



EQUIPMENT LEASING AND FINANCE ASSOCIATION

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Tuesday, June 14, 2010

The Honorable Sheldon Silver
Chairman
Committee on Rules
Legislative Office Building 932
Albany, New York 12248

Re: Concern Regarding Effect of the “Vehicle Lienholder Accountability Act” (A10863A) on Business and Consumer Credit

The Equipment Leasing and Finance Association (ELFA) wishes to express concern about unintended consequences of the Vehicle Lienholder Accountability Act as it comes before the Committee on Rules. It effectively assigns a new tax on New York businesses and consumers when added expenses such as higher interest rates and documentation fees are pushed to borrowers by originators mandated to commence additional procedures. ELFA contacts you because financial services companies we represent are the driving force behind growth in the commercial equipment finance market through financings originated and sold by our members. Our request for your opposition to this proposal is made on behalf of over 600 members that include independent and captive leasing and finance companies, banks, financial services corporations, broker/packagegers and investment banks.

New York businesses and consumers who wish to finance their purchase of new and used motor vehicles will be disadvantaged by the costly overhaul of the timeline and process mandated by this bill on vehicle financiers, with no real consumer benefit. The operational changes required by this bill will increase the cost of providing motor vehicle financing in New York. More specifically, we share the concern expressed by the American Securitization Forum relating to Section 2120(b) created by revision of Section 2120(a) that would effectively require the new lienholder to be re-recorded on the vehicle title, but would lack any viable mechanism to compel cooperation by the vehicle owner.

The proverbial solution in search of a problem is also evident in this bill. Current law already requires the certificate lienholder to release the lien upon payment of a loan, allowing an owner to obtain a perfect title. Thus, the stated objective of this legislation to assist motor vehicle owners to obtain clear title is already fulfilled by the existing statute. This Act would establish New York as the only state where a lienholder must issue a lien release upon mere transfer of a lien. The bill's new requirement of a release, when what is actually happening is an assignment, is also problematic and may inadvertently reduce the availability of credit to New York businesses and consumers wishing to finance their purchases of motor vehicles. This would also jeopardize legal structures and documents such as vehicle lienholder nominee arrangements which have arisen in recent years to facilitate securitization or bulk financing of vehicle loans and leases.

Increased financing costs to New York businesses and consumers will result from adding these new stumbling blocks to motor vehicle financing transactions under the Vehicle Lienholder Accountability Act. This is the case because most motor vehicle lenders provide financing to consumers by selling or pledging their loans to another lender or through securitization structures, either of which requires that the lien be assigned. Accordingly, the Vehicle Lienholder Accountability Act will hinder motor vehicle financings that have consistently provided efficient access to capital to consumers and their financiers. The opportunity to underscore this escalation of costs resulting from this legislation is appreciated.

Sincerely,

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