

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 370
SENATE BILL 125

AN ACT TO PROVIDE THAT A PURCHASE MONEY SECURITY INTEREST CONTINUES WHEN THE UNDERLYING AGREEMENT IS MODIFIED WITH SAME CREDITOR AND APPLICATION OF PAYMENTS IN A CONSUMER CREDIT SALE IS ON THE BASIS THAT THE FIRST PAYMENTS SHALL BE APPLIED TO THE FIRST PURCHASE TO SATISFY THAT AND OTHER DEBTS ACCORDINGLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-9-107 reads as rewritten:

"§ 25-9-107. Definitions: 'Purchase money security interest.'

A security interest is a 'purchase money security interest' to the extent that it is

(a) taken or retained by the seller of the collateral to secure all or part of its price;

or

(b) taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used.

A purchase money security interest under this section will continue in the collateral when the underlying security agreement is refinanced or modified with the same creditor."

Sec. 2. G.S. 25A-27 reads as rewritten:

"§ 25A-27. Application of payments.

(a) Where a seller in a consumer credit sale makes a subsequent sale to a buyer and takes a security interest pursuant to G.S. 25A-23 in goods previously purchased by the buyer from the seller, the seller shall make application of payments received, for the purpose of determining the amount of the debt secured by the various security interests, as follows:

- (1) The entire amount of all payments made prior to such subsequent purchase shall be deemed to have been applied to the previous purchases, and
- (2) Unless otherwise designated by the buyer, the amount of down payment on such subsequent purchase shall be applied to the subsequent purchase, and
- (3) ~~All subsequent payments shall be applied to the various purchases in the same proportion or ratio as the original cash prices of the various purchases bear to one another, except that, where the amount of the payments is increased after the subsequent purchase, the seller shall~~

~~have the option to apply the amount of the increase to the subsequent sale and the balance of the subsequent payments to all sales on a cash price pro rata basis.~~

All subsequent payments shall be applied first to finance charges and then to principal. The application of payments to principal shall be applied to the various purchases on the basis that the first sums paid in shall be deemed applied to the oldest purchase or obligation assumed to satisfy the original debt secured by the purchase money security interest until payment is received in full and other payments shall be applied accordingly to all other purchases in the order that each obligation is assumed. At the time any original debt would have been satisfied by subsequent payments, the purchase money security interest in said purchase shall be extinguished.

(b) Where a seller and a buyer agree to consolidate two or more consumer credit installment sale contracts pursuant to G.S. 25A-31, the seller shall apply payments received, for the purpose of determining the amount of the debt secured by the various security interests, as follows:

(1) The entire amount of all payments received prior to the consolidation shall be applied to the respective contracts under which the payments were made, and

(2) ~~All subsequent payments shall be applied to the various contracts in the same proportion or ratio as the original cash prices in the various contracts bear to one another, except that, where the amount of the installment payments is increased after the consolidation the seller shall have the option to apply the amount of the increase to the contract last executed and the balance of subsequent payments to all contracts on a cash price pro rata basis.~~

All subsequent payments shall be applied first to finance charges and then to principal. The application of payments to principal shall be applied to the various purchases on the basis that the first sums paid in shall be deemed applied to the oldest purchase or obligation assumed to satisfy the original debt secured by the purchase money security interest until payment is received in full and other payments shall be applied accordingly to all other purchases in the order that each obligation is assumed. At the time any original debt would have been satisfied by subsequent payments, the purchase money security interest in said purchase shall be extinguished."

Sec. 3. This act becomes effective October 1, 1993.

In the General Assembly read three times and ratified this the 17th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives