

SB2835



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2835

Introduced 1/20/2006, by Sen. Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

810 ILCS 5/9-103

from Ch. 26, par. 9-103

Amends the Uniform Commercial Code. With respect to purchase money security interests, makes the exceptions and limitations for non-consumer goods transactions apply to consumer goods also. Effective immediately.

LRB094 17964 LCT 53267 b

A BILL FOR

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 9-103 as follows:

6 (810 ILCS 5/9-103) (from Ch. 26, par. 9-103)

7 Sec. 9-103. Purchase-money security interest; application
8 of payments; burden of establishing.

9 (a) Definitions. In this Section:

10 (1) "purchase-money collateral" means goods or
11 software that secures a purchase-money obligation incurred
12 with respect to that collateral; and

13 (2) "purchase-money obligation" means an obligation of
14 an obligor incurred as all or part of the price of the
15 collateral or for value given to enable the debtor to
16 acquire rights in or the use of the collateral if the value
17 is in fact so used.

18 (b) Purchase-money security interest in goods. A security
19 interest in goods is a purchase-money security interest:

20 (1) to the extent that the goods are purchase-money
21 collateral with respect to that security interest;

22 (2) if the security interest is in inventory that is or
23 was purchase-money collateral, also to the extent that the
24 security interest secures a purchase-money obligation
25 incurred with respect to other inventory in which the
26 secured party holds or held a purchase-money security
27 interest; and

28 (3) also to the extent that the security interest
29 secures a purchase-money obligation incurred with respect
30 to software in which the secured party holds or held a
31 purchase-money security interest.

32 (c) Purchase-money security interest in software. A

1 security interest in software is a purchase-money security
2 interest to the extent that the security interest also secures
3 a purchase-money obligation incurred with respect to goods in
4 which the secured party holds or held a purchase-money security
5 interest if:

6 (1) the debtor acquired its interest in the software in
7 an integrated transaction in which it acquired an interest
8 in the goods; and

9 (2) the debtor acquired its interest in the software
10 for the principal purpose of using the software in the
11 goods.

12 (d) Consignor's inventory purchase-money security
13 interest. The security interest of a consignor in goods that
14 are the subject of a consignment is a purchase-money security
15 interest in inventory.

16 (e) Application of payment in a ~~non-consumer goods~~
17 transaction. ~~If In a transaction other than a consumer goods~~
18 ~~transaction, if~~ the extent to which a security interest is a
19 purchase-money security interest depends on the application of
20 a payment to a particular obligation, the payment must be
21 applied:

22 (1) in accordance with any reasonable method of
23 application to which the parties agree;

24 (2) in the absence of the parties' agreement to a
25 reasonable method, in accordance with any intention of the
26 obligor manifested at or before the time of payment; or

27 (3) in the absence of an agreement to a reasonable
28 method and a timely manifestation of the obligor's
29 intention, in the following order:

30 (A) to obligations that are not secured; and

31 (B) if more than one obligation is secured, to
32 obligations secured by purchase-money security
33 interests in the order in which those obligations were
34 incurred.

35 (f) No loss of status of purchase-money security interest
36 in ~~non-consumer goods~~ transaction. A ~~In a transaction other~~

1 ~~than a consumer goods transaction,~~ a purchase-money security
2 interest does not lose its status as such, even if:

3 (1) the purchase-money collateral also secures an
4 obligation that is not a purchase-money obligation;

5 (2) collateral that is not purchase-money collateral
6 also secures the purchase-money obligation; or

7 (3) the purchase-money obligation has been renewed,
8 refinanced, consolidated, or restructured.

9 (g) Burden of proof in a ~~non consumer goods~~ transaction. A
10 ~~In a transaction other than a consumer goods transaction,~~ a
11 secured party claiming a purchase-money security interest has
12 the burden of establishing the extent to which the security
13 interest is a purchase-money security interest.

14 (h) (Blank). ~~Non consumer goods transactions; no~~
15 ~~inference. The limitation of the rules in subsections (e), (f),~~
16 ~~and (g) to transactions other than consumer goods transactions~~
17 ~~is intended to leave to the court the determination of the~~
18 ~~proper rules in consumer goods transactions. The court may not~~
19 ~~infer from that limitation the nature of the proper rule in~~
20 ~~consumer goods transactions and may continue to apply~~
21 ~~established approaches.~~

22 (Source: P.A. 91-893, eff. 7-1-01.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.