



September 28, 2016

Assemblywoman Pamela Lampitt
New Jersey Legislature
1101 Laurel Oak Rd.
Suite 150
Voorhees, NJ 08043

Re: NJ Assembly Bill 2495 concerning motor vehicles leases

Dear Assemblywoman Lampitt:

I write on behalf of the American Financial Services Association (AFSA)¹ to register our serious concerns with Assembly Bill 2495, which would allow for the termination of a lease in the event of death. Though the proposed legislation intends to provide relief for individuals who may find themselves in very difficult situations following the death of a loved one, AFSA believes it would have serious consequences for New Jersey consumers and could raise the cost of credit across the state.

The draft legislation permits the termination of a lease in the event of the lessee's death and prohibits the assessment of reasonable early termination fees, which are provided for by nearly all motor vehicle leases. Therefore, this legislation would set an alarming precedent by: 1) extinguishing a contractual credit obligation for a select group of consumers; and 2) requiring significant changes to well-established and accepted terms of most motor vehicle leases (which terms are typically clearly disclosed to consumers).

Motor vehicle lessors are sympathetic to circumstances created by the loss of loved ones and the industry makes significant efforts to deal sensitively with lessees and their families during times of loss. Many lessors have developed specially trained customer service teams to help lessees in these circumstances. However, it is important to keep in mind that leases are contractual obligations and that any legislation that creates a right to terminate valid contractual obligations could create unintended consequences for the overall market. The proposed legislation may also have tax implications for consumers and lessors due to requirements to report to the IRS the amount of debt forgiven.

The state has a vital interest in permitting the enforcement of reasonable, valid obligations of lessees and other obligors to ensure the existence of a robust credit market.

It should be emphasized that AB 2495, as currently drafted, creates an exemption from contractual obligations that is without precedent in any other state and would treat motor vehicle leases differently from other forms of credit in the state. AFSA is not aware of any other jurisdiction that allows an existing consumer credit obligation, such as a loan, mortgage or credit card debt, between a private company and an individual consumer to be effectively extinguished due solely to the death of the individual.

¹ The American Financial Services Association is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA member financial institutions offer vehicle financing, cards, personal installment loans and mortgage loans. The Association encourages and maintains ethical business practices and supports financial education for consumers of all ages.

This is particularly significant when considering whether a lease with a surviving co-lessee should also be subject to termination. Co-lessees enjoy benefits provided under lease agreements, and assume all responsibilities of that agreement as well. This bill, if enacted, would instead create instances in which a co-lessee can relieve themselves of responsibilities which they freely assumed.

Lease agreements are priced based on the lessee or, when they exist, co-lessees holding the vehicle to the end of the lease term. These prices take into account many factors, including the cost of normal wear and the expected depreciating value of the vehicle over that time. Early termination of a lease—for any reason—upsets the term-based pricing of the lease, and therefore most lessors take steps to account for risks arising from early termination in the lease contract.

If the state prohibits fees at the time of early termination of the lease, the costs and risks associated with early termination may necessarily be priced into leases, which may result in increased costs for New Jersey consumers seeking to lease a vehicle. This bill could cause New Jersey residents to seek out leases from dealers in neighboring states, driving business from New Jersey dealers and depriving the state of sales tax revenue.

While the amended version of the legislation allows for the assessment of “reasonable fees” for “excess wear,” this change does not protect lessors’ rights to assess early termination charges to recoup all costs arising from early termination and the disruption of the lease term.

Finally, the legislation does not provide any clear timeframe within which termination and return of the vehicle must occur. As written, the legislation only restricts this unilateral right to terminate by requiring documentation to be provided within 60 days of the lessee’s death. However, after documentation is provided, companies are left without clear mechanisms to ensure that the vehicle in question is returned in a timely fashion.

Thank you in advance for your consideration. If you have any questions or would like to discuss this further, please do not hesitate to contact me at 952-922-6500 or dfagre@afsamail.org.

Sincerely,



Danielle Fagre Arlowe
Senior Vice President, State Government Affairs
American Financial Services Association
919 Eighteenth Street, NW, Suite 300
Washington, DC 20006-5517

CC: Assembly Speaker Vincent Prieto
Assembly Majority Leader Louis Greenwald
Assembly Minority Leader Jon Bramnick
Senator Nilsa Cruz-Perez
Senator James Beach