

SECURED CREDITOR AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel R. Liljenquist

House Sponsor: Kay L. McIff

LONG TITLE

General Description:

This bill modifies the Utah Consumer Credit Code to address secured creditors and deficiency judgments.

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to when the restrictions on deficiency judgments in consumer credit sales do not apply;
- ▶ addresses acceptance of the surrender of collateral; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

70C-7-101, as enacted by Laws of Utah 1985, Chapter 159

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **70C-7-101** is amended to read:

70C-7-101. Restriction on deficiency judgments in consumer credit sales.



28 (1) If a seller repossesses or voluntarily accepts the surrender or return of goods
 29 ~~[which]~~ that were the subject of a consumer credit sale and in which the seller has a security
 30 interest to secure a debt arising from the sale of goods or services or a combined sale of goods
 31 and services, and the cash price of the sale was \$3,000 or less, any debt remaining from the sale
 32 shall be fully satisfied and the seller has no further obligation to the buyer with respect to the
 33 goods taken or accepted.

34 (2) If the seller brings an action against the buyer for a debt arising from a consumer
 35 credit sale of goods or services, when under this section the creditor would not be entitled to a
 36 deficiency judgment if it repossessed the collateral, and obtains judgment:

37 (a) it may not repossess the collateral; and

38 (b) the collateral is not subject to levy or sale on execution or similar proceedings
 39 pursuant to the judgment.

40 (3) (a) ~~§→ [This section does]~~ Subsections (1) and (2) do ←§ not apply if the goods
 40a ~~[which]~~ that were the subject of the sale
 41 and ~~[which]~~ that secured a debt arising from a consumer credit sale are damaged to a
 42 significant degree after the goods are delivered to the buyer through no fault of the creditor.

43 (b) Subsection (2) does not apply if, after default and ~~[demand]~~ before the filing of an
 44 action against the buyer, the buyer ~~[has wrongfully failed to make]~~ fails to surrender and
 45 deliver the collateral [available] to the creditor.

46 ~~§→ [(c) - §→ [This section does]~~ Subsections (1) and (2) do ←§ not apply if the buyer no longer
 46a has the goods that were the
 47 subject of the sale.]

48 ~~[(d)] (c) ←§ §→ [This section does]~~ Subsections (1) and (2) do ←§ not apply if
 48a1 an action taken by
 48a the buyer would make the
 49 collection of a judgment unenforceable, including the filing of bankruptcy.

50 (4) Notwithstanding any other provision of this section, a creditor has no obligation to
 51 accept the surrender of collateral.

Legislative Review Note
 as of 2-14-11 5:57 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 272

SHORT TITLE: **Secured Creditor Amendments**

SPONSOR: **Liljenquist, D.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.