



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Jim Ryan**  
ATTORNEY GENERAL

January 5, 1998

FILE NO. 98-001

MOTOR VEHICLES:  
Federal Consumer Leasing  
Act - Illinois' Motor Vehicle  
Leasing Act

The Honorable Beverly Fawell  
Chairman, Senate Transportation Committee  
213 West Wesley, Suite 105  
Wheaton, Illinois 60187

Dear Senator Fawell:

I have your letter wherein you inquire whether the disclosures required by the Federal Consumer Leasing Act (15 U.S.C. §§ 1667-1667e) and the regulations promulgated thereunder are "substantially similar" to the disclosures required by Illinois' Motor Vehicle Leasing Act (815 ILCS 636/1 et seq. (West 1996)), thereby permitting Illinois motor vehicle lessors to use current consumer lease forms based upon the Federal regulations to satisfy both Federal and State law. For the reasons hereinafter stated, it is my opinion that the disclosure requirements of the Consumer Leasing Act and the regulations promulgated thereunder are substantially similar to the disclosure requirements of

The Honorable Beverly Fawell - 2.

the Motor Vehicle Leasing Act. Therefore, a consumer vehicle lease form which complies with the Federal requirements will also satisfy the disclosure requirements of the Illinois Motor Vehicle Leasing Act.

Illinois' Motor Vehicle Leasing Act was enacted by the General Assembly to promote the understanding of motor vehicle leases in this State by requiring the disclosure of specified lease obligations and terms to consumer lessees. (815 ILCS 636/5 (West 1996).) Section 25 of the Act (815 ILCS 636/25 (West 1996)), which contains the disclosure requirements for Illinois consumer leases, provides, in pertinent part:

" \* \* \*

(e) The consumer lease shall contain the following:

(1) All items required to be disclosed by the [Federal] Consumer Leasing Act and, in addition, the following items if the items or substantially similar items are not required to be disclosed by the Consumer Leasing Act.

(2) The capitalized cost, identified as 'capitalized cost', and a descriptive explanation such as 'the agreed upon amount determined at lease inception for all items and services included in the lease'.

(3) Any capitalized cost reduction, using the term 'capitalized cost reduction'.

(4) The adjusted capitalized cost, using the term 'adjusted capitalized cost' and a descriptive explanation, as applicable, such as 'the agreed upon amount which serves as the basis for determining the base lease payment. If you are not in default, this amount plus any applicable early termination

The Honorable Beverly Fawell - 3.

charges determines your maximum early termination obligation'.

(5) If the lessee is not permitted to terminate the lease at any time, the consumer lease shall contain a conspicuous statement setting forth any prohibitions upon the lessee's ability to terminate the consumer lease at any time before the end of the scheduled term.

(6) The vehicle's residual value, using the term 'residual value'.

\* \* \*

"

(Emphasis added.)

As used in the Act, the phrase "consumer lease" means "[a] contract, entered into in this State, which transfers the right of possession for use of a vehicle by a natural person primarily for personal, family, or household purposes, for a period of more than one year, for a total contractual obligation not exceeding \$25,000, whether or not the lessee has the option to purchase or otherwise become the owner of the vehicle at the expiration of the consumer lease." (815 ILCS 636/10.45 (West 1996).)

Under the language quoted above, it is clear that all Illinois consumer leases must contain those items required to be disclosed by the Consumer Leasing Act, together with those items expressly provided for in subsections 25(e)(2) through (e)(6) of the Motor Vehicle Leasing Act, if those items or substantially similar items are not required to be disclosed by the Consumer Leasing Act. Therefore, in order to respond fully to your inquiry, it is necessary to compare the disclosure requirements

The Honorable Beverly Fawell - 4.

of subsection 25(e) of the Motor Vehicle Leasing Act with the disclosure requirements of the Consumer Leasing Act.

The Consumer Leasing Act was enacted in 1976 by Congress as an amendment to the Truth in Lending Act (15 U.S.C. § 1601 et seq.). The Consumer Leasing Act generally applies to consumer leases of personal property with terms of more than four months in which the contractual obligation does not exceed \$25,000. (15 U.S.C. § 1667.) Under the Federal Act, lessors of personal property are required to provide lessees with uniform cost and other information concerning consumer lease transactions. (15 U.S.C. § 1667a.)

The Board of Governors of the Federal Reserve System has been granted the authority to implement the Consumer Leasing Act and to prescribe regulations related thereto. (15 U.S.C. § 1667f.) Regulation M (12 C.F.R. 213 et seq. (1997)) contains the Board's rules implementing the Consumer Leasing Act. Section 213.4 of Regulation M (12 C.F.R. § 213.4 (1997), as amended at 62 Fed. Reg. 15367) sets forth the disclosure requirements for consumer leases, providing, in pertinent part:

"For any consumer lease subject to this part, the lessor shall disclose the following information, as applicable:

\* \* \*

(f) Payment calculation. In a motor-vehicle lease, a mathematical progression of how the scheduled periodic payment is derived, in a format substantially similar to the applicable model form in appendix A of this part, which shall contain the following:

(1) Gross capitalized cost. The gross capitalized cost, including a disclosure of the agreed upon value of the vehicle, a description such as 'the agreed upon value of the vehicle [state the amount] and any items you pay for over the lease term (such as service contracts, insurance, and any outstanding prior credit or lease balance),' and a statement of the lessee's option to receive a separate written itemization of the gross capitalized cost. If requested by the lessee, the itemization shall be provided before consummation.

(2) Capitalized cost reduction. The capitalized cost reduction, with a description such as 'the amount of any net trade-in allowance, rebate, noncash credit, or cash you pay that reduces the gross capitalized cost.'

(3) Adjusted capitalized cost. The adjusted capitalized cost, with a description such as 'the amount used in calculating your base [periodic] payment.'

(4) Residual value. The residual value, with a description such as 'the value of the vehicle at the end of the lease used in calculating your base [periodic] payment.'

\* \* \*

(g) Early termination -- (1) Conditions and disclosure of charges. A statement of the conditions under which the lessee or lessor may terminate the lease prior to the end of the lease term; and the amount or a description of the method for determining the amount of any penalty or other charge for early termination, which must be reasonable.

(2) Early-termination notice. In a motor-vehicle lease, a notice substantially similar to the following: 'Early Termination. You may have to pay a substantial charge if you end this lease early. The charge may be up to several thousand dollars. The actual charge will depend on when the lease is ter-

The Honorable Beverly Fawell - 6.

minated. The earlier you end the lease, the greater this charge is likely to be.'

\* \* \*

(Emphasis in original.)

As used in Regulation M, the phrase "consumer lease" refers to, inter alia, "\* \* \* a contract in the form of a \* \* \* lease for the use of personal property by a natural person primarily for personal, family, or household purposes, for a period exceeding four months and for a total contractual obligation not exceeding \$25,000 \* \* \*." (12 C.F.R. § 213.2(e)(1) (1997).)

Subsection 213.4(f)(1) of Regulation M requires the disclosure of a consumer lease's "gross capitalized cost", which refers to the value of the motor vehicle that is the subject of the lease and the costs of any items paid for over the length of the lease term, including service contracts. Subsection 25(e)(2) of the Illinois Motor Vehicle Leasing Act specifies the use of the term "capitalized cost" in Illinois consumer leases accompanied by an explanation that the phrase is intended to refer to "the agreed upon amount determined at lease inception for all items and services included in the lease." While the language of the two sections is not identical, the provisions of Regulation M clearly require the disclosure of the information contemplated by the Illinois law.

Similarly, subsection 213.4(f)(2) of Regulation M requires the disclosure of a consumer lease's "capitalized cost reduction" with a description indicating that the phrase "capi-

The Honorable Beverly Fawell - 7.

talized cost reduction" is intended to refer to " \* \* \* the amount of any net trade-in allowance, rebate, noncash credit, or cash you pay that reduces the gross capitalized cost." Subsection 25(e)(3) of the Motor Vehicle Leasing Act also requires the disclosure of any "capital cost reduction", but does not require an explanation of that term to be included in the lease. Under the provisions of the Motor Vehicle Leasing Act, however, the term "capitalized cost reduction" has been defined to include "[p]ayments made by cash, check, rebates, or similar means that are in the nature of down payments made by the lessee and any net trade-in allowance granted by the lessor at the inception of the consumer lease for the purpose of reducing the capitalized cost." (815 ILCS 636/10.30 (West 1996).) Thus, the provisions of Regulation M require the disclosure of the information specified in Illinois law.

Subsection 213.4(f)(4) of Regulation M requires the disclosure of a motor vehicle's "residual value" with a description which indicates that the residual value is "the value of the vehicle at the end of the lease used in calculating \* \* \*" the base payment. Subsection 25(e)(6) of the Motor Vehicle Leasing Act also requires the disclosure of a vehicle's residual value. For purposes of the Motor Vehicle Leasing Act, the term "residual value" refers to "[t]he estimated value of the vehicle at the end of the scheduled lease term, used by the lessor in determining the base lease payment \* \* \*." (815 ILCS 636/10.110 (West

The Honorable Beverly Fawell - 8.

1996).) Thus, the provisions of Regulation M require the disclosure of the same information contemplated by the Illinois law.

In addition, subsection 213.4(f)(3) of Regulation M requires the disclosure of a consumer vehicle lease's "adjusted capitalized cost" with a description which indicates that the phrase "adjusted capitalized cost" refers to "the amount used in calculating \* \* \*" the base lease payment. Subsection 25(e)(4) of the Motor Vehicle Leasing Act also requires the disclosure of a consumer lease's adjusted capitalized cost, using the same term. Moreover, the Illinois law requires a descriptive explanation of the term "adjusted capitalized cost", such as: "the agreed upon amount which serves as the basis for determining the base lease payment. If you are not in default, this amount plus any applicable early termination charges determines your maximum early termination obligation." Thus, both Regulation M and the Motor Vehicle Leasing Act contemplate the use of a descriptive explanation of the term "adjusted capitalized cost" to indicate that the term refers to that amount used in determining the lessee's base lease payment. The Illinois law further suggests, however, the use of additional lease language which addresses a lessee's maximum early termination obligation.

Although subsection 213.4(f)(3) of Regulation M does not require disclosure of a lessee's maximum early termination obligation, under the provisions of subsection 213.4(g) thereof, a consumer lease is required to include a statement of the



The Honorable Beverly Fawell - 9.

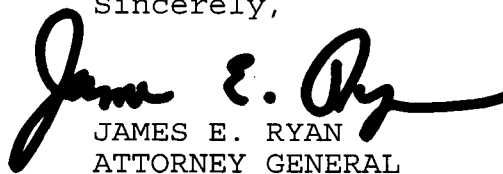
conditions under which a lease may be terminated prior to the end of the lease term and "the amount or a description of the method for determining the amount of any penalty or other charge for early termination \* \* \*." The provision of this information would appear to satisfy the disclosure requirements for maximum early termination obligations set forth in subsection 25(e)(4) of the Motor Vehicle Leasing Act. Moreover, by including a statement of the conditions under which a lease may be terminated prior to the end of the lease term, Regulation M also comports with the requirements of subsection 25(e)(5) of the Motor Vehicle Leasing Act, which provides for "a conspicuous statement setting forth any prohibitions upon the lessee's ability to terminate the consumer lease at any time before the end of the scheduled term."

In summary, it is my conclusion that although the disclosure requirements of the Illinois Motor Vehicle Leasing Act and those of the rules promulgated under the Federal Consumer Leasing Act are not identical, the disclosures required by the Consumer Leasing Act and section 213.4 of Regulation M will provide the same information to a motor vehicle lessee as would the disclosures required by subsection 25(e) of the Motor Vehicle Leasing Act. Consequently, it is my opinion that the disclosures required by the Consumer Leasing Act and Regulation M are substantially similar to the disclosures required under subsection 25(e) of the Motor Vehicle Leasing Act. Therefore, compliance

The Honorable Beverly Fawell - 10.

with the requirements of Regulation M will also satisfy the requirements of section 25 of the Illinois Motor Vehicle Leasing Act.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Ryan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

JAMES E. RYAN  
ATTORNEY GENERAL