

Senate Bill 892

Sponsored by COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS PROTECTION

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that person that purchases or leases equipment subject to contract clause that requires person to make payments absolutely and unconditionally may in certain circumstances make payments to attorney trust account or escrow trust account.

A BILL FOR AN ACT

1
2 Relating to transactions for equipment.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1)(a) A person that purchases or leases equipment subject to a contract**
5 **clause that requires the person to make payments on the sale or lease absolutely and un-**
6 **conditionally, the effect of which is to waive all or substantially all of the person's defenses**
7 **against mistake or fraud with respect to the performance, suitability, fitness, operation or**
8 **condition of the equipment sold or leased, may withhold payments due under the sale or lease**
9 **as provided in paragraph (b) of this subsection until the person resolves a dispute with the**
10 **seller or lessor of the equipment.**

11 **(b) A person that withholds a payment due for a sale or lease made under a contract**
12 **described in paragraph (a) of this subsection shall pay the amounts withheld into an attorney**
13 **trust account that the person's attorney establishes or an escrow trust account that a per-**
14 **son licensed under ORS 696.511 establishes in accordance with ORS 696.505 to 696.590.**

15 **(2) If a person makes payments as provided in subsection (1)(b) of this section, a seller,**
16 **lessor or assignee of the seller or lessor may not enforce the contract clause described in**
17 **subsection (1) of this section until the seller or lessor resolves the dispute with the person.**
18 **Subject to any reduction in an amount due under the sale or lease as a consequence of a**
19 **judgment of a circuit court of this state or the terms of a settlement between the seller or**
20 **lessor and the person, the seller or lessor is entitled to the full amount paid into an account**
21 **established under subsection (1)(b) of this section.**

22 **(3) During a period in which an unresolved dispute is pending between the person and the**
23 **seller or lessor, and provided that the person makes payments in accordance with subsection**
24 **(1)(b) of this section, the seller or lessor, an assignee of the seller or lessor or a credit re-**
25 **porting agency may not report the person's failure to make a payment due for the sale or**
26 **lease as a default or as information that may negatively affect the person's credit rating,**
27 **credit score or ability to obtain credit.**

28 **(4) This section does not apply to a finance lease as defined in ORS 72A.1030.**

29 **SECTION 2. Section 1 of this 2011 Act applies to a contract for the purchase or lease of**
30 **equipment into which a person enters with a seller or lessor on or after the effective date**
31 **of this 2011 Act.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

