

UNIFORM COMMERCIAL CODE (EXCERPT)
Act 174 of 1962
Subpart 2.
RIGHTS AND DUTIES

440.9207 Rights and duties of secured party having possession or control of collateral.

Sec. 9207.

(1) Except as otherwise provided in subsection (4), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4), if a secured party has possession of collateral all of the following apply:

(a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral.

(b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage.

(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled.

(d) The secured party may use or operate the collateral for the purpose of preserving the collateral or its value; as permitted by an order of a court having competent jurisdiction; or except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under section 7106, 9104, 9105, 9106, or 9107 may hold as additional security any proceeds, except money or funds, received from the collateral, shall apply money or funds received from the collateral to reduce the secured obligation unless remitted to the debtor, and may create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, subsections (2) and (3) do not apply, and subsection (1) does not apply unless the secured party is entitled under an agreement to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 2000, Act 348, Eff. July 1, 2001 ;-- Am. 2012, Act 87, Eff. July 1, 2013

440.9208 Additional duties of secured party having control of collateral.

Sec. 9208.

(1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor, a secured party shall do all of the following that apply to the secured party:

(a) A secured party having control of a deposit account under section 9104(1)(b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party.

(b) A secured party having control of a deposit account under section 9104(1)(c) shall pay the debtor the balance on deposit in the deposit account or transfer the balance on deposit into a deposit account in the debtor's name.

(c) A secured party, other than a buyer, having control of electronic chattel paper under section 9105 shall do all of the following:

(i) Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian.

(ii) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor.

(iii) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy that add or change an identified assignee of the authoritative copy without the consent of the

secured party.

(d) A secured party having control of investment property under section 8106(4)(b) or section 9106(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party.

(e) A secured party having control of a letter-of-credit right under section 9107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

(f) A secured party having control of an electronic document shall do all of the following:

(i) Give control of the electronic document to the debtor or its designated custodian.

(ii) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor.

(iii) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 2000, Act 348, Eff. July 1, 2001 ;-- Am. 2012, Act 87, Eff. July 1, 2013

440.9209 Duties of secured party if account debtor has been notified of assignment.

Sec. 9209.

(1) Except as otherwise provided in subsection (3), this section applies if there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under section 9406(1) an authenticated record that releases the account debtor from any further obligation to the secured party.

(3) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

History: Add. 2000, Act 348, Eff. July 1, 2001

440.9210 Request for accounting; request regarding list of collateral or statement of account.

Sec. 9210.

(1) As used in this section:

(a) "Request" means a record of a type described in subdivision (b), (c), or (d).

(b) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(c) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(d) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(2) Subject to subsections (3), (4), (5), and (6), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request in the following manner within 14 days after the receipt of the request:

(a) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting.

(b) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(3) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within 14 days after receipt.

(4) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record disclaiming any interest in the collateral, and if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(5) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record disclaiming any interest in the obligations, and if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(6) A debtor is entitled without charge to 1 response to a request under this section during any 6-month period. The secured party may require payment of a charge not exceeding \$25.00 for each additional response.

History: Add. 2000, Act 348, Eff. July 1, 2001