

614-101AX2-98

Amendment No. ____ (TECHNICAL AMENDMENT)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Rules, Resolutions, & Ethics offered the following:

Technical Amendment

On page 76, line 16, through page 78, line 31, remove from the bill: all of said lines,

and insert in lieu thereof:

~~(a) Cure or provide adequate assurance that he or she will promptly cure any default other than one arising from the transfer.~~

~~(b) Compensate or provide adequate assurance that he or she will promptly compensate the other party to the lease contract and any other person holding an interest in the lease contract, except the party whose interest is being transferred, for any loss to that party resulting from the transfer.~~

~~(c) Provide adequate assurance of future due performance under the lease contract.~~

~~(d) Assume the lease contract.~~

~~(3)(a) No prohibition upon transfer of any interest of~~

~~1 a party under a lease contract or the lessor's residual
2 interest in the goods shall invalidate the creation or
3 enforcement of a security interest in any interest of the
4 lessor under a lease contract or the lessor's residual
5 interest in the goods.~~

~~6 (b) Demand pursuant to paragraph (1)(b) is without
7 prejudice to the other party's rights against the transferee
8 and the party whose interest is transferred.~~

~~9 (c) Paragraph (b) of subsection (1) shall not apply
10 to:~~

~~11 1. The creation of a security interest in the interest
12 of the lessor under the lease contract or the lessor's
13 residual interest in the goods; or~~

~~14 2. The exercise of rights as a secured party pursuant
15 to the security interest other than a transfer of the interest
16 of the lessor under the lease contract or the lessor's
17 residual interest in the goods pursuant to s. 680.504 or s.
18 680.505.~~

~~19 (d) Paragraph (b) of subsection (1) shall not affect
20 the validity of a provision in a lease contract obligating the
21 lessee to keep the lessee's interest in the lease contract or
22 the goods free from liens or encumbrances.~~

~~23 (4)(6) A provision in a lease agreement which:~~

~~24 (a) Prohibits a transfer of a right to damages for
25 default with respect to the whole lease contract or of a right
26 to payment arising out of the transferor's assignor's due
27 performance of the transferor's ~~his or her~~ entire obligation;
28 or can be assigned despite agreement otherwise.~~

~~29 (b) Makes such a transfer an event of default, is not
30 enforceable, and such a transfer is not a transfer that
31 materially impairs the prospect of obtaining return~~

1 performance by, materially changes the duty of, or materially
2 increases the burden or risk imposed on, the other party to
3 the lease contract within the purview of subsection (5).

4 (5) Subject to subsections (3) and (4):

5 (a) If a transfer is made which is made an event of
6 default under a lease agreement, the party to the lease
7 contract not making the transfer, unless that party waives the
8 default or otherwise agrees, has the rights and remedies
9 described in s. 680.501(2);

10 (b) If paragraph (a) is not applicable and if a
11 transfer is made that is prohibited under a lease agreement or
12 materially impairs the prospect of obtaining return
13 performance by, materially changes the duty of, or materially
14 increases the burden or risk imposed on, the other party to
15 the lease contract, unless the party not making the transfer
16 agrees at any time to the transfer in the lease contract or
17 otherwise, then, except as limited by contract, the transferor
18 is liable to the party not making the transfer for damages
19 caused by the transfer to the extent that the damages could
20 not reasonably be prevented by the party not making the
21 transfer and a court having jurisdiction may grant other
22 appropriate relief, including cancellation of the lease
23 contract or an injunction against the transfer.

24 (6)(4) A transfer ~~An assignment~~ of "the lease" or of
25 "all my rights under the lease" or a transfer ~~an assignment~~ in
26 similar general terms is a transfer of rights, and unless the
27 language or the circumstances, as in a transfer ~~an assignment~~
28 for security, indicate the contrary, the transfer ~~assignment~~
29 is a delegation of duties by the transferor ~~assignor~~ to the
30 transferee. ~~assignee~~ and Acceptance by the transferee ~~assignee~~
31 constitutes a promise by the transferee ~~him or her~~ to perform

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Bill No. HB 1083

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1 those duties. The ~~This~~ promise is enforceable by either the
2 transferor ~~assignor~~ or the other party to the lease contract.
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