the essence of the leasing agreement as well.
2. In case of default of the Lessee the Lessor shall be entitled to terminate the leasing agreement.
3. Prior to termination of the leasing agreement the Lessor shall send the written notice on termination of the leasing agreement signed by him to the Lessee by the address indicated in the leasing agreement, and in the absence of such

address, by the last known address of the Lessee. The notice shall indicate the obligation on default of which the Lessor intends to terminate the leasing agreement, and the term to cure the default. This term shall be at least 15 days. If the default is cured in the term determined by the Lessor, the leasing agreement will not be terminated.

4. The Lessor has the right not to determine the term provided in Clause 3 of this Article on the evidence of:
 - a) the Lessee could not perform his obligations;
 - b) the leasing subject is threatened of significant damage;
 - c) location of the leasing subject may be changed without permit of the Lessor.
5. The Lessor has the right to recover the leasing subject upon termination of the leasing agreement.
6. In case of default of the Lessee under the leasing agreement the Lessor has the right to demand from the Lessee payment of the total leasing charge and compensation of expenses related to transfer of the leasing subject to the Lessor's ownership at the market price of the leasing subject by the moment of obtaining the ownership and right to use in accordance with this Article, less the amount having been already paid by the Lessee in kind of leasing charge. If the amount resulted from such calculation is positive, the Lessee shall pay to the Lessor the sum appropriate of this amount, and if the amount is negative, the Lessor shall compensate to the Lessee the sum appropriate of the positive equivalent of this amount.
7. When determining the market price of the leasing subject for the purpose of Clause 6 of this Article along with other factors there shall be foreseen the price and terms of sale of the leasing subject transferred to leasing or of the re-leasing of the leasing subject by the Lessor.

Article 8. Rights and Obligations of Lessee

1. The Lessee can transfer his rights under the leasing agreement to a third person only under the written consent of the Lessor.
2. From the moment of acceptance of the leasing subject by the Lessee the full responsibility for damage or loss of the leasing subject shall be borne by the Lessee.
3. If the Lessee suffers damage for changes made in the sale and purchase contract without the Lessee's consent, or the sale and purchase contract is invalidated by the parties, the Lessee shall have the right to claim damage.
4. The Lessee is entitled to claim damage for the loss resulted from restitution of the leasing subject by the Lessor breaking the law of Georgia and the leasing

agreement, through the court. At the same time the Lessee has no right to claim restitution of the leasing subject for him.

Article 9. Lessee's Rights toward Seller of Leasing Subject

1. All obligations of the Seller of the leasing subject provided by the sale and purchase contract made between the Lessor and the leasing subject seller as well as all and any warranties provided by the leasing subject seller to the Lessor shall be performed in favor of the Lessee as if the Lessee is a party to the sale and purchase contract, unless the leasing agreement provides otherwise.
2. The Lessor shall provide the Lessee with a copy of the sale and purchase contract made with the leasing subject seller or will otherwise inform him about the obligations and warranties determined by this contract until the Lessee becomes liable under the leasing agreement.

CHAPTER IV CONTROL

Article 10. Lessee's Obligations within Performance of Control by Lessor

1. The Lessor shall be entitled to perform control over performance of the terms and conditions of the leasing agreement and other relevant instruments by the Lessee.
2. The parties shall preliminary determine by the leasing agreement or other relevant instruments the purpose and procedure of control over performance of the terms and conditions of the same agreement and instruments.
3. The Lessee undertakes to provide the Lessor with the free access to the leasing subject and the related specifications.
4. The Lessor shall be entitled to demand from the Lessee in writing the information required for performance of such control and the Lessee shall satisfy such demand.

CHAPTER V SETTLEMENT

Article 11. Settlement

1. The amount of leasing charge, terms of payment shall be determined by the leasing agreement. If the Lessee and Lessor effect settlement by the product, the product price shall be agreed upon between the parties or determined at its market price.

2. The Lessee's obligation to pay the leasing charge shall arise from the moment of acceptance of the leasing subject as provided by the leasing agreement and in case of the grace period – from the date determined by the leasing agreement.

CHAPTER VI BANKRUPTCY

Article 12. Lessee's Bankruptcy

In case of bankruptcy of the Lessee the leasing subject received under the leasing agreement shall not be deemed the part of the bankruptcy mass.

Article 13. Lessor's Bankruptcy

In case of bankruptcy of the Lessor his creditors shall not have more rights on the leasing subject than the Lessor should have under the leasing agreement.

CHAPTER VIII CONCLUSIVE PROVISION

Article 14. Effective Date

The law shall be effective as of its promulgation.

Edward Shevardnadze

President of Georgia

Tbilisi

May 7, 2002

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