

70A-9a-109 Scope.

- (1) Except as otherwise provided in Subsections (3) and (4), this chapter applies to:
 - (a) a transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
 - (b) an agricultural lien;
 - (c) a sale of accounts, chattel paper, payment intangibles, or promissory notes;
 - (d) a consignment;
 - (e) a security interest arising under Section 70A-2-401 or 70A-2-505 or Subsection 70A-2-711(3) or 70A-2a-508(5), as provided in Section 70A-9a-110; and
 - (f) a security interest arising under Section 70A-4-210 or 70A-5-118.
- (2) The application of this chapter to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply.
- (3) This chapter does not apply to the extent that:
 - (a) a statute, regulation, or treaty of the United States preempts this chapter;
 - (b) another statute of this state expressly governs the creation, perfection, priority, or enforcement of a security interest created by this state or a governmental unit of this state;
 - (c) a statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or
 - (d) the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under Section 70A-5-114.
- (4) This chapter does not apply to:
 - (a) a landlord's lien, other than an agricultural lien;
 - (b) a lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but Section 70A-9a-333 applies with respect to priority of the lien;
 - (c) an assignment of a claim for wages, salary, or other compensation of an employee;
 - (d) a sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;
 - (e) an assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;
 - (f) an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;
 - (g) an assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;
 - (h) a transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but Sections 70A-9a-315 and 70A-9a-322 apply with respect to proceeds and priorities in proceeds;
 - (i) an assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;
 - (j) a right of recoupment or set-off, but:
 - (i) Section 70A-9a-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and
 - (ii) Section 70A-9a-404 applies with respect to defenses or claims of an account debtor;
 - (k) the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

- (i) liens on real property in Sections 70A-9a-203 and 70A-9a-308;
 - (ii) fixtures in Section 70A-9a-334;
 - (iii) fixture filings in Sections 70A-9a-501, 70A-9a-502, 70A-9a-512, 70A-9a-516, and 70A-9a-519; and
 - (iv) security agreements covering personal and real property in Section 70A-9a-604;
 - (l) an assignment of a claim arising in tort, other than a commercial tort claim, but Sections 70A-9a-315 and 70A-9a-322 apply with respect to proceeds and priorities in proceeds;
 - (m) an assignment of a deposit account in a consumer transaction, but Sections 70A-9a-315 and 70A-9a-322 apply with respect to proceeds and priorities in proceeds;
 - (n) an assignment of a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. 104(a)(1) or (2); or
 - (o) an assignment of a claim or right to receive benefits under a special needs trust as described in 42 U.S.C. 1396p(d)(4).
- (5) Notwithstanding anything to the contrary in this section, Subsections (4)(n) and (o) shall only be effective to security interests created on or after May 6, 2002.

Amended by Chapter 99, 2002 General Session