

TECHINFORMI

**Law of Georgia
On Promotion to Leasing Activities**

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Law of Georgia On Promotion to Leasing Activities

The purpose of this law is to develop relations originated by leasing contract envisaged in civil code and to promote leasing activities.

Chapter 1. General provisions

Article 1. Definition of terms

Terms used in this law have the following meaning:

- a) Leasing – buying (or manufacturing) of object of leasing (leased property) by a lessor from owner or producer of leased property by a purchase contract, to transfer to a lessee in temporarily chargeable usage with the right or obligation to buy-out;
- b) Leased property: any type of property, which is subject to amortization;
- c) Starting price of leased property: price of the leased property at a moment of its transfer;
- d) Total cost of the lease contract: total amount of leasing payments;
- e) Leasing payment: amount of periodical payment from the lessee to the lessor according to the lease contract (or in-kind contribution equal to the mentioned above payments) during which, on the step-by-step basis, the lessee restitutes to the lessor the starting price (minus residual cost) and leasing benefits;
- f) Leasing benefits: difference between the total amount of leasing payments and leasing starting price (minus residual cost);
- g) Grace period: starting period of leasing during which the lessee does not make lease payments;
- h) Sub-leasing: transfer of the rights on usage of the leased property by the lessee to a third party;
- i) Seller: owner of the leased property or producer, physical or legal entity, which, on the basis of purchasing contract, transfers the property, as the leased property, to the lessor or the lessee according to the lease contract.

Article 2. Types of Leasing

Types of leasing follow:

- a. Direct leasing, during which the lessor is himself the owner or the producer of the leased property;
- b. Compensational leasing - when lessee makes lease payments in the form of in-kind contributions (goods, services, labor).
- c. Service leasing - when the lease contract envisages services provided by the lessor or the persons hired by him in the form of management, insurance, warranty services, repair activities, etc.

- d. Pure leasing - when the lease contract does not envisage any services to be provided by a lessor in relation to the leased property.

Chapter 2. Lease Contract

Article 3. Lease contract

1. For purposes of financial accounting, a contract among the parties is considered leasing contract, if it envisages at least, one of the following conditions:
 - (a) the lessee becomes the owner of the leased property at the end of the period of the lease without further payments or with payment of an insignificant sum only;
 - (b) the period of the lease is substantially equal to or greater than the remaining useful life of the leased property and upon payment of an insignificant sum the lessee becomes the legal owner of the property;
 - (c) the period of the lease is substantially equal to or greater than the remaining economic life of the leased property and the period cannot be terminated at the election of the lessee alone, without at least prepayment of lease payments remaining;
 - (d) at the expiration of one or more initial periods, the lessee is bound to renew the lease for all or substantially all of the remaining economic life of the leased property or is obligated to purchase the leased property;
 - (e) at the expiration of one or more initial periods, the lessee has the option to renew the lease for all or substantially all of the remaining economic life of the leased property for no additional value or for a value that is significantly below the market lease rate for the property at the time the option is exercised
 - f) at the expiration of one or more initial periods, the lessee has the option to become the owner of the leased property for no additional payment or for a payment that is significantly below the fair market price for the property at the time the option is exercised.
2. As a rule, in addition to one of the conditions by the first sub-item of the present article, the lease contract should mention the time term of the reception of lease property and the moment of its acceptance.

Article 4. Sub-lease contract

1. The sub-lease contract constitutes the same form of lease contract, by which a lessor transfers leased property to a third party.
2. Sub-leasing without written agreement of a lessor is prohibited.

Article 5: Registration of Lease contract

1. The lessor has the right to register the lease contract in corresponding public registry.
2. Not registering of a lease contract does not allow a person to void the contract.

Chapter 3. Rights and Obligations of the Parties to the Lease Contract

Article 6. Protection of Lessor's Ownership

Leased property is subject to a separate right and, despite being attached to immovable or movable property, lessor reserves ownership over leased property until lessee becomes an owner of the leased property according to lease contract.

Article 7. Rights and Obligations of Lessor

1. A lessor may transfer all or part of his rights under lease contract to a third person. Transfer of the rights does not release the lessor from the obligations under lease contract and does not change the substance of the lease contract;
2. The lessor may terminate a lease contract when the lessee is in default in performing any of the lessee's obligations provided by the lease contract.
3. Before terminating a lease contract, a lessor is obliged to send written notice about termination of the lease contract signed by the lessor at the address of the lessee provided in the lease contract or at his last known address if none is provided. This written notice must set out the event of default upon which the lessor intends to terminate the lease and a statement that unless the default is remedied within a time specified in the notice, the lease will be terminated. This term may not be less than 15 days. If the default is remedied by the lessee within the time specified in the notice the lease contract will not be terminated.
4. The notice need not be given and no time for cure of the default need be allowed to the lessee if it is obvious that
 - a) the default cannot be remedied;
 - b) the leased property is in imminent danger of being seriously damaged; or
 - c) the leased property may be removed from its agreed location without the permission of lessor.
5. Immediately upon termination of a lease contract, a lessor has legal right to take possession of leased property.
6. The lessor is entitled to recover from the lessee upon an uncured default by the lessee the total amount payable under the terms of the lease contract and costs of obtaining possession of the leased property less the amount of the lease payments made by the lessee and less market value of leased property at the time when the lessor acquired unlimited use and possession of it as provided in this article. If the calculation yields a positive number, the lessee is obliged to pay to the lessor that number of GL; if the calculation yields a negative number the lessor is obliged to pay the lessee the positive equivalent of that number of GL.
7. For purposes of point 6 of this article, in determining market value of leased property, in addition to other circumstances, must be considered the price and terms at which the lessor has sold or released the repossessed leased property.

Article 8. Rights and Obligations of Lessee

1. A lessee may assign its rights and delegate its obligations under lease contract to a third party upon a written consent of the lessor only.
2. After a lessee accepts leased property, responsibility for damage or loss of the leased property lies upon the lessee in full.
3. In the event of a modification or recession of the purchase contract made by lessor without consent by lessee, lessor will be liable to lessee for any damages due to such modification or recession.
4. A lessee may apply to a court for damages for leased property that was repossessed by a lessor in violation of Georgian legislation and provisions of a lease contract. Money damages are the only remedy available to the lessee. The lessee may not claim a right to have the leased property restored to his possession in any event.

Article 9. Rights of Lessee against Seller of Leased Property

1. Unless lease contract provides otherwise, all of the supplier's obligations under a purchase contract and all warranties given by the supplier to the lessor, must be fulfilled for the lessee, as if the lessee were a party to purchase contract.
2. Lessor will provide a copy of the purchase contract to lessee or lessee will otherwise become familiar with its provisions and warranties before the lease becomes binding on lessee.

Chapter III – Control

Article 10. Lessee's Obligations upon Control by Lessor

1. The lessor has right to carry out control of fulfillment of obligations under lease contract and any other accompanying contracts;
2. Parties to lease contract determine purpose and procedure of the control of fulfillment of obligations under lease contract and other accompanying contracts, by the lease contract and other accompanying contracts;
3. Lessee is obliged to ensure unlimited access to a leased property and corresponding technical documentation for a lessor;
4. To carry out the control, a lessor has right to send written requests for information to the lessee, which is obliged to satisfy such requests.

Chapter IV – Settlement procedure

Article 11: Settlement procedure

1. Amount of leasing payment, terms of payment and periodicity is defined by a lease contract. If a lessee pays in kind, price of goods supplied is determined by parties or according to market price.
2. After a lessee accepts lease property according to lease contract, he has obligation to make lease payments or, in case of the grace period, – from the date envisaged by a lease contract.

Chapter V – Bankruptcy

Article 12. Bankruptcy of Lessee

In the event of the bankruptcy of a lessee the property leased under lease contract is not part of bankruptcy estate.

Article 13. Bankruptcy of Lessor

In the event of the bankruptcy of a lessor, creditors of the lessor shall have no greater rights with respect to the leased property than the lessor would have had with respect to lessee under the lease contract.

Article 14

The present law is in effect when published.

President of Georgia
Eduard Shevardnadze

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