

**Equipment Leasing Association
Municipal Leasing Forum
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SOFTWARE FINANCING

Mark S. Bazrod, President

LPI Software Funding Group, Inc.

**One Glenhardie Corporate Center, 1275 Drummers Lane
Wayne, PA 19087**

800-FYI-4LPI 610-341-6100

WEB SITE - lpilease.com

E-MAIL: msb or sales@lpilease.com

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THE TWO KEY QUESTIONS

- **1. Is the software essential to the government?**
- **2. If the lease is not renewed or a default occurs, what can you do (can you remarket the software) ?**

SOFTWARE LEASING AND FINANCING - WHAT IS IT?

- **Financing of software and related costs on 1 to 5 years terms**
- **Loans or leases (capital)**
- **Secured or unsecured**
- **Watch Uniform Computer Information Technology Act & Federal Intellectual Property Security Act**
- **An aside - What residual value do you put on computer hardware?**

WHAT IS IT? - #2

- The same as equipment leasing, **except it's for an intangible** - the software and the software license.
- Most users not aware that software can be leased
- Same for most software companies
- Few software companies lease and hold the leases. Some large companies write leases and then sell them off to banks or leasing companies.

WHAT IS IT? - #3

- **Most software companies (there are over 20,000) either do no software leasing or let the leasing company handle the deal.**
- **Less than 24 leasing companies offer 100% software leases - and most only for investment grade users**
- **Most banks only finance software for investment grade users**
- **Most banks and leasing companies do not appreciate the value of software**

SOFTWARE LEASING TRENDS

- **Small ticket - just like rest of small ticket**
- **Large ticket investment grade - Similar to investment grade leasing market**
- **Middle market - Few lessors in this market**
- **Venture leasing - Little**
- **Will continue to grow - More publicity; more lessors; software becomes even more important; hardware less costly**

SOFTWARE LEASING ISSUES

- **The value of software**
 - Is it worth more than hardware?
 - Can you obtain a security interest in software?
 - Is software leasing unsecured lending?
- **The software industry**
 - Are software developer, software reseller or lessee oriented?
 - What market segments interest you?
 - What companies interest you?

SOFTWARE LEASING ISSUES

- **The software license**
 - Is it exclusive?
 - Is it transferable?
 - Is it perpetual?
 - How is it priced-by number of users, site, enterprise, or usage?
 - What are the other limitations on use?

SOFTWARE LEASING ISSUES-#2

- **Software remarketing**
 - Can you repossess the software?
 - Can you stop lessee using the software?
 - Do you have the right to remarket?
 - Can you remarket (from a business standpoint)?

SOFTWARE LEASING ISSUES-#3

- **Revise your lease documents**
 - Does your lease just say equipment?
 - Are you a lessor or licensee/sublicensor?
 - Software legal issues
- **Reeducate your funding sources**
 - A security interest in software?
 - Is it making an unsecured loan?
 - Software legal issues
 - One of your major hurdles

SOFTWARE LEASING ISSUES-#4

- **Understand software company accounting**
 - **SOP 97-2, supplemented by SOP 98-4 and 98-9, is the bible for software companies**
 - **Extremely difficult to understand**
 - **Lessors can't get support used to seeing from vendor**
 - **Much more difficult problem for software company than lessor**

MUNICIPAL GOVERNMENTS CAN LEASE SOFTWARE IF-

- The software vendor offers financing
- The user knows a leasing company which offers software leasing
- The software cost is greater than \$5,000
- The user has leased hardware
- The software license is transferable

If all or most of the "if statements" are true, software leasing is probably available. And it may be available even if most are not true.

SOFTWARE'S ESSENTIAL NATURE

- Do you think that the municipality can operate without the software?
- Do you think that the municipality can get cheaper replacement software?
- What is the difference between these questions and your normal ones?

WHAT CAN YOU DO IF A LEASE IS NOT RENEWED OR A DEFAULT OCCURS

- Not renewed - a loss
- Default - normal remedies, including stopping use of software
- Bankruptcy - Probably have claim based on replacement value of software (Rash case)

Most software not remarketable!

CONCLUSIONS

- **Lessor needs to learn legal issues**
- **Lessor needs to understand software industry and its issues**
- **Lessors needs to educate its funding sources and/or its credit department**
- **Software finance is an attractive market for people who make the investment in time**

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