

**Testimony  
HP 1278/LD 2000  
Committee on Taxation  
Tuesday, January 16, 2024**

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Chair Grohoski, Chair Perry, and members of the Taxation Committee, I appreciate this opportunity to present testimony on behalf of the Equipment Leasing & Finance Association (ELFA), the trade association representing financial services companies engaged in financing the utilization and investment of/in capital goods. ELFA members are the driving force behind the growth in the commercial equipment finance market and contribute to capital formation in the U.S. and abroad.

The following ELFA amendments to HP 1278/LD 2000 are proposed to safeguard our industry as this well-reasoned update of sales tax policy moves forward. We strongly support this move of tax imposition away from the relationship of the lessor with a vendor. Maine will become aligned with a common focus of the public and private sectors on a transaction between the lessor and a Maine lessee facilitated by a resale exemption offered by other states as it covers goods and equipment purchased to be resold or leased.

ELFA worked closely with the Streamlined Sales & Use Tax Project (SSTP) to ensure the leasing and finance industry was correctly defined and properly sourced. To be consistent with other states and the SSTP definition two revisions have been proposed by our industry members.

1. Sec. 3. 36 MRSA §1752, sub-§10-A needs to be revised under “Retail lease or rental” does not include:

*“Retail lease or rental” does not include:*

*A. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;*

*B. A transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of one hundred dollars or one percent of the total required payments; or*

Second, to preserve Maine's prior policy exempting sale leasebacks as a finance arrangement and not as a conditional sale/installment lease sale; Sec. 4. 36 MRSA §1752, sub-§11 B. needs to add subsection (19):

11 B. "Retail sale" does not include:

(1) Any casual sale;

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(19) a sale leaseback when the leaseback does not fall under the definition of a Retail lease or rental as defined under Sec. 3. 36 MRSA §1752, sub-§10-A.

The commercial equipment lease finance industry helps all types and sizes of commercial businesses acquire equipment but in a manner different than traditional main street retailers. Our members finance commercial equipment to businesses nationally from a single location and do not have physical possession of equipment prior to a lease. This is facilitated by a resale exemption offered by states as it covers goods and equipment purchased to be resold or leased. Denial of a resale certificate puts Maine businesses accessing equipment financing in the unique position of paying sales tax twice for acquisition of the equipment by the lessor and again as it is leased to the business.

This opportunity to present ELFA support for these technical amendments within this important legislation remedies an inequity that currently exists in Maine by modernizing sales tax policy to expand the sale for resale exemption to retailers that lease tangible personal property. Bringing all retailers under a similar policy removes many administrative challenges for leasing companies.

We urge your support in committee for this important piece of legislation with ELFA suggested amendments.