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EQUIPMENT LEASING AND FINANCE ASSOCIATION

Basics of Multi-State Leasing and Finance:

Business, Lending and Motor Vehicle Licensing Issues

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Lender/Lessor BEWARE

- 50 States, 50 different sets of requirements.
- Unique laws, taxing structures, regulations and licensing requirements.
- The objective of this presentation is to give the audience an overview of key areas where states typically impose licensing requirements and to provide a general guideline to navigating through these different regimes.
- WELCOME TO THE SMORSGASBORD!

Start with the basics: Registration in a Foreign State

- It is now common for a lender or lessor to conduct business across the country.
- While there are some federal statutes and regulations that apply nationally, lenders and lessors must know when to comply with state specific statutes and regulations.
- How do you know when the laws of another state apply to your business or transaction?

Start with the basics: Registration in a Foreign State

- When an organization does business outside the state where it is organized, it may be required to "qualify" or "register" with the foreign state,
- i.e., obtain a certificate of authority and appoint a registered agent in the foreign state.

- Key questions:
  - **WHEN** must an organization qualify to do business in a foreign state?
  - **WHAT** constitutes "doing business"?
  - **HOW** is "doing business" different from nexus or minimum contacts?
  - **WHY** does it matter?

WHEN to Register

- You must register **WHEN** you conduct business in the foreign state.

- Example:

  "No foreign corporation shall do any business in this state, through or by branch offices, agents or representatives located in this state, until it shall have paid to the Secretary of State of this state the fees prescribed in Section 1142 of this title and shall have filed with the Secretary of State [a certificate of authority]."

  18 OK Stat. § 18-1130

WHAT constitutes "doing business"

- Most states say that a foreign corporation must register or qualify if they are "doing business" in their state.
- They don't say what constitutes "doing business."
- Instead, they say what isn't doing business.

- Example:

"The following activities, among others, do not constitute transacting business within the meaning . . ."

Code of Virginia, 1950, Sec. 13.1-757

WHAT doesn't constitute "doing business"

The following activities, among others, do not constitute transacting business within the meaning of [the Act]:

(a) maintaining, defending, or settling any proceeding;

(b) holding meetings of the board of directors, shareholders, or carrying on other activities concerning internal corporate affairs;

(c) maintaining bank accounts;

(d) maintaining offices or agencies for the transfer, exchange, and registration of its own securities or maintaining trustees or depositories with respect to those securities;

(e) selling through independent contractors;

(f) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

WHAT doesn't constitute "doing business"

(g) creating or acquiring indebtedness, mortgages, and security interests in real or personal property;

(h) securing or collecting debts or enforcing mortgages or security interests in property securing such debts;

(i) owning, without more, real or personal property;

(j) conducting an isolated transaction that is completed within 30 days and that is not one in the course of repeated transactions of a like nature;

(k) transacting business in interstate commerce;

This list of activities . . . is not exhaustive.

Revised Model Business Corporation Act, Sec. 15.01.

WHAT doesn't constitute "doing business"

- Utah adopted the Revised Model Business language and adds:
- "(l) acquiring, in transactions outside this state or in interstate commerce, of conditional sales contracts or of debts secured by mortgages or liens on real or personal property in this state, collecting or adjusting of principal or interest payments on the contracts, mortgages, or liens, enforcing or adjusting any rights, provided for in conditional sales contracts or securing the described debts, taking any actions necessary to preserve and protect the interest of the conditional vendor in the property covered by a conditional sales contract or the interest of the mortgagee or holder of the lien in such security, or any combination of such transactions"
- Utah Code Ann. Sec. 16-10a-1501(2)(l).

Example: New Lessor going into a new State

- Example transaction:
  - **Lessor**: California corporation, California headquarter, no offices or employees outside the State of California.
  - **Documents**: California law governs, California jurisdiction and venue, contract is complete by Lessor's acceptance in California, and Lessee performs by making payments to Lessor in California.
  - **Lessee**: Georgia corporation, headquartered in Georgia.
  - **Equipment**: Manufacturing equipment, located in Georgia.
  - **Transaction type**: Capital Lease, 3 year term with a $1 buyout at end of term.
  - This is the Lessor's first transaction with a Georgia corporation.

Example: New Lessor going into a new State

- Does the Lessor need to qualify to do business in Georgia?

- Does the Lessor need to comply with Georgia specific licensing requirements?

Example: New Lessor going into a new State

- Equipment is manufacturing equipment and does not require licensing or registration with the State of Georgia.
  - NOTE: this is different from motor vehicles and other certificated equipment.

- Is the Lessor doing business in the State of Georgia?

What does Georgia law say?

(a) A foreign corporation may not transact business in this state until it obtains a certificate of authority from the Secretary of State.

GA Code § 14-2-1501

What does Georgia law say?

(b) The following activities, among others, do not constitute transacting business within the meaning of subsection (a) of this Code section:

(1) Maintaining or defending any action or any administrative or arbitration proceeding or effecting the settlement thereof or the settlement of claims or disputes;

(2) Holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs;

(3) Maintaining bank accounts, share accounts in savings and loan associations, custodian or agency arrangements with a bank or trust company, or stock or bond brokerage accounts;

(4) Maintaining offices or agencies for the transfer, exchange, and registration of its securities or appointing and maintaining trustees or depositories with respect to its securities;

(5) Effecting sales through independent contractors;

(6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance outside this state before becoming binding contracts and where the contracts do not involve any local performance other than delivery and installation;

(7) Making loans or creating or acquiring evidence of debt, mortgages, or liens on real or personal property or recording same;

(8) Securing or collecting debts or enforcing any rights in property securing the same;

(9) Owning, without more, real or personal property;

What does Georgia law say?

(10) Conducting an isolated transaction not in the course of a number of repeated transactions of a like nature;

(11) Effecting transactions in interstate or foreign commerce;

(12) Serving as trustee, executor, administrator, or guardian, or in like fiduciary capacity, where permitted so to serve by the laws of this state;

(13) Owning (directly or indirectly) an interest in or controlling (directly or indirectly) another entity organized under the laws of, or transacting business within, this state; or

(14) Serving as a manager of a limited liability company organized under the laws of, or transacting business within, this state.

(b) The list of activities in subsection (b) of this Code section is not exhaustive.

(c) This chapter shall not be deemed to establish a standard for activities which may subject a foreign corporation to taxation or to service of process under any of the laws of this state.

GA Code § 14-2-1501(b) – (d).

WHY does it matter?

- If a Lessor is not conducting business in a foreign state, arguably it does not need to register or qualify in that state.
- If the Lessor does not need to register in the foreign state, arguably it should not need to comply with that state's licensing requirements.
- There are penalties for failing to register in a foreign state when a company is doing business there:
  - Fees
  - Denied access to state courts

California Finance Lender's Law

Who Must Be Licensed?

Any person engaged in the business of making consumer loans or making commercial loans. (Fin. C. §22009.)

California Finance Lender's Law

- Commercial Loans.
  - Any person engaged in the business of making consumer or commercial loans must be licensed in California. Generally, a consumer loan is a loan of which the proceeds are intended by the borrower for use primarily for personal, family or household purposes.
  - For purposes of determining whether the loan is a consumer loan, the lender may rely on any written statement of intended purposes signed by the borrower and the lender is not required to ascertain if the proceeds of the loan are used in accordance with the statement of intended purposes.
  - Any commercial loan of less than $5,000 is also defined as a consumer loan.

California Finance Lenders Law

Licensed Finance Lenders Are Exempt from Usury Laws

In the absence of an exemption the Usury Rate is:

-10% for loans or forbearance of any money, goods, or things in action to be used primarily for personal, family or household purposes (consumer transactions)

OR

-the higher of 10% or 5% per annum plus the rate prevailing on the 25th day of the month preceding the earlier of the date of execution of the contract to loan or the date of making the loan as established by the Federal Reserve Bank of San Francisco on advances to member banks under Section 13 and 13a of the Federal Reserve Act for all other loans or forbearance of money, goods or things.

Cal. Const. Article 15 § 1

California Finance Lender's Law

- Exemptions from Requirement of a CFLL
  - Although obtaining a License exempts a lender from California's usury law, the fact that a loan is exempt from usury does not eliminate the requirement of a lender to have a Lenders License.
- Exempt entities:
  - Any person making 1 commercial loan in a 12 month period, as long as loan is "incidental"
  - Banks
  - Bank subsidiary, if making a commercial loan
  - Savings and Loans
  - Conditional sales contracts
  - True leases

Penalties for violating CFLL

- If a lender is not licensed under the CFLL, the consequences can include:
  - Injunctions and civil penalties;
  - The surrender of a Lenders License.
- If the violation is willful:
  - Punishment by a fine of not more than $10,000;
  - Imprisonment in a county jail for not more than one year;
  - Or both fine and imprisonment.
- Special penalties in connection with consumer loans. Consumer loan can be declared void.

Brokering Loans under CFLL

- A finance broker licensed under the CFLL may only broker loans to, and collect brokerage commissions or referral fees from, other licensed lenders, without the consent of the California Department of Business Oversight ("DBO").
- Without DBO consent, a finance broker licensed under the CFLL may not broker loans to and collect brokerage commissions from other types of lenders who are not licensed, such as credit unions and banks, even though such lenders are exempt from the CFLL.

New Law on Payment of Broker or Referral Fees

Prior to January 1, 2016

- Commercial lenders with Licenses were prohibited from paying a fee to any person in exchange for a referral of business.

Effective January 1, 2016

- The California Legislature enacted new statutes authorizing state licensed commercial lenders to pay referral fees for commercial loans to unlicensed persons including brokers and dealers.

New Law on Payment of Broker or Referral Fees

Unlicensed persons may not:

- Participate in loan negotiations.
- Counsel or advise the borrower about a loan.
- Participate in the preparation of any loan documents.
- Contact the lender on behalf of the borrower beyond the initial referral.
- Obtain loan documentation from the borrower or deliver that documentation to the lender.
- Communicate lending decisions or inquiries to the borrower.
- Participate in creating sales literature or marketing materials.
- Obtain the borrower's signature on loan documents.
- Make a misleading statement or omit material information in any form, including advertisements for prospective borrower about the terms of the loan.
- Engage in any acts that violate California Business and Professions Code.
- Commit an act that constitutes fraud or dishonest dealings.
- Fail to safeguard a prospective borrower's personally identifiable information.

New Law on Payment of Broker or Referral Fees

The new law only allows for the payment of a referral fee once a loan has been approved and requires that all loans involving the payment of a referral fee adhere to the best practices for commercial lending, including:

- Verification of borrower's commercial status;
- The loan's annual percentage rate does not exceed 36%;
- The loan's minimum term is one year;
- The lender performs vigorous underwriting to ensure the borrower's financial support the repayment of the loan and maintains records for at least 4 years;
- Submit information requested by Commissioner regarding the compensation.

Exemptions from Prohibitions to Obtain Broker's or Referral Fees

The prohibitions discussed above do not apply if the unlicensed person meets one or more of the following criteria:

- Is exempt from licensure under this provision.
- Is exempt from federal income taxes under Section 501(c)(2) of the Internal Revenue Code.
- Is a business assistance organization recognized by the US Small Business Administration.
- Is engaged in 5 or more loans in a 12-month period made by persons licensed under the CFLL. NOTE: There is a difference on this exemption that the commercial loans to not have to be "incidental" to the business of the lender.

Application of Another State's Choice of Law in Loan Documents

- If the lender and the borrower have a choice of law clause in their loan contract indicating that another state's law applies to the contract and, therefore, the prohibitions under the CFLL or usury law are not applicable, what will a California court do with respect to enforcement of the choice of law clause?
- Although choice of law clauses are generally enforceable as a matter of law, so long as they bear a reasonable relation to the state and also to another state or nation, the choice of law clause is probably not enforceable.
- A California court may cite the purpose of the CFLL and the State's public policy would prevail and the choice of law clause would not be enforceable as to the use of another State's law.

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Legislation Pertaining to Finders (California Senate Bill 297)

On February 13, 2017, Senate Bill 297 was introduced to expand regulation not only to finance lenders and brokers but also to finders.

A finder is any one who:

- Collects non-public personal identification information such as a SSN.
- Introduces or matches borrowers to lenders after examining lenders underwriting requirements.
- Offers to compare various loans offered by finance lenders.
- Delivers required disclosures.
- Provides written loan terms, conditions or qualifications requirements to a prospective borrower.
- Notify a prospective borrower of information without providing counseling or advice.
- Contact a finance lender to determine the status of a prospective borrower's loan application.
- Communicates a response from a finance lender's automated underwriting system to a prospective borrower.
- Obtains a borrower's signature on documents prepared by a finance lender and delivers title copies to a borrower.

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State Specific Issues for Truck and Transportation Financing

Lender Beware:
50 States, 50 Sets of Requirements

State Specific Issues for Truck and Transportation Financing

- Commercial v. Consumer Lending
- Lender Licenses
- Financial Responsibility
- Additional Considerations

Consumer v. Commercial

When the lease transaction is entered into, it is imperative to determine whether the purpose for the lease is commercial or consumer.

Consumer v. Commercial

As a result of the Dodd-Frank Act, there have been changes to local and state laws, which requires scrutiny of the due diligence process before funding a lease transaction to ensure it is commercial and not consumer.

Consumer v. Commercial

Under Dodd-Frank, the Federal Reserve Board has broad and powerful latitude over finance companies in determining what constitutes a "Consumer Transaction."

In certain states, a Consumer Transaction is one where the lessee is an individual, single member LLC, sole shareholder corporation or a sole proprietorship.

Consumer v. Commercial

If the Federal Reserve Board determines a matter to be a consumer transaction, then a lessor must comply with the Consumer Leasing Act.

The Act regulates personal property leases that are made for "primarily personal, family or household purposes."

Consumer v. Commercial

A leasing company must carefully examine a particular state's statutes governing consumers that apply to a lease transaction at the outset of the diligence process.

Considerations- Type of Equipment Financed, Anticipated Use

Electronic Signatures on Vehicle Leases-AB380

- This bill would delete the Uniform Electronic Transactions Act (UETA) exemption for conditional sale and lease contracts for motor vehicles and require lessors to offer customers the option of signing electronically. It would mandate certain disclosures separate from a conditional sale or lease contract be signed at the seller's or lessor's place of business and "an exact copy of the executed contract to be furnished" to lessees.

New York "Licensed Lender Law"

- Requires certain people and entities to obtain a license from the superintendent in order to be able to make loans, which could be at a higher interest rate than otherwise allowed under law. *N.Y. Banking Law § 340*

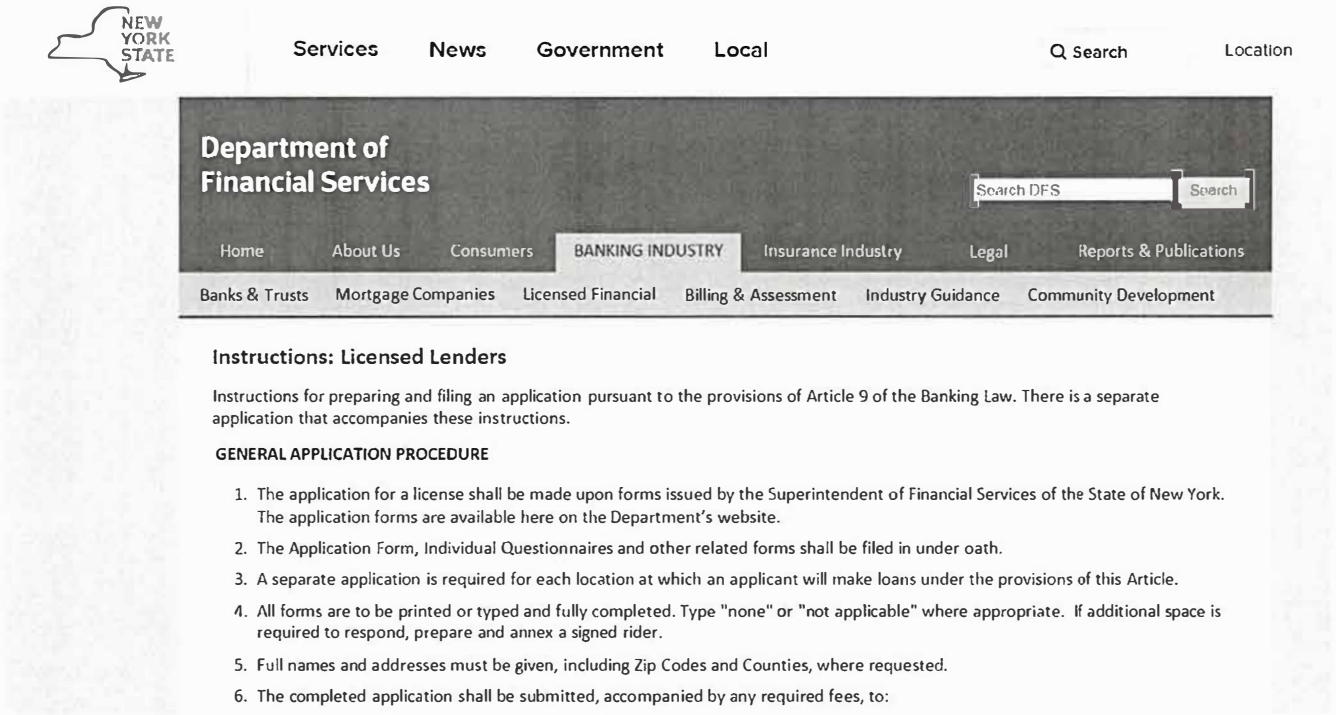
- Proposed Amendments for January 2018 meant to target online predatory lending are much broader in scope

New York's "Licensed Lender Law"

- Amendment would make the law applicable to:
  (1) lenders without a physical location in New York,
  (2) lenders who acquire loans from other lenders who do business in New York, and
  (3) possibly lenders who make loans to corporate borrowers.

- Adds language to the statute making applicable to both individuals and businesses who borrow less than $50,000.
  Anyone "engaging in the business of making loans" of $50,000 or less for business or commercial purposes must have a license.

New York Lender's License: NY DFS Application



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Instructions: Licensed Lenders

Instructions for preparing and filing an application pursuant to the provisions of Article 9 of the Banking Law. There is a separate application that accompanies these instructions.

GENERAL APPLICATION PROCEDURE

1. The application for a license shall be made upon forms issued by the Superintendent of Financial Services of the State of New York. The application forms are available here on the Department's website.
2. The Application Form, Individual Questionnaires and other related forms shall be filed in under oath.
3. A separate application is required for each location at which an applicant will make loans under the provisions of this Article.
4. All forms are to be printed or typed and fully completed. Type "none" or "not applicable" where appropriate. If additional space is required to respond, prepare and annex a signed rider.
5. Full names and addresses must be given, including Zip Codes and Counties, where requested.
6. The completed application shall be submitted, accompanied by any required fees, to:

Financial Responsibility: Graves Amendment

- In 2005, Congress passed Federal legislation known the Graves Amendment to the Federal Transportation Equity Act. 49 U.S.C. § 30106.

- Prior to the Graves Amendment, many states held the owner of a motor vehicle vicariously liable for the customer's negligent operation of the vehicle

- The Graves Amendment was intended to create uniformity among the states.

Graves Amendment

•The Graves Amendment pre-empts state law and provides that a non-negligent lessor/owner of a motor vehicle is not liable for damages resulting from the operation or use of the vehicle during the lease term.

•Courts in Massachusetts, Connecticut, New York, Florida and the District of Columbia have ruled that the Graves Amendment preempts state vicarious liability laws.

•This exemption is only available so long as the lessor has not been negligent or acted criminally.

•The Graves Amendment will not protect a lessor under a full service lease who has failed to properly maintain a vehicle from liability for an accident caused by mechanical failure.

Graves Not Applicable

Graves Amendment

Graves Amendment provides that equipment finance companies that rent or lease motor vehicles in the United States are generally protected from vicarious liability arising from the use, operation or possession of the vehicle *provided that:*

1. The owner is engaged in the business of renting or leasing motor vehicles; and

2. There is no independent negligence of criminal act by the owner (or affiliate).

NY Exception: Owner/Affiliate

Stratton v. Wallace, 2014 U.S. District. LEXIS 105816, 8-9 (W.D.N.Y. July 31, 2014)

- Held that a tractor-trailer lessor can be vicariously liable for the negligence of a lessee, even when that owner is free of wrongdoing, by way of an "affiliate" lessee
- A company was set up to hold title to vehicles and then lease them to a related company. Both companies were wholly owned subsidiaries of the same parent company
- Not "run of the mill Graves Amendment Cases" where vehicle owner and vehicle operator are related only by an arm's length contract,
- Court interpreted Graves as applying to bar liability only where both the owner and the affiliate are without negligence
- Court found the two companies to be "affiliated" for purposes of the Graves Amendment
- Thus, in order to obtain the protection of Graves Amendment, *Stratton* Court requires both owner and affiliate of the owner to be free from negligence.

Graves Amendment: Independent Negligence

- Viable theories against owners:
  - Negligent Maintenance
  - Negligent Entrustment
  - Failure to Supervise or Train Employees

Savings Clause: State Financial Responsibility Laws

•The Graves Amendment contains a "savings clause" stating that it does not supersede state laws imposing "financial responsibility" on the owner for the privilege of registering and operating a motor vehicle. 49 USC § 30106(b)(1).

•The savings clause only "saves" state laws that impose "insurance-like requirements"; it does not "save" state laws that impose (or cap) vicarious liability on leasing companies— that is liability based solely upon ownership. See Garcia v. Vanguard Car Rental USA, Inc., 540 F.3d 1242, 1247 (11th Cir. 2008)

Example: New Jersey

- NJSA § 39:6A-1 et seq.;
  - Every owner or registered owner of an automobile registered or principally garaged in the state shall maintain automobile liability insurance coverage. (Minimum liability coverage is 15/30/5).

- NJSA 17:28-1-1
  - the coverage requirements - liability, personal injury protection, and optional uninsured and underinsured motorist coverage – are triggered by the place where the automobile is registered or principally garaged rather than by the identity of the policy holder.

Example: California

•**Cal. Vehicle Code § 16500.5(a)(2)**: Except as specified in subdivision (b), the owner of the following commercial vehicles shall maintain proof of financial responsibility in the amount required by the director:

> A vehicle having an unladen weight of over 7,000 pounds which is used in the transportation of property in the conduct of a business.

•**Cal. Vehicle Code § 16500.5(d)(1-4)**: Proof of financial responsibility may be maintained by any of the following:

> (1) Being insured under one or more motor vehicle liability policies against that liability.
>
> (2) Obtaining a bond of the same kind, and containing the same provisions, as those bonds specified in Section 16434.
>
> (3) By depositing with the department five hundred thousand dollars ($500,000), which amount shall be deposited in a special deposit account with the Controller for the purpose of this section.
>
> (4) Qualifying as a self-insurer under Section 16053.

•**Cal. Vehicle Code § 16430**: Proof of financial responsibility when required by this code means proof of financial responsibility resulting from the ownership or operation of a motor vehicle and arising by reason of personal injury to, or death of, any one person, of: 15/30/5.

•**Cal. Vehicle Code § 16053(a)**: The department may in its discretion, upon application, issue a certificate of self-insurance when it is satisfied that the applicant in whose name more than 25 motor vehicles are registered is possessed and will continue to be possessed of ability to pay judgments obtained against him or her in amounts at least equal to the amounts provided in Section 16056.

California Financial Responsibility Laws

Cal. Vehicle Code § 16020: California requires that all drivers and all owners of motor vehicles shall at all times be able to establish financial responsibility and shall at all times carry evidence of such.

A vehicle owner may liable for the negligence of a "permissive driver" but the law limits the owner's financial responsibility to $15,000 for the death or injury to any one person and $30,000 for the death or injury to more than one person. Cal. Veh. Code, § 17151(a) (2016).

California Financial Responsibility Laws

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- (4) Qualifying as a self-insurer under Section 16053.

Cal. Vehicle Code § 16430: Proof of financial responsibility when required by this code means proof of financial responsibility resulting from the ownership or operation of a motor vehicle and arising by reason of personal injury to, or death of, any one person, of:15/30/5.

Special Considerations

- **Cal. Vehicle Code § 16053(a)**: The department may in its discretion, upon application, issue a certificate of self-insurance when it is satisfied that the applicant in whose name more than 25 motor vehicles are registered is possessed and will continue to be possessed of ability to pay judgments obtained against him or her in amounts at least equal to the amounts provided in Section 16056.

- **Vargas v. FMI, Inc.**, 233 Cal.App.4th 638 (January 23, 2015) (holding that defendants had not established as a matter of undisputed fact that the tractor's owner is entitled to the protection of the Graves Amendment, 49 U.S.C. Section 30106, subdivision (a), which shields owners of leased vehicles "engaged in the business or trade of renting or leasing motor vehicles" from vicarious liability for the alleged negligence of their lessee's drivers.")

State Financial Responsibility Laws

•Rental and leasing companies (and their insurers) have been faced with various claims for insurance coverage for the state imposed minimum insurance requirements, No Fault ("PIP") benefits, Uninsured Motorist coverage and/or Underinsured Motorist coverage.

•No court of record has held a lessor responsible for meeting minimum insurance requirements because most claims against lessors have been couched in the form of a claim for vicarious liability.

•Plaintiffs' counsel may begin to rely upon the financial responsibility laws to argue that lessors should be liable for mandatory insurance obligations, including No Fault, UM, and Underinsured, or the obligation to provide a good faith legal defense to a lessee or driver.

Additional Considerations

Environmental Regulations

- Regulations, such as California Heavy-Duty Vehicle Greenhouse Gas Emission Reduction Regulation ("Cal GHG Reg"), may impact lessors to the extent the regulation applies to owners of vehicles.

- Under Cal GHG Reg, the lessor MUST provide the lessee with specific statements prescribed by CAL GHG Reg for the lessor not to be deemed the owner for purposes of the regulation.

Additional Considerations- Installment Sales Contracts

- Is there an applicable state Motor Vehicle Installment Sales Act?
- Does the Act apply to commercial transactions?
- Is there a license required?
- State specific requirements.

Additional Considerations- Installment Sales Contracts

Is there an applicable state Motor Vehicle Installment Sales Act?

Pennsylvania

"Installment sale contract."(1) A contract for the retail sale of a motor vehicle, or a contract that has a similar purpose or effect, whether or not the installment seller has retained a security interest in the motor vehicle or has taken collateral security for a buyer's obligation, if:(i) all or part of the purchase price is payable in two or more scheduled payments subsequent to the making of the contract; or(ii) a buyer undertakes to make two or more scheduled payments or deposits that may be used to pay all or part of the purchase price.(2) The term includes any form of contract, however nominated, for the bailment or leasing of a motor vehicle, which contains both of the following, or any other arrangement having a similar purpose or effect:(i) The buyer contracts to pay as compensation a sum substantially equivalent to or in excess of the value of the motor vehicle.(ii) Ownership of the motor vehicle may be transferred to the buyer.(3) The term includes and applies to an extension, deferment, renewal or other revision of the installment sale contract.(4) The term excludes the following:(i) A sale or contract for sale upon an open book account, if both of the following conditions are met:(A) The installment seller has not retained or taken a security interest in the motor vehicle sold or a collateral security for the buyer's obligation.(B) The buyer:(I) is not required to pay a sum other than the purchase price of the motor vehicle sold in connection with the sale or extension of credit; and(II) is obligated to pay for the motor vehicle in full within 90 days from the time the sale or contract for sale was made.(ii) A right to acquire possession of goods under a lease, unless the lease:(A) constitutes a security interest as defined in 13 Pa.C.S. § 1201 (relating to general definitions); and(B) is subject to 13 Pa.C.S. Div. 9 (relating to secured transactions).12 Pa. Stat. and Cons. Stat. Ann. § 6202

Additional Considerations – NY Security Deposit Law

- Applies to "money deposited or advanced on contract for the use or rental of personal property." *NY GOB § 7-101*
- Deposits above $750 for personal property must be deposited in an interest bearing account in a banking organization in the state of New York
- Exemption:
  - the contract must be govern by NY law AND
  - the lessee must be located in NY

Additional Considerations

Traffic Violations

- In many states the lessor, as owner, is responsible for all fines and fees for traffic violations by the lessee.
- In New York, N.Y. Public Authorities Law Section 2985, subsection 10 provides that a lessor may transfer liability to a lessee for a toll violation if the lessor sends "the public authority serving the notice and to the court or other entity having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible" within 30 days of receipt of the violation notice.

Additional Considerations

Traffic Violations

- Liability for a New York City parking ticket cannot be transferred to a lessee unless the specific vehicle is registered with the Parking Violations Bureau and the lessor follows the rules set forth in Ch. 39, Title 19 of the Rules of the City of New York
- Pennsylvania toll violation liability transfer scheme- 74 Pa.Cons.Stat Section 8117(b)(3)
- In California the lessee becomes responsible if the owner submits to the regulatory agency an affidavit of non-liability within 30 days of the mailing of the notice of toll evasion violation together with the proof of a written rental agreement or lease between a bona fide renting or leasing company and its customer. California Vehicle Code § 40264.

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