

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.

(1) If a seller repossesses or voluntarily accepts the surrender or return of goods [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 [which]
41 that were the subject of the sale and [which] that secured a debt arising from a consumer credit
42 sale are damaged to a significant degree after the goods are delivered to the buyer through no
43 fault of the creditor.

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

47 (c) Subsections (1) and (2) do not apply if an action taken by the buyer would make the
48 collection of a judgment unenforceable, including the filing of bankruptcy.

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