

# MARKS & WEINBERG, P.C.

## TRAC LEASES TITLES: WHAT'S IN A NAME?

Should a TRAC lessor's name be placed in the "owner" or "lienholder" block on the certificate of title?

Some lessors, concerned about potential liability to third parties, prefer not to be shown as owner. Moreover, a few courts have held that failure to be listed as "lienholder" denies the lessor perfection where the TRAC lease is held not to be a true lease.

Other lessors prefer to be shown as owner in order to reduce the cost of retitling vehicles at the end of the lease, to reduce exposure to lessee fraud and to avoid the risk of lien attachment. "Besides," these lessors tell us, "We really are the owners, right?"

We suggest that lessors consider whether the lease will be treated as a true lease under state law. This can be tricky as the laws of the lessee's home state, the state issuing the title certificate or the state selected in the lease choice-of-law section may apply. We think the last of these is the best view. Several states (including Alabama, Georgia and Florida) have enacted statutes providing that a TRAC lease is a true lease.

In all other states, and where the lessor is concerned about potential liability in excess of insurance limits, the safest bet is to list the lessor as lienholder.

Marks & Weinberg, PC is law firm with significant experience in dealing with virtually every type of equipment and facility lease financing. The lawyers of the firm have participated in leasing financings for more than a billion dollars of equipment and are recognized throughout the industry. If you would like more cases or articles on leasing, or have any questions or comments about this Article or other leasing issues, please visit [www.lease lawyer.com](http://www.lease lawyer.com) or contact Barry Marks at 205-251-8303 or Ken Weinberg at 205.251.8307.