

UNIFORM COMMERCIAL CODE (EXCERPT)
Act 174 of 1962
Part 1
GENERAL PROVISIONS

440.2801 Short title.

Sec. 2A101.

This article shall be known and may be cited as the "uniform commercial code - leases".

History: Add. 1992, Act 101, Eff. Sept. 30, 1992

440.2802 Applicability of article.

Sec. 2A102.

This article applies to any transaction, regardless of form, that creates a lease.

History: Add. 1992, Act 101, Eff. Sept. 30, 1992

440.2803 Definitions; sections; principles of construction and interpretation.

Sec. 2A103.

(1) In this article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind. The term does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means a unit of goods that by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" means goods or performance under a lease contract that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed \$25,000.00.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which all of the following apply:

(i) The lessor does not select, manufacture, or supply the goods.

(ii) The lessor acquires the goods or the right to possession and use of the goods in connection with the lease.

(iii) One of the following occurs:

(A) The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract.

(B) The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract.

(C) The lessee, before signing the lease contract, receives an accurate and complete statement designating the

promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods.

(D) If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing of the following:

(I) The identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person.

(II) The lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods.

(III) The lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures under section 2A309, but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of 1 or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the

lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"Accessions". Section 2A310.

"Construction mortgage". Section 2A309.

"Encumbrance". Section 2A309.

"Fixtures". Section 2A309.

"Fixture filing". Section 2A309.

"Purchase money lease". Section 2A309.

(3) The following definitions in other articles apply to this article:

"Account". Section 9102.

"Between merchants". Section 2104.

"Buyer". Section 2103.

"Chattel paper". Section 9102.

"Consumer goods". Section 9102.

"Document". Section 9102.

"Entrusting". Section 2403.

"General intangible". Section 9102.

"Good faith". Section 2103.

"Instrument". Section 9102.

"Merchant". Section 2104.

"Mortgage". Section 9102.

"Pursuant to commitment". Section 9102.

"Receipt". Section 2103.

"Sale". Section 2106.

"Sale on approval". Section 2326.

"Sale or return". Section 2326.

"Seller". Section 2103.

(4) In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

History: Add. 1992, Act 101, Eff. Sept. 30, 1992 ;-- Am. 2000, Act 348, Eff. July 1, 2001 ;-- Am. 2012, Act 87, Eff. July 1, 2013

440.2804 Lease requirements; compliance with applicable statutes; effect of noncompliance with applicable statute.

Sec. 2A104.

(1) A lease, although subject to this article, is also subject to all of the following:

(a) A certificate of title statute of this state, including, but not limited to, part 803 (watercraft transfer and certificate of title) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.80301 to 324.80322 of the Michigan Compiled Laws; the mobile home commission act, Act No. 96 of the Public Acts of 1987, being sections 125.2301 to 125.2349 of the Michigan Compiled Laws; and chapter II of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.201 to 257.259 of the Michigan Compiled Laws.

(b) A certificate of title statute of another jurisdiction (section 2A105).

(c) The Michigan consumer protection act, Act No. 331 of the Public Acts of 1976, being sections 445.901 to 445.922 of the Michigan Compiled Laws.

(2) Except for sections 2A105, 2A304(3), and 2A305(3), in case of conflict between this article and a statute referred to in subsection (1), the statute controls.

(3) Failure to comply with any applicable statute has only the effect specified in the statute.

History: Add. 1992, Act 101, Eff. Sept. 30, 1992 ;-- Am. 1996, Act 72, Imd. Eff. Feb. 26, 1996

440.2805 Certificate of title statute; compliance; applicable law.

Sec. 2A105.

Subject to the provisions of sections 2A304(3) and 2A305(3), with respect to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction, compliance and the effect of compliance or noncompliance with a certificate of title statute are governed by the law of the jurisdiction issuing the certificate until the earlier of the following:

- (a) Surrender of the certificate.
- (b) Four months after the goods are removed from that jurisdiction and thereafter until a new certificate of title is issued by another jurisdiction.

History: Add. 1992, Act 101, Eff. Sept. 30, 1992

440.2806 Choice of law; judicial forum.

Sec. 2A106.

(1) If the law chosen by the parties to a consumer lease is that of a jurisdiction other than a jurisdiction in which the lessee resides at the time the lease agreement becomes enforceable or within 30 days thereafter or in which the goods are to be used, the choice is not enforceable.

(2) If the judicial forum chosen by the parties to a consumer lease is a forum that would not otherwise have jurisdiction over the lessee, the choice is not enforceable.

History: Add. 1992, Act 101, Eff. Sept. 30, 1992

440.2807 Discharge of claim or right without consideration.

Sec. 2A107.

A claim or right arising out of an alleged default or breach of warranty may be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party.

History: Add. 1992, Act 101, Eff. Sept. 30, 1992

440.2808 Unconscionable contract, clause, or conduct.

Sec. 2A108.

(1) If a court, as a matter of law, finds a lease contract or any clause of a lease contract to have been unconscionable at the time it was made, the court may refuse to enforce the lease contract, or it may enforce the remainder of the lease contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(2) With respect to a consumer lease, if a court, as a matter of law, finds that a lease contract or any clause of a lease contract has been induced by unconscionable conduct or that unconscionable conduct has occurred in the

collection of a claim arising from a lease contract, the court may grant appropriate relief.

(3) Before making a finding of unconscionability under subsection (1) or (2), the court, on its own motion or that of a party, shall afford the parties a reasonable opportunity to present evidence as to the setting, purpose, and effect of the lease contract or clause thereof, or of the conduct.

(4) In an action in which the lessee claims unconscionability with respect to a consumer lease, all of the following apply:

(a) If the court finds unconscionability under subsection (1) or (2), the court shall award reasonable attorney's fees to the lessee.

(b) If the court does not find unconscionability and the lessee claiming unconscionability has brought or maintained an action he or she knew to be groundless, the court shall award reasonable attorney's fees to the party against whom the claim is made.

(c) In determining attorney's fees, the amount of the recovery on behalf of the claimant under subsections (1) and (2) is not controlling.

History: Add. 1992, Act 101, Eff. Sept. 30, 1992

440.2809 Power to accelerate payment or performance or require collateral; good faith.

Sec. 2A109.

(1) A term providing that 1 party or his or her successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or when he or she deems himself or herself insecure or in words of similar import must be construed to mean that he or she has power to do so only if he or she in good faith believes that the prospect of payment or performance is impaired.

(2) With respect to a consumer lease, the burden of establishing good faith under subsection (1) is on the party who exercised the power; otherwise, the burden of establishing lack of good faith is on the party against whom the power has been exercised.

History: Add. 1992, Act 101, Eff. Sept. 30, 1992

440.2810 Motor vehicle or trailer; transaction creating sale or security interest.

Sec. 2A110.

With respect to a motor vehicle or trailer, notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

History: Add. 1992, Act 101, Eff. Sept. 30, 1992