

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 125
Judiciary II Committee Substitute Adopted 4/5/93

Short Title: Pur. Money Refi/FIFO Consum. Credit Sales.

(Public)

Sponsors:

Referred to:

February 11, 1993

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A PURCHASE MONEY SECURITY INTEREST
2 CONTINUES WHEN THE UNDERLYING AGREEMENT IS MODIFIED WITH
3 SAME CREDITOR AND APPLICATION OF PAYMENTS IN A CONSUMER
4 CREDIT SALE IS ON THE BASIS THAT THE FIRST PAYMENTS SHALL BE
5 APPLIED TO THE FIRST PURCHASE TO SATISFY THAT AND OTHER
6 DEBTS ACCORDINGLY.
7

8 The General Assembly of North Carolina enacts:

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

10 "**§ 25-9-107. Definitions: 'Purchase money security interest.'**

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

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

13 or

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

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

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

21 "**§ 25A-27. Application of payments.**

22 (a) Where a seller in a consumer credit sale makes a subsequent sale to a buyer
23 and takes a security interest pursuant to G.S. 25A-23 in goods previously purchased by

1 the buyer from the seller, the seller shall make application of payments received, for the
2 purpose of determining the amount of the debt secured by the various security interests,
3 as follows:

- 4 (1) The entire amount of all payments made prior to such subsequent
5 purchase shall be deemed to have been applied to the previous
6 purchases, and
- 7 (2) Unless otherwise designated by the buyer, the amount of down
8 payment on such subsequent purchase shall be applied to the
9 subsequent purchase, and
- 10 (3) All subsequent payments shall be applied to the various purchases on
11 the basis that the first sums paid in shall be deemed applied to the
12 oldest purchase or obligation assumed to satisfy the original debt
13 secured by the purchase money security interest until payment is
14 received in full and other payments shall be applied accordingly to all
15 other purchases in the order that each obligation is assumed. At the
16 time any original debt would have been satisfied by subsequent
17 payments, the purchase money security interest in said purchase shall
18 be extinguished.

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

- 23 (1) The entire amount of all payments received prior to the consolidation
24 shall be applied to the respective contracts under which the payments
25 were made, and
- 26 (2) All subsequent payments shall be applied to the various purchases on
27 the basis that the first sums paid in shall be deemed applied to the
28 oldest purchase or obligation assumed to satisfy the original debt
29 secured by the purchase money security interest until payment is
30 received in full and other payments shall be applied accordingly to all
31 other purchases in the order that each obligation is assumed. At the
32 time any original debt would have been satisfied by subsequent
33 payments, the purchase money security interest in said purchase shall
34 be extinguished."

35 Sec. 3. This act becomes effective July 1, 1993.