



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0135

Introduced 2/1/2005, by Sen. Debbie DeFrancesco Halvorson

SYNOPSIS AS INTRODUCED:

810 ILCS 5/9-109

from Ch. 26, par. 9-109

Amends the Uniform Commercial Code. Provides that the Code applies to a transfer by a government or governmental subdivision or agency when the government or governmental subdivision or agency is the account debtor. Effective immediately.

LRB094 06213 RXD 36283 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Uniform Commercial Code is amended by
5 changing Section 9-109 as follows:

6 (810 ILCS 5/9-109) (from Ch. 26, par. 9-109)
7 Sec. 9-109. Scope.

8 (a) General scope of Article. Except as otherwise provided
9 in subsections (c) and (d), this Article applies to:

10 (1) a transaction, regardless of its form, that creates
11 a security interest in personal property or fixtures by
12 contract;

13 (2) an agricultural lien;

14 (3) a sale of accounts, chattel paper, payment
15 intangibles, or promissory notes;

16 (4) a consignment;

17 (5) a security interest arising under Section 2-401,
18 2-505, 2-711(3), or 2A-508(5), as provided in Section
19 9-110; and

20 (6) a security interest arising under Section 4-210 or
21 5-118.

22 (b) Security interest in secured obligation. The
23 application of this Article to a security interest in a secured
24 obligation is not affected by the fact that the obligation is
25 itself secured by a transaction or interest to which this
26 Article does not apply.

27 (c) Extent to which Article does not apply. This Article
28 does not apply to the extent that:

29 (1) a statute, regulation, or treaty of the United
30 States preempts this Article;

31 (2) another statute of this State expressly governs the
32 creation, perfection, priority, or enforcement of a

1 security interest created by this State or a governmental
2 unit of this State;

3 (3) a statute of another State, a foreign country, or a
4 governmental unit of another State or a foreign country,
5 other than a statute generally applicable to security
6 interests, expressly governs creation, perfection,
7 priority, or enforcement of a security interest created by
8 the State, country, or governmental unit;

9 (4) the rights of a transferee beneficiary or nominated
10 person under a letter of credit are independent and
11 superior under Section 5-114;

12 (5) this Article is in conflict with Section 205-410 of
13 the Department of Agriculture Law of the Civil
14 Administrative Code of Illinois or the Grain Code; or

15 (6) this Article is in conflict with Section 18-107 of
16 the Public Utilities Act.

17 (d) Inapplicability of Article. This Article does not apply
18 to:

19 (1) a landlord's lien;

20 (2) a lien, other than an agricultural lien, given by
21 statute or other rule of law for services or materials, but
22 Section 9-333 applies with respect to priority of the lien;

23 (3) an assignment of a claim for wages, salary, or
24 other compensation of an employee;

25 (4) a sale of accounts, chattel paper, payment
26 intangibles, or promissory notes as part of a sale of the
27 business out of which they arose;

28 (5) an assignment of accounts, chattel paper, payment
29 intangibles, or promissory notes which is for the purpose
30 of collection only;

31 (6) an assignment of a right to payment under a
32 contract to an assignee that is also obligated to perform
33 under the contract;

34 (7) an assignment of a single account, payment
35 intangible, or promissory note to an assignee in full or
36 partial satisfaction of a preexisting indebtedness;

1 (8) a transfer of an interest in or an assignment of a
2 claim under a policy of insurance, other than an assignment
3 by or to a health-care provider of a health-care-insurance
4 receivable and any subsequent assignment of the right to
5 payment, but Sections 9-315 and 9-322 apply with respect to
6 proceeds and priorities in proceeds;

7 (9) an assignment of a right represented by a judgment,
8 other than a judgment taken on a right to payment that was
9 collateral;

10 (10) a right of recoupment or set-off, but:

11 (A) Section 9-340 applies with respect to the
12 effectiveness of rights of recoupment or set-off
13 against deposit accounts; and

14 (B) Section 9-404 applies with respect to defenses
15 or claims of an account debtor;

16 (11) the creation or transfer of an interest in or lien
17 on real property, including a lease or rents thereunder,
18 except to the extent that provision is made for:

19 (A) liens on real property in Sections 9-203 and
20 9-308;

21 (B) fixtures in Section 9-334;

22 (C) fixture filings in Sections 9-501, 9-502,
23 9-512, 9-516, and 9-519; and

24 (D) security agreements covering personal and real
25 property in Section 9-604;

26 (12) an assignment of a claim arising in tort, other
27 than a commercial tort claim, but Sections 9-315 and 9-322
28 apply with respect to proceeds and priorities in proceeds;

29 (13) a transfer by a government or governmental
30 subdivision or agency except when the government or
31 governmental subdivision or agency is the account debtor;

32 (14) a claim or a right to receive compensation for
33 injuries or sickness as described in Section 104(a)(1) or
34 (2) of Title 26 of the United States Code, as amended from
35 time to time; or

36 (15) a claim or right to receive benefits under a

1 special needs trust as described in Section 1396p(d)(4) of
2 Title 42 of the United States Code, as amended from time to
3 time.

4 (Source: P.A. 91-893, eff. 7-1-01; 92-819, eff. 8-21-02.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.