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http://www.fiqhforum.com/articles. : .(9)	.2612 : 4:	(23)
asp?cid=2&acid=32&aid=16412	.149:	(24)
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http://www.sib.ae/ar/real- :	.326	(46)
estate-ar/major-real-estate-products-ar/ijarah-	2	(27)
financial-lease-ar.html	.431 :	
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- .3 2 . 1988 25 (12/4)110
- .2011 (85) .. 1421
- .2013 (86) (699-697/1)
- .2613 (87) <http://majles.alukah.net/showthread.php%3Ft%3D66>
- : (88) 88 - 129k
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- .56 .113 :
- .247 : (89) (12/4)110 (70)
- .247 (90) .. 1421 25
- " (91) -697/1
- .171-170 : " " / .(699
- 2002 16 (92) (71)
- 1644 2003 48 .2663/4 5
- .2002/5/1 4542 .2639 (72)
- <http://www.ahlalheeth.com/vb/archive/index.php/t-103477.html> (93) . (73)
- [Http://Islamic-view topic. Php?topic jd = 717#1847](http://Islamic-view topic. Php?topic jd = 717#1847) (94) . (74)
- Fatwa.Net/ (95) .365 217 (76)
- .zm120.htm [Http://www.Shankeety.Com/](http://www.Shankeety.Com/) (96) (76)
- http://www.islamway.com/?iw_s=Article&iw_a=view&article_id=210 (97) 25 (12/4)110
- .2650 (98) .. 1421
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<http://qspace.qu.edu.qa/bitstream/handle/10576/8730/099508-0008-fulltext.pdf?sequence=4>.

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.395/3

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p?Option=FatwaId&lang=A&Id=108812
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 2005 2 9/2 (117)
 : .235/2
 http://209.40.100.13/Public_Pages/Faq_FAQPublicL .5/7 (118)
 ist.aspx?Lang=1&page_id=99&menu_id=32&typ .436/3
 (127) (119)
 : .(9)
 http://www.fiqhforum.com/articles.aspx?cid=2&acid 1988
 =32&aid=16412 25
 97/1 (128) . 1421 1421
 (129) <http://islamtoday.net/salman/quesshow-23-5884.htm> (120)
<http://www.islamweb.net/ver2/Fatwa/ShowFatwa.ph> (121)

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<http://islamtoday.net/salman/quesshow-23-5884.htm> 2 7 5

<http://www.islamweb.net/ver2/Fatwa/ShowFatwa.php?Option=FatwaId&lang=A&Id=108812> . 1986

http://209.40.100.13/Public_Pages/Faq_FAQPublicList.aspx?Lang=1&page_id=99&menu_id=32&type=u 1 1997 : 12

<http://www.fiqhforum.com/articles.aspx?cid=2&acid=32&aid=16412> : : 6

<http://www.fiqhforum.com/articles.aspx?cid=2&acid=32&aid=1641> : 1 1418

<http://majles.alukah.net/showthread.php%3Ft%3D6688> - 2002

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The Lease Contract Ending By Ownership (Comparative Study)

*Hiyam Alzidaneen **

ABSTRACT

The subject of this research is the lease contract ending by ownership which is one of the current applications at the Islamic legislation. This summary includes a briefing about the most characteristics of this contract as long as its importance for facilitating the financial deals between the people. The research also includes the legal, linguistic and Islamic legislation definitions for the lease contract ending by ownership in addition to the lease figures led to ownership with the Islamic legislation adaptation for each one of them. Moreover it contains a discussion of some Islamic legislation matters that obligate clarifying the lease contract ending by ownership fact and its judgment at the Islamic legislation based the grant on the lease condition and raising the question whether the promise on this regard is obligatory or not since that the Prophet " May Peace of Allah be upon him " prohibited gathering of two sales in one. Consequently, the Islamic legislative judgment of this contract was discussed through presentation of the prohibitive and the affordable by studying them deeply, then reached to an opinion permits the contract through specified controls. Finally, the research involves a suggestive contract for the lease contract ending by ownership which is free from some of the negative elements about the current similar ones which are operative at the Islamic Arab Bank and the Jordanian Islamic Bank in the Hashemite Kingdom of Jordan.

Keywords: The Lease Contract Ending by Ownership, The Islamic Legislation.

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