

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1330

H.P. 865

House of Representatives, March 27, 2025

**An Act to Clarify That a Business's License or Subscription to Use
Software Is Not Considered a Lease for the Purposes of Sales and
Use Tax**

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DUCHARME of Madison.
Cosponsored by Senator BICKFORD of Androscoggin and
Representatives: CROCKETT of Portland, FAULKINGHAM of Winter Harbor, FOSTER of
Dexter, PARRY of Arundel, ROBERTS of South Berwick, RUDNICKI of Fairfield, WHITE
of Ellsworth, Senator: BERNARD of Aroostook.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §1752, sub-§5-D, as enacted by PL 2023, c. 643, Pt. H, §2 and affected by §29 and enacted by c. 673, §2 and affected by §28, is amended to read:

5-D. Lease or rental. "Lease or rental," "lease" or "rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase the property or extend the lease or rental. "Lease or rental" includes a sublease and subrental.

"Lease or rental" does not include:

A. Leases and contracts payable by rental or license fees for the right of possession and use when such leases and contracts are determined by the assessor to be in lieu of purchase;

B. 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;

C. Providing tangible personal property along with a person to operate that property, for a fixed or indeterminate period of time, when that person is necessary for the tangible personal property to perform as designed and the person does more than maintain, inspect or set up the tangible personal property; or

D. The lease or rental of property that is subject to the provisions of the service provider tax imposed pursuant to chapter 358; or

E. Leases, licenses, subscriptions or similar rights to use or access software when the lessee, licensee, subscriber or user is a business.

The characterization of a transaction as a lease or rental under generally accepted accounting principles, the Code, the Uniform Commercial Code or other provisions of federal, state or local law does not affect a determination that a transaction is a lease or rental under chapters 211 to 225.

Sec. 2. Application. This Act applies only to leases, licenses, subscriptions or similar rights to use or access software entered into or renewed after the effective date of this Act.

SUMMARY

This bill amends the definition of "lease or rental" within the provisions of the law governing sales and use tax to clarify that leases, licenses, subscriptions or similar rights to use or access software are not considered leases or rentals if the user is a business.