

§5-109. Default

An agreement of the parties to a consumer credit transaction with respect to default on the part of the consumer is enforceable only to the extent that: [PL 1973, c. 762, §1 (NEW).]

1. The consumer fails to make a payment as required by agreement; or [PL 1973, c. 762, §1 (NEW).]
2. The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the creditor. [PL 1973, c. 762, §1 (NEW).]
3. The following without limitation shall constitute a significant impairment of the prospect of payment, performance or realization of collateral:
 - A. Death, insolvency, assignment for the benefit of creditors, the commencement of any proceeding under any bankruptcy or insolvency laws by or against debtors; [PL 1973, c. 762, §1 (NEW).]
 - B. Loss, theft, substantial damage to or destruction of the collateral not covered by insurance; [PL 1973, c. 762, §1 (NEW).]
 - C. Sale or prior encumbrance of the collateral; [PL 1987, c. 129, §64 (AMD).]
 - D. Failure to renew insurance on the collateral; or termination of insurance on the collateral when substitute insurance is not obtained before the insurance coverage terminates; and [PL 1987, c. 129, §64 (AMD).]
 - E. Discovery by the creditor of a misstatement of a material fact in any document signed by the consumer which forms part of the basis for extending credit. [PL 1987, c. 129, §64 (NEW).] [PL 1987, c. 129, §64 (AMD).]
4. The consumer fails to make a payment as required by agreement if he fails to pay when due an amount equal to or greater than the amount of the average installment under a schedule of payments, other than any down payment or balloon payment permitted under section 3-308, which conforms both as to amounts and intervals to the average of all installments and intervals under the agreement. The unpaid amount due may consist of any unpaid installment or accumulation of partially unpaid installments, delinquency or deferral charges, or any combination thereof. [PL 1979, c. 486 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1975, c. 250 (AMD). PL 1979, c. 486 (AMD). PL 1987, c. 129, §64 (AMD).

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