

§9-1407. Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest

(1). Except as otherwise provided in subsection (2), a term in a lease agreement is ineffective to the extent that it:

(a). Prohibits, restricts or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(b). Provides that the assignment or transfer or the creation, attachment, perfection or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the lease. [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(2). Except as otherwise provided in section 2-1303, subsection (7), a term described in subsection (1), paragraph (b) is effective to the extent that there is:

(a). A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(b). A delegation of a material performance of either party to the lease contract in violation of the term. [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(3). The creation, attachment, perfection or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of section 2-1303, subsection (4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

SECTION HISTORY

PL 1999, c. 699, §A2 (NEW). PL 1999, c. 699, §A4 (AFF).

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