



Securitization Bulletin

Corpfinance International Limited

June 2006

Burns' Briefs

ONE STEP FORWARD AND...

As previously reported, Ontario has started to deal with the vicarious liability issue by amending its legislation since March 1, 2006 to cap the potential liability of vehicle lessors at \$1 million per incident, less the total amount actually recovered under any motor vehicle liability insurance policies issued to the lessee and /or driver of the leased motor vehicle. There is an exception for 'livery' vehicles, but that being said, Ontario has made good progress on this important issue.

Having taken this step forward in Ontario, it was disappointing to read that on May 3, 2006, the British Columbia Court of Appeal released its decision in the so called Yeung case overturning prior decisions of the British Columbia Court of Appeal, with the result that lessors of motor vehicles in the Province of British Columbia will now be exposed to liability resulting from the negligent operation of a motor vehicle. Essentially, the Court decided that a vehicle leased pursuant to a lease agreement containing an option to purchase was not a vehicle "sold under a contract of Conditional Sale" and therefore not able to claim an exemption under the B.C. motor Vehicle Act.

The decision has consequences for all lessors of motor vehicles operated in the Province of British Columbia where those leases contain an option to purchase.

In a recent bulletin, the law firm of Blake, Cassels &

Graydon LLP, suggests that as a result of this decision leasing companies in B.C. should:

1. consider changing their form of agreement evidencing the transaction from a lease agreement to a conditional sale agreement, if they are leasing vehicles with a nominal or bargain purchase price option;
2. consider whether it is appropriate to require the lessee of the vehicle to increase the minimum third party liability insurance policy on leased vehicles;
3. ensure that insurance coverage on all leased vehicles is maintained; and
4. obtain excess insurance coverage for all leased vehicles either through individual insurance policies or a fleet policy.

All of which is good advice.



The June 1, 2006 edition of the Globe & Mail contains an article on the export of leased vehicles to Nigeria. In this particular case, vehicles were leased under fictitious names; the lease payments made for a couple of months; and then the vehicle shipped out of the country. Just a reminder to know your customers.

Bruce's Practice

Corpfinance has started to implement a change in the funding process. This is not a change in how you receive funds from us but rather a change in the manner in which you send your leases to us. Too much paper comes through our office, which could be stored as electronic files. A new fax number has been set up to be used specifically for leases. This specific fax number is set up to allow the incoming fax to be converted into a pdf file which can then be stored on our server thus eliminating excess paper. This process will also save you courier costs and ensure that your leases are delivered to us in the fastest way possible. Some of our originators are now using this process in a pilot program.

For those of you with a scanner, there is another option. Simply scan your leases and email them to CFI. CFI

has set up a new email address specifically for new leases. Several of our originators are using this method for sending their leases and it appears to be working very well for them. Over the next few weeks John Burns or I will be contacting the rest of you to find out which method will work best for you.

AND ON THE PORTFOLIOS . . .

The portfolios delinquencies decreased over the last two months. The value for January 31 was 0.76%, dropping slightly to 0.74% for February, rising a little to 0.89% in March. This information is not possible without your accounts receivable reports so please send them. I'm looking for your May 31 reports now...please don't make me call you.

Contact List

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